



Public Service Commission

State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Sheri Haugen-Hoffart

hand delivered

19 April 2022

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
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North Dakota Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0040

Re: Proposed Amendments to Administrative Rules
PSC Case Numbers GS-21-442 and RC-22-28

RECEIVED
APR 19 2022

OFFICE OF
ATTORNEY GENERAL

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 13 April 2022 Public Service Commission Amended Order Submitting Rules to Attorney General, with the 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 18 January 2022 Commission Motion proposing rules.
- 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 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, with their date-stamp showing filing acknowledgment;
- A statement or analysis for each rule case regarding the required regulatory analysis, small entity regulatory analyses, and small entity economic impact statement and taking assessments;
- Testimony from the public hearing and other written comments received; and
- Statements that the rules will have no fiscal impact.
- Emails with the proposed Rules and the hearing notice attached that were sent to the sponsors of House Bill 1353 and to the sponsors of Senate Bill 2327.

Letter to Attorney General
19 April 2022
Page 2

The amendments are not a result of emergency rulemaking. The GS-21-442 proposed Rules do not implement any recently enacted legislation.

The proposed rulemaking for RC-22-28 implements House Bill 1353, enacted by the 67th Legislative Session, relating to the establishment of the department of water resources, and the powers and duties of the department of water resources and the state engineer. And the proposed rulemaking also implements Senate Bill 2327, enacted by the 65th Legislative Session, relating to the creation of the department of environmental quality, the transfer of duties and responsibilities of the state department of health relating to environmental quality to the department of environmental quality, and biennial reports of the department of environmental quality.

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', with a long horizontal flourish extending to the right.

John Schuh
PSC General Counsel

enclosures

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Public Service Commission
Pipeline Safety
Rulemaking**

Case No. GS-21-442

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

Case No. RC-22-28

AMENDED ORDER SUBMITTING RULES TO ATTORNEY GENERAL

April 13, 2022

Appearances

Commissioners Julie Fedorchak, Randy Christmann, and Sheri Haugen-Hoffart

Preliminary Statement

On January 18, 2022, 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 69-09-03-02, to amend Section 69-05.2-05-06, to amend Chapter 69-05.2-16 index, to amend Section 69-05.2-16-03, to amend Section 69-05.2-16-20, and to amend Section 69-05.2-20-01.

Also on January 18, 2022, Commission Staff (Staff) filed statements regarding the required regulatory analysis, small entity analysis, and takings assessments for the captioned two cases.

On January 19, 2022, 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.

The Abbreviated Notice was published in each of the 50 official county newspapers in the state during the weeks of January 26 through January 31, 2022.

On March 9, 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.

20 RC-22-28 Filed 04/13/2022 Pages: 10
Amended Order Submitting Rules to Attorney General
Public Service Commission

18 GS-21-442 Filed 04/13/2022 Pages: 10
Amended Order Submitting Rules to Attorney General
Public Service Commission

The Commission allowed a comment period until March 21, 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:

Case No. GS-21-442 - Section 69-09-03-02 – Pipeline Safety

The purpose of this amendment 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 August 20, 2020, current to December 1, 2021. The proposed change is not expected to have an impact on the regulated community in excess of \$50,000.

Case No. RC-22-28 - Section 69-05.2-05-06, Chapter 69-05.2-16 index, Section 69-05.2-16-03, Section 69-05.2-16-20, and Section 69-05.2-20-01. – Surface Coal Mining and Reclamation Operations

The purpose of this amendment is to change all State Engineer and Water Commission references to the Department of Water Resources and to change one state Department of Health reference to the Department of Environmental Quality.

The proposed rulemaking implements House Bill 1353 enacted by the 67th Legislative Session, relating to the establishment of the Department of Water Resources, and the powers and duties of the Department of Water Resources and the State Engineer, and implements Senate Bill 2327 enacted by the 65th Legislative Session relating to the creation of the Department of Environmental Quality, the transfer of duties and responsibilities of the state Department of Health relating to environmental quality to the Department of Environmental Quality, and biennial reports of the Department of Environmental Quality.

Public Hearing and Comments

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

Case No. GS-21-442 - Section 69-09-03-02 – Pipeline Safety

Caleb Simburger, the Program Manager of the Public Service Commission's Gas Pipeline Safety Program provided testimony on behalf of staff to the effect of this amendment. No other comments or testimony were received.

Case No. RC-22-28 - Section 69-05.2-05-06, Chapter 69-05.2-16 index, Section 69-05.2-16-03, Section 69-05.2-16-20, and Section 69-05.2-20-01. – Surface Coal Mining and Reclamation Operations

Zanna Brinkman, Director of the Reclamation Division provided testimony on behalf of staff to the effect of this amendment. No other comments were received in writing or at the hearing.

After the hearing, the commission found an error in the drafted rules. The proposed chapter 69-05.2-16 is corrected from the Department of Water Quality to the Department of Environmental Quality.

Discussion

Having reviewed the proposed rules, and considered the testimony and comments received, the Commission finds good cause for submitting the proposed rule in Case No. GS-21-442 and the proposed rules in Case No. RC-22-28 as revised after comment, attached to, and made a part of this order, to the Attorney General for an opinion as to legality.

ORDER

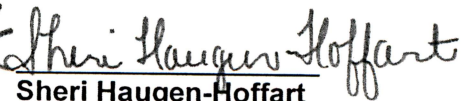
The Commission orders that the proposed rules in Case No. GS-21-442, attached to, and made part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to their legality.

The Commission orders that the proposed rules as revised in Case No. RC-22-28, attached to, 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


Sheri Haugen-Hoffart
Commissioner

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-21-442

CHAPTER 69-09-03
PIPELINE SAFETY

Section
69-09-03-01 Safety
69-09-03-02 Adoption of Regulations

69-09-03-01. Safety.

Pipeline facilities used for the intrastate distribution and transmission of natural and other gas, liquefied natural gas, or hazardous liquids shall be designed, constructed, and operated to meet the safety standards set forth in regulations of the United States department of transportation adopted in section 69-09-03-02. The commission may require such proof of compliance as it deems necessary.

History: Amended effective July 1, 1986; January 1, 1988; April 1, 2015; _____.

General Authority: NDCC 28-32-02, 49-02-04

Law Implemented: NDCC 49-02-01.2, 49-02-04

69-09-03-02. Adoption of regulations.

The following parts of title 49, Code of Federal Regulations in effect as of August 20, 2020 December 1, 2021, are adopted by reference:

1. Part 190 - Pipeline Safety Programs and Rulemaking Procedures.
2. Part 191 - Transportation of Natural Gas and Other Gas by Pipeline, Annual Reports, Incident Reports, and Safety-Related Condition Reports.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards.
4. Part 193 - Liquefied Natural Gas Facilities: Federal Safety Standards.
5. Part 194 - Response Plans for Onshore Oil Pipelines.
6. Part 195 - Transportation of Hazardous Liquids by Pipeline.

7. Part 199 - Drug and Alcohol Testing.

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; January 1, 2010; April 1, 2012; April 1, 2015; October 1, 2016; July 1, 2018; July 1, 2020;_____.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

Proposed Rules (as revised)

April 13, 2022

69-05.2-05-06. Permit applications - Coordination with requirements under other laws.

The commission will, to avoid duplication, coordinate permit review and issuance with:

1. Any other applicable state permit process including permits required by the:
 - a. Air Pollution Control Act (North Dakota Century Code chapter 23-25).
 - b. Solid Waste Management and Land Protection Act (North Dakota Century Code chapter 23-29).
 - c. Control, prevention, and abatement of pollution of surface waters (North Dakota Century Code chapter 61-28).
 - d. ~~State engineer, state water commission,~~ Department of Water Resources and water resource districts (North Dakota Century Code chapters 61-01, 61-02, 61-03, 61-04, 61-15, 61-16.1, 61-16.2, 61-31, and 61-32).
2. The appropriate state and federal agencies who administer other applicable natural resource and environmental protection acts.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-42

CHAPTER 69-05.2-16
PERFORMANCE STANDARDS - HYDROLOGIC BALANCE - GENERAL REQUIREMENTS

Section	
69-05.2-16-01	Performance Standards - Hydrologic Balance - General Requirements
69-05.2-16-02	Performance Standards - Hydrologic Balance - Compliance With State Department of Health Standards <u>Environmental Quality Standards</u>
69-05.2-16-03	Performance Standards - Hydrologic Balance - Compliance With the Requirements of the State Engineer <u>Department of Water Resources</u> and Water Resource District
69-05.2-16-04	Performance Standards - Hydrologic Balance - Water Quality Standards and Effluent Limitations
69-05.2-16-05	Performance Standards - Hydrologic Balance - Surface Water Monitoring
69-05.2-16-06	Performance Standards - Hydrologic Balance - Diversion of Overland Flow
69-05.2-16-07	Performance Standards - Hydrologic Balance - Stream Channel Diversions
69-05.2-16-08	Performance Standards - Hydrologic Balance - Sediment Control Measures
69-05.2-16-09	Performance Standards - Hydrologic Balance - Sedimentation Ponds Performance
69-05.2-16-10	Standards - Hydrologic Balance - Discharge Structures Performance Standards -
69-05.2-16-11	Hydrologic Balance - Toxic Mine Drainage
69-05.2-16-12	Performance Standards - Hydrologic Balance - Permanent and Temporary Impoundments
69-05.2-16-13	Performance Standards - Hydrologic Balance - Ground Water Protection Performance
69-05.2-16-14	Standards - Hydrologic Balance - Ground Water Monitoring
69-05.2-16-15	Performance Standards - Hydrologic Balance - Protection of Ground Water Recharge Capacity
69-05.2-16-16	Performance Standards - Hydrologic Balance - Transfer of Wells
69-05.2-16-17	Performance Standards - Hydrologic Balance - Water Rights and Replacement
69-05.2-16-18	Performance Standards - Hydrologic Balance - Discharge of Waters Into an Underground Mine
69-05.2-16-19	Performance Standards - Hydrologic Balance - Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
69-05.2-16-20	Performance Standards - Hydrologic Balance - Stream Buffer Zones

69-05.2-16-03. Performance standards - Hydrologic balance - Compliance with the requirements of the state-engineer Department of Water Resources and water resource district.

Any water impoundment, diversion, structure, or drainage ditch built as part of an approved mining and reclamation plan must be constructed to meet the requirements of the North Dakota ~~state-engineer~~ Department of Water Resources and the appropriate water resource district, as well as those of this article. The commission will not issue or revise a mining permit until the ~~state engineer~~ Department of Water Resources and the water resource district have had an opportunity to review the applicable information and plans. No rights under the mining permit shall be exercised until the necessary ~~state-engineer~~ Department of Water Resources and water resource district permits are obtained.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03, 38-14.1-42

Law Implemented: NDCC 38-14.1-24, 38-14.1-42

69-05.2-16-20. Performance standards - Hydrologic balance - Stream buffer zones.

1. The operator may not disturb land within one hundred feet [30.48 meters) of an intermittent or perennial stream unless the commission, after consulting the ~~state engineer~~ Department of Water Resources and the department of environmental quality, specifically authorizes surface mining activities closer to, or through, the stream, after finding that:
 - a. Surface mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and
 - b. If there will be a temporary or permanent stream channel diversion, it will comply with section 69-05.2-16-07.
2. Areas not to be disturbed must be designated buffer zones and marked according to section 69-05.2-13-04.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-05.2-20-01. Performance standards - Dams and embankments constructed of or impounding coal processing waste - General requirements.

Dams and embankments constructed of or impounding coal processing waste as a temporary disposal method must comply with this chapter and permanent disposal of the waste must comply with section 69-05.2-19-02. Waste may not be used to construct the dams and embankments unless it has been demonstrated to the commission that the stability of the structure conforms to the requirements of subsection 1 of section 69-05.2-20-03. It must also be demonstrated that the use of waste material will not have a detrimental effect on downstream water quality or the environment due to toxic seepage through the dam or embankment. All demonstrations must be approved by the commission. Prior to commission approval, the state engineer-Department of Water Resources will have an opportunity to review the plans and design of the structures.

History: Effective August 1, 1980; amended effective May 1, 1990;_____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24, 38-14.1-25

APPROVED

DATE: 01/18/2022

RJT

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-21-442

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

MOTION

January 18, 2022

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, Pipeline Safety, Rulemaking, PSC Case No. GS-21-442 and Surface Coal Mining and Reclamation Operations, Rulemaking, PSC Case No. RC-22-28.

- | | |
|-----------------------|--|
| Section 69-09-03-02 | Adoption of Regulations |
| Section 69-05.2-05-06 | Permit applications - Coordination with requirements under other laws. |
| Chapter 69-05.2-16 | Performance Standards - Hydrologic Balance - General Requirements (Index/Table of Contents) |
| Section 69-05.2-16-03 | Performance Standards - Hydrologic Balance - Compliance with the requirements of the state engineer and water resource district. |
| Section 69-05.2-16-20 | Performance Standards - Hydrologic Balance - Stream Buffer zones. |
| Section 69-05.2-20-01 | Performance Standards - Dams and Embankments Constructed for Impounding Coal Processing Waste - General Requirements |
- 1 RC-22-28 Filed 01/18/2022 Pages: 1
Commission Motion to propose revisions to ND Admin. Code and issue Notices Public Service Commission
- 1 GS-21-442 Filed 01/18/2022 Pages: 1
Commission Motion to propose revisions to ND Admin. Code and issue Notices Public Service Commission

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-21-442

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

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

January 18, 2022

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the North Dakota Administrative Code to amend Section 69-09-03-02, to amend Section 69-05.2-05-06, to amend Chapter 69-05.2-16 index, to amend Section 69-05.2-16-03, to amend Section 69-05.2-16-20, and to amend Section 69-05.2-20-01.

A public hearing will be held on the proposed rules at 1:30 p.m. Central Time on 9 March 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 21 March 2022.

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

Case No. GS-21-442 - Section 69-09-03-02 – Pipeline Safety

The purpose of this amendment 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 August 20, 2020, current to December 1, 2021. The proposed change is not expected to have an impact on the regulated community in excess of \$50,000.

Case No. RC-22-28 - Section 69-05.2-05-06, Chapter 69-05.2-16 index, Section 69-05.2-16-03, Section 69-05.2-16-20, and Section 69-05.2-20-01. – Surface Coal Mining and Reclamation Operations

- 4 RC-22-28 Filed 01/18/2022 Pages: 2
(Full) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Public Hearing
Public Service Commission 1
- 4 GS-21-442 Filed 01/18/2022 Pages: 2
(Full) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Public Hearing
Public Service Commission

The purpose of this amendment is to change all state engineer and water commission references to the department of water resources and to change one state department of health reference to the department of environmental quality.

The proposed rulemaking implements House Bill 1353 enacted by the 67th Legislative Session, relating to the establishment of the department of water resources, and the powers and duties of the department of water resources and the state engineer, and implements Senate Bill 2327 enacted by the 65th Legislative Session relating to the creation of the department of environmental quality, the transfer of duties and responsibilities of the state department of health relating to environmental quality to the department of environmental quality, and biennial reports of the department of environmental quality.

The proposed rules and amendments may be reviewed at the Public Service Commission's offices on the 12th 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 **21 March 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

Vacant

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-21-442

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

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

January 18, 2022

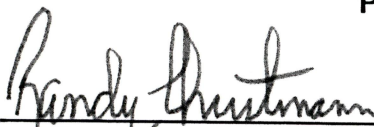
PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the North Dakota Administrative Code to amend Section 69-09-03-02, to amend Section 69-05.2-05-06, to amend Chapter 69-05.2-16 index, to amend Section 69-05.2-16-03, to amend Section 69-05.2-16-20, and to amend Section 69-05.2-20-01.

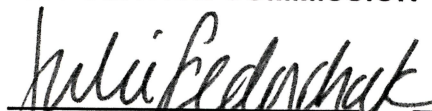
A public hearing will be held on the proposed rules at **1:30 p.m. Central Time on 9 March 2022, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** Written comments may be submitted to the Public Service Commission until the close of business on **21 March 2022.**

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. This information is also available to view on the Public Service Commission's web site at 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

Vacant

- 5 RC-22-28 Filed 01/18/2022 Pages: 1
(Abbreviated) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Hearing
Public Service Commission
- 5 GS-21-442 Filed 01/18/2022 Pages: 1
(Abbreviated) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Hearing
Public Service Commission



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, PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28, 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: _____

State of North Dakota

County of Burleigh

Subscribed and sworn to before me this 14 day of Feb., 20 22

Sharon L. Peterson

SHARON L. PETERSON
NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES NOV. 06, 2025

District's restart plan reviewed

DECEMBER 8, 2021

The Ashley school board held their regular meeting on Wednesday, December 8, 2021 at 7:00pm in the ITV room. Present: Ross Litsey, Lyle Fey, Kyle Thiery, Jordan Jenner, Amy Schlepp, Jason Schmidt, Chris Doane, Teresa Dockter, Sabrina Hornung (7:05).

Principal's report: 1) Christmas programs complete; 2) Discussion on state initiatives; 3) Christmas dress up days for staff and students.

Next meeting will be January 12, 2022 at 7:00pm. Motion by Schlepp to adjourn, second by Jenner. Motion carried unanimously, meeting adjourned at 7:36pm.

Motion by Litsey to approve the minutes of the November 10th meeting as written. Second by Schlepp, motion carried unanimously.

Motion by Jenner to approve payment of general fund bills (\$23,822.47). Second by Thiery, motion carried unanimously.

Sabrina Hornung entered the meeting at 7:05pm. Motion by Litsey to approve financial reports as presented. Second by Jenner, motion carried unanimously.

The district's restart plan was reviewed—no changes needed at this time. Motion by Thiery to approve the plan. Second by Schlepp, motion carried unanimously.

McIntosh county valuation/levy report was reviewed—taxable valuation is \$9,549,724, general fund mills are 69.63, building fund mills are 1.57—total mills 71.20.

Motion by Thiery to authorize Teresa Dockter to increase the credit card limit temporarily to accommodate state waiting ticket orders in January. Second by Litsey, motion carried unanimously.

Mr. Schmidt reported he did an interview for the special ed para position—intends to offer employment to the individual.

Staff Christmas party at the country club on 12/11. Superintendent's report: 1) Hunter Finkle will speak to 7-12 students on January 4th; 2)

Camera system has been installed—is up & running; 3) Consolidated Construction reps were here to go through the building and grounds—expect to have a report and presentation ready for the January board meeting; 4) Connor Hill will coach JHBBB; 5) ESSER funds—state report is done, federal report is due Jan 11th; 6) Two student teachers starting in January—Teresa Thiery in 3rd grade and Rachel Rueb in 4th grade.

Principal's report: 1) Christmas programs complete; 2) Discussion on state initiatives; 3) Christmas dress up days for staff and students.

Next meeting will be January 12, 2022 at 7:00pm. Motion by Schlepp to adjourn, second by Jenner. Motion carried unanimously, meeting adjourned at 7:36pm.

Teresa Dockter
Business Manager

Lyle Fey
President

Ashley School Board Report

ANDERSON-BENDER, KRISTI CONF MEALS.....	33.59
ASHLEY SUPER VALU PT CONFIAG SUPPLIES.....	101.36
BRAD'S SERVICE TIRE REPAIRS.....	90.50
BROAD REACH LIB BOOKS.....	129.75
CHRISTIANSON, DEAN BUS WKSHP STIPEND.....	35.00
CHS RIVER PLAINS BUS FUEL.....	2,623.09
COLE PAPERS INC CUST SUPPLIES.....	1,088.70
DIAMOND D PLUMBING LLC REPAIRS.....	1,986.75
DICKEY RURAL NETWORKS SERVER MAINT/PHONES.....	2,943.06
DOANE, CHRISTOPHER BUS WKSHP STIPEND.....	35.00
DOCKTER, TODD BUS WKSHP STIPEND.....	35.00
ERIC ARMIN INC MATH SUPPLIES.....	97.73
GERRRELS SPORT CENTER INC ATHLETIC SUPPLIES.....	123.00
GOLZ, LINK BUS WKSHP STIPEND.....	35.00

HEUPEL, JAMES BUS WKSHP STIPEND.....	35.00
HOFFMAN, JOSHUA BUS WKSHP STIPEND.....	35.00
LINK'S DO IT BEST SHOP VACCUST & AG SUPPLIES.....	300.55
LITSEY, ROSS BUS WKSHP STIPEND.....	35.00
MCCLEARY LUMBER INC AG SUPPLIES.....	32.46
MCGRAW HILL SCHOOL EDUCATION GR 3 READING CURRICULUM.....	338.02
HOLDINGS LLC MEIDINGER, TUCKER CONF MEALS.....	38.14
MEYER, MELISSA CONF MEALS.....	35.63
veronin MONTANA DAKOTA UTILITIES ELECTRICITY/HEAT.....	10,113.93
NDACS SPELLING BEE ENROLLMENT FEE.....	60.00
PAULSRUD, DONALD BUS WKSHP STIPEND.....	35.00
PREBLE MEDICAL SERVICES INC DRUG SCREENS.....	350.00
SCHAUER, LARRY BUS WKSHP STIPEND.....	35.00
SCHMIDT, JASON BUS WKSHP STIPEND.....	35.00
SCHMIDT, JESSICA CONF MEALS SCHOOL SPECIALTY LLC ELEM SUPPLIES.....	27.68
SE REGION CAREER & TECHNOLOGY 21-22 DUES.....	500.00
CENTER ST. AUBIN, JEREMY BUS WKSHP STIPEND.....	35.00
TAYLOR MUSIC INC INSTRUMENT REPAIRS.....	40.00
THIERY, KYLE BUS WKSHP STIPEND.....	35.00
TUMBLEWEED PRESS INCLIB SUBSCRIPTION.....	599.00
VOGEL LAW FIRM CONSULT FEES.....	2,610.03
Fund Total: 23,822.47	
Checking Account Total: 23,822.47	

GENERAL FUND BILLS PAID

BEFORE BOARD MEETINGS 2021	
Horace Mann Disability.....	365.12
Visa Ag processing grant equipment.....	822.61
Hudl GBB program.....	450.00
City of Ashley Water/sewer/garbage.....	238.68
Hudl BBB program.....	450.00
Quality Inn Adm/Bender conf rooms.....	148.00
SB Wrestling Club WR program	

MDU Crow's nest final bill Visa PT conf fee/lib book/USA today..... 65.76

Rohrbach Estate

State of North Dakota County of McIntosh In District Court Southeast Judicial District Probate No. 26-2021-PR-24

In the matter of the estate of Shirley Ann Rohrbach, deceased.

NOTICE TO CREDITORS NOTICE IS HEREBY GIVEN THAT Donald E. Rohrbach has been appointed personal representative of the above estate. All persons having claims against the said deceased as required to present their claims within three months after the date of the first publication of this notice or said claims will be forever barred. Claims must be presented to the personal representative of the estate, 3909 85th St. SE, Wishek ND 58495. Dated this 12th day of January, 2022.....26,27,28

74,652 to 15,966

Now **THAT's** a MANDATE!

It was 2020, and cities across North Dakota were asking their voters whether the city board minutes should be published in the local newspaper.

82%

said

YES to transparency

The vote total in 215 cities was 74,652 in favor to 15,966 opposed. That's 82% in favor of publishing minutes, a mandate most candidates only DREAM ABOUT!

NDNA

NORTH DAKOTA NEWSPAPER ASSOCIATION
NEWSPAPERS: Yesterday, Today & Tomorrow



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6 Mi N & 1 Mi W of Case IH, Aberdeen, SD

Thank You!

The Ashley Volunteer Firemen would like to THANK the community of Ashley and everyone who came out and supported our fundraiser event!

We would also like to THANK all of our sponsors who helped defray the cost of putting this event on. We couldn't have done it without your support.

The Ashley Volunteer Department

NOTICE OF PUBLIC HEARING TO AMEND NORTH DAKOTA WORKFORCE SAFETY & INSURANCE MEDICAL FEE SCHEDULES

Relating to Pharmacy.

ND WORKFORCE SAFETY & INSURANCE (WSI)

will hold a public hearing to address the proposed amendments to the North Dakota Administrative Code.

WORKFORCE SAFETY & INSURANCE Board Room Century Center 1600 East Century Ave Bismarck ND

Monday, March 28, 2022 9:00 a.m. CT

A copy of the proposed amendments to the medical fee schedule may be obtained by writing to Workforce Safety & Insurance, Attn: Harvey Hanel, PO Box 5585, Bismarck, ND 58506-5585 or calling 800-777-5033 or TTY (701) 328-3786. Written comments may be submitted to Workforce Safety & Insurance, Harvey Hanel, Medical Services and Pharmacy Director, P.O. Box 5585, Bismarck, ND 58506-5585, until the close of business, April 4, 2022. If you plan to attend the public hearing and require special accommodations relating to a disability, please contact Workforce Safety & Insurance at the above telephone number or address at least five days prior to hearing.

Dated this 18 day of January, 2022

STATE OF NORTH DAKOTA PUBLIC SERVICE COMMISSION

Public Service Commission Pipeline Safety Rulemaking	Case No. GS-21-442
Public Service Commission Surface Coal Mining and Reclamation Operations Rulemaking	Case No. RC-22-28

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

January 18, 2022

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the North Dakota Administrative Code to amend Section 69-09-03-02, to amend Section 69-05-2-05-06, to amend Chapter 69-05-2-16 index, to amend Section 69-05-2-16-03, to amend Section 69-05-2-16-20, and to amend Section 69-05-2-20-01. A public hearing will be held on the proposed rules at:

**Commission Hearing Room
12th floor, State Capitol
Bismarck, North Dakota
1:30 p.m., Central Time
Wednesday, March 9, 2022**

Written comments may be submitted to the Public Service Commission until the close of business on 21 March 2022.

A copy of the proposed rules, analyses, and statements may be obtained at or by writing the Public Service Commission, 500 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.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	Vacant
----------------------------------	-----------------------------	--------

North Dakota Newspaper Association

1435 Interstate Loop
Bismarck, North Dakota 58503
Phone: 1-701-223-6397 Fax: 1-701-223-8185

INVOICE February 14, 2022

Order: 22021PP0

Invoice# 11861

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

Advertiser: **Public Service Commission**

Brand:

Campaign:

Client Order Number:

Amount Due: \$4,694.64

Please detach and return this portion with your payment

Public Service Commission Invoice# 11861 P.O.#: Client Order Number:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Ashley Tribune (Ashley, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Beach, Golden Valley News (Beach, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Beulah, The Beacon (Beulah, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Bismarck Tribune (Bismarck, North Dakota)									
01/26/2022	12.00	Notice Display	\$14.24		\$170.88	\$0.00	(0.00%)	\$170.88	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$14.24	\$0.00	\$170.88	\$0.00		\$170.88	
Bottineau Courant (Bottineau, North Dakota)									
02/01/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Bowbells, Burke County Tribune (Bowbells, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Bowman County Pioneer (Bowman, North Dakota)									
01/28/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Cando, Towner County Record Herald (Cando, North Dakota)									
01/29/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Carrington, Foster County Independent (Carrington, North Dakota)									
01/31/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Carson Press (Elgin, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Cavalier Chronicle (Cavalier, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Center Republican (Hazen, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Cooperstown, Griggs County Courier (Cooperstown, North Dakota)									
01/28/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Crosby, The Journal (Crosby, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Devils Lake Journal (Devils Lake, North Dakota)									
01/27/2022	12.00	Notice Display	\$9.67		\$116.04	\$0.00	(0.00%)	\$116.04	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$9.67	\$0.00	\$116.04	\$0.00		\$116.04	
Dickinson Press (Dickinson, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Elgin, Grant County News (Elgin, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Ellendale, Dickey County Leader (Ellendale, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Fargo, The Forum (Fargo, North Dakota)									
01/26/2022	12.00	Notice Display	\$14.24		\$170.88	\$0.00	(0.00%)	\$170.88	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$14.24	\$0.00	\$170.88	\$0.00		\$170.88	
Finley, Steele County Press (Finley, North Dakota)									
01/28/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Garrison, McLean County Independent (Garrison, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Grafton, Walsh County Record (Grafton, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.71		\$80.52	\$0.00	(0.00%)	\$80.52	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
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Grand Forks Herald (Grand Forks, North Dakota)									
01/26/2022	12.00	Notice Display	\$14.24		\$170.88	\$0.00	(0.00%)	\$170.88	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$14.24	\$0.00	\$170.88	\$0.00		\$170.88	
Harvey, The Herald-Press (Harvey, North Dakota)									
01/29/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Hettinger, Adams County Record (Hettinger, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Jamestown Sun (Jamestown, North Dakota)									
01/26/2022	12.00	Notice Display	\$9.67		\$116.04	\$0.00	(0.00%)	\$116.04	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$9.67	\$0.00	\$116.04	\$0.00		\$116.04	
LaMoure Chronicle (LaMoure, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Lakota American (Lakota, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Linton, Emmons County Record (Linton, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Lisbon, Ransom County Gazette (Lisbon, North Dakota)									
01/31/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Mandan News (Mandan, North Dakota)									
01/28/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Mayville, Trail Co Tribune (Mayville, North Dakota)									
01/29/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
McClusky Gazette (McClusky, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Medora, Billings County Pioneer (Beach, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Milnor The Sargent County Teller (Milnor, North Dakota)									
01/28/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Minnewaukan Benson County Farmers Press (Minnewaukan, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Minot Daily News (Minot, North Dakota)									
01/26/2022	12.00	Notice Display	\$14.24		\$170.88	\$0.00	(0.00%)	\$170.88	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$14.24	\$0.00	\$170.88	\$0.00		\$170.88	
Mohall Renville County Farmer (Mohall, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Napoleon Homestead (Napoleon, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
New England, Hettinger County Herald (New England, North Dakota)									
01/27/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
New Rockford Transcript (New Rockford, North Dakota)									
01/31/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Rolla Turtle Mountain Star (Rolla, North Dakota)									
01/31/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Rugby Pierce County Tribune (Rugby, North Dakota)									
01/29/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Stanley Mountrail County Promoter (Stanley, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Steele Ozone & Kidder County Press (Steele, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Towner Mouse River Journal (Towner, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Valley City Times-Record (Valley City, North Dakota)									

Public Service Commission Invoice# 11861 P.O.#: Client Order Number:

Run Date	Ad Size	Rate Type	Rate	Color Rate	Total	Discount	(%)	Amount after Discount	Page
01/26/2022	12.00	Notice Display	\$9.67		\$116.04	\$0.00	(0.00%)	\$116.04	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$9.67	\$0.00	\$116.04	\$0.00		\$116.04	
Wahpeton, Daily News (Wahpeton, North Dakota)									
01/27/2022	12.00	Notice Display	\$9.67		\$116.04	\$0.00	(0.00%)	\$116.04	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$9.67	\$0.00	\$116.04	\$0.00		\$116.04	
Watford City, McKenzie County Farmer (Watford City, North Dakota)									
01/26/2022	12.00	Notice Display	\$6.98		\$83.76	\$0.00	(0.00%)	\$83.76	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$6.98	\$0.00	\$83.76	\$0.00		\$83.76	
Williston Herald (Williston, North Dakota)									
01/26/2022	12.00	Notice Display	\$9.67		\$116.04	\$0.00	(0.00%)	\$116.04	
Caption: PSC Pipeline Safety Rulemaking Case No. GS-21-442 and Case No. RC-22-28									
Subtotal:	12.00		\$9.67	\$0.00	\$116.04	\$0.00		\$116.04	

Gross Advertising	\$4,694.64	Total Misc	\$0.00	Amount Paid	\$0.00
Agency Discount	\$0.00	Tax	\$0.00	Adjustments	\$0.00
Other Discount	\$0.00	Total Billed	\$4,694.64	Payment Date	
Service Charge	\$0.00	Unbilled	\$0.00	Balance Due	\$4,694.64

If you'd like to pay your invoice online, go to 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 or 701-595-7311 for ACH information. Thank you!



Public Service Commission
State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann

hand delivered

19 January 2022

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Bismarck, North Dakota 58505-0480
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Jill Grossman
Administrative Rules Code Reviser
North Dakota Legislative Council
State Capitol
600 East Boulevard, 2nd Floor
Bismarck, ND 58505-0360

Re: Notice of Intent to Amend Administrative Rules
PSC Case Numbers GS-21-442 and RC-22-28

Dear Ms. Grossman:

The Public Service Commission recently passed a motion to propose changes to its administrative rules and issue notices. The RC-22-28 proposed Rules implements House Bill 1353 enacted by the 67th Legislative Session, relating to the establishment of the department of water resources, and the powers and duties of the department of water resources and the state engineer, and implements Senate Bill 2327 enacted by the 65th Legislative Session relating to the creation of the department of environmental quality.

The GS-21-442 proposed Rule is to adopt by reference the most recent amendments to pipeline safety regulations adopted by the U.S. Dept. of Transportation, Pipeline and Hazardous Materials Safety Administration.

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
- (Full) 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

JAN 19 2022

attachments

- 6 RC-22-28 Filed 01/19/2022 Pages: 11
Letter to Leg. Council enclosing Commission Motion, proposed Rules, and full Notice
Public Service Commission
John Schuh, General Counsel
- 6 GS-21-442 Filed 01/19/2022 Pages: 11
Letter to Leg. Council enclosing Commission Motion, proposed Rules, and full Notice
Public Service Commission
John Schuh, General Counsel

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

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

January 18, 2022

The Commission is proposing changes to North Dakota Administrative Code, Section 69-05.2-05-06, Chapter 69-05.2-16, Sections 69-05.2-16-03, 69-05.2-16-20, and 69-05.2-20-01.

The Commission proposes to change all state engineer/state water commission references in the existing rules to the department of water resources to be consistent with House Bill 1353 enacted by the 67th Legislative Session; and to change one state department of health reference to the department of environmental quality to be consistent with Senate Bill 2327 enacted by the 65th Legislative Session.

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 law provides, in part:

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

- 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.

A regulatory analysis has not been requested, and the proposal is not expected to impact the regulated community by an amount in excess of fifty thousand dollars (\$50,000.00). Consequently, no regulatory analysis is required.

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 rules should not limit the use of private property, so a takings assessment is not required.

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:

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.

A small entity regulatory analysis is not required because the proposed amendments implement name changes from state engineer/state water

commission to the department of water resources, and from the state department of health to the department of environmental quality to be consistent with statutory changes. The proposed changes will not adversely affect small entities.

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
Pipeline Safety
Rulemaking**

Case No. GS-21-442

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

January 18, 2022

The purpose of this rulemaking is to adopt, by reference in state administrative rule, 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 August 20, 2020, current to December 1, 2021. A summary/explanation of the specific changes to be adopted by reference for pipeline safety is attached.

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 law provides, in part:

2. 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;
 - b. A description of the probable impact, including economic impact, of the proposed rule;
 - c. The probable costs to the agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues; and
 - d. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why the methods were rejected in favor of the proposed rule.

North Dakota system operators subject to Commission jurisdiction who may be affected by the federal regulations proposed to be adopted by reference for the state pipeline safety program include intrastate liquefied natural gas facility operators, intrastate natural gas distribution system operators, natural gas and hazardous liquid transmission pipeline operators, and certain natural gas and hazardous liquid gathering system operators.

The Commission acts as agent for the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), in the enforcement of the minimum gas pipeline safety standards on all gas distribution and intrastate transmission facilities and enforcement of safety standards on all liquefied natural gas facilities within the state. This is accomplished by entering into a 601055(a) Title 49 agreement with the United States Department of Transportation that requires North Dakota to adopt all the federal gas safety standards, along with any future amendments to those standards. This rulemaking is a part of that ongoing agreement.

The intrastate natural gas and hazardous liquid transmission pipeline operators, intrastate natural gas distribution system operators, and liquefied natural gas facility operators must comply with the federal amendments and therefore were impacted financially as a result of PHMSA's adoption of the amendments. Adoption of these amendments for the state pipeline safety program will have no additional impact on the regulated community.

A regulatory analysis has not been requested, and the proposal is not expected to impact the regulated community by an amount in excess of fifty thousand dollars (\$50,000.00). Consequently, no regulatory analysis is required.

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.

A small entity regulatory analysis is not required because the proposed amendments to the existing rule for both the natural gas and hazardous liquids pipeline systems are mandated by federal law.

Small Entity Economic Impact Analysis

A small entity economic impact statement is not required because the proposed amendments to the existing rule for both the natural gas and hazardous liquids pipeline systems are mandated by federal law.

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 rules should not limit the use of private property so a takings assessment is not required.

PHMSA latest rulemakings effective date after August 20, 2020
 Summary as of December 1, 2021

Part affected	Amendment No.	Federal Register	Description	Effective date after August 20, 2020
190	No Number	86 FR 1745	Revisions To Civil Penalty Amounts	01/11/2021
191	29	86 FR 2210	Gas Pipeline Regulatory Reform	03/12/21
191	30	86 FR 63266	Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments	05/16/2022
192	128	86 FR 2210	Gas Pipeline Regulatory Reform	03/12/21
192	129	86 FR 63266	Safety of Gas Gathering Pipelines: Extension of Reporting Requirements, Regulation of Large, High-Pressure Lines, and Other Related Amendments	05/16/22
195	103	85 FR 8104	Safety of Underground Natural Gas Storage Facilities	03/13/20

Part 190, Amendment #No Number, 86 FR 1745: REVISIONS TO CIVIL PENALTY AMOUNTS

In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, this final rule provides the 2020 inflation adjustment to civil penalty amounts that may be imposed for violations of certain DOT regulations. In addition, this final rule makes conforming revisions to Federal Motor Carrier Safety Administration regulations to reflect inflationary adjustments to the statutorily-mandated civil penalties for violations of Federal law.

Part 191, Amendment #29, 86 FR 2210: GAS PIPELINE REGULATORY REFORM

PHMSA is amending the Federal Pipeline Safety Regulations to ease regulatory burdens on the construction, maintenance, and operation of gas transmission, distribution, and gathering pipeline systems without adversely affecting safety. The amendments in this rule are based on rulemaking petitions from stakeholders, and DOT and PHMSA initiatives to identify appropriate areas where regulations might be repealed, replaced, or modified, and PHMSA's review of public comments. PHMSA also, as of the effective date of this final rule, withdraws the March 29, 2019 "Exercise of

Enforcement Discretion Regarding Farm Taps" and the unpublished October 27, 2015 letter to the Interstate Natural Gas Association of America announcing a stay of enforcement pertaining to certain pressure vessels.

Part 191, Amendment #30, 86 FR 63266: SAFETY OF GAS GATHERING PIPELINES: EXTENSION OF REPORTING REQUIREMENTS, REGULATION OF LARGE, HIGH-PRESSURE LINES, AND OTHER RELATED AMENDMENTS

PHMSA is amending the Federal Pipeline Safety Regulations to ease regulatory burdens on the construction, maintenance, and operation of gas transmission, distribution, and gathering pipeline systems without adversely affecting safety. The amendments in this rule are based on rulemaking petitions from stakeholders, and DOT and PHMSA initiatives to identify appropriate areas where regulations might be repealed, replaced, or modified, and PHMSA's review of public comments. PHMSA also, as of the effective date of this final rule, withdraws the March 29, 2019 "Exercise of Enforcement Discretion Regarding Farm Taps" and the unpublished October 27, 2015 letter to the Interstate Natural Gas Association of America announcing a stay of enforcement pertaining to certain pressure vessels.

Part 192, Amendment #128, 86 FR 2210: GAS PIPELINE REGULATORY REFORM

PHMSA is amending the Federal Pipeline Safety Regulations to ease regulatory burdens on the construction, maintenance, and operation of gas transmission, distribution, and gathering pipeline systems without adversely affecting safety. The amendments in this rule are based on rulemaking petitions from stakeholders, and DOT and PHMSA initiatives to identify appropriate areas where regulations might be repealed, replaced, or modified, and PHMSA's review of public comments. PHMSA also, as of the effective date of this final rule, withdraws the March 29, 2019 "Exercise of Enforcement Discretion Regarding Farm Taps" and the unpublished October 27, 2015 letter to the Interstate Natural Gas Association of America announcing a stay of enforcement pertaining to certain pressure vessels.

Part 192, Amendment #129, 86 FR 63266: Safety of Gas Gathering Pipelines: EXTENSION OF REPORTING REQUIREMENTS, REGULATION OF LARGE, HIGH-PRESSURE LINES, AND OTHER RELATED AMENDMENTS

PHMSA is revising the Federal Pipeline Safety Regulations to improve the safety of onshore gas gathering pipelines. This final rule addresses Congressional mandates, Government Accountability Office recommendations, and public input received as part of the rulemaking process. The amendments in this final rule extend reporting requirements to all gas gathering operators and apply a set of minimum safety requirements to certain gas gathering pipelines with large diameters and high operating pressures. The rule does not affect offshore gas gathering pipelines.

Part 195, Amendment #103, 85 FR 8104: SAFETY OF UNDERGROUND NATURAL GAS STORAGE FACILITIES

The Pipeline and Hazardous Materials Safety Administration is publishing this final rule to amend its minimum safety standards for underground natural gas storage facilities (UNGSFs). On December 19, 2016, PHMSA issued an interim final rule (IFR)

establishing regulations in response to the 2015 Aliso Canyon incident and the subsequent mandate in section 12 of the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016. The IFR incorporated by reference two American Petroleum Institute (API) Recommended Practices (RPs): API RP 1170, "Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage" (First Edition, July 2015); and API RP 1171, "Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs" (First Edition, September 2015). The IFR required each provision in the API RPs to apply as mandatory (i.e., each "should" statement would apply as a "shall") unless an operator provides written justification for not implementing the practice, including an explanation for why it is impracticable and not necessary for safety. Based on the comments received to the IFR and a petition for reconsideration, PHMSA has determined that the RPs, as originally published, will provide PHMSA with a stronger basis upon which to base enforcement than the IFR. This final rule also addresses recommendations from commenters and a petition for reconsideration of the IFR by modifying compliance timelines, revising the definition of a UNGSF, clarifying the states' regulatory role, reducing recordkeeping and reporting requirements, formalizing integrity management practices, and adding risk management requirements for solution-mined salt caverns.

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Pipeline Safety
Rulemaking**

Case No. GS-21-442

PUBLIC SERVICE COMMISSION STAFF TESTIMONY

March 9, 2022

My name is Caleb Simburger. I am the Program Manager of the Public Service Commission's Gas Pipeline Safety Program.

The purpose of this testimony is to describe the proposed administrative rule changes pertaining to pipeline safety. Under North Dakota Administrative Code chapter 69-09-03, the Commission adopts 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 proposed rule change adopts, by reference, amendments to safety regulations that have been adopted by PHMSA since August 20, 2020, current to December 1, 2021, for gas pipeline safety, liquefied natural gas facility safety and hazardous liquids pipeline safety.

This concludes my testimony.

Thank you.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-22-28

PUBLIC SERVICE COMMISSION STAFF TESTIMONY

March 9, 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 rulemaking implements House Bill 1353 enacted by the 67th Legislative Session, relating to the establishment of the department of water resources, and the powers and duties of the department of water resources and the state engineer, and implements Senate Bill 2327 enacted by the 65th Legislative Session relating to the creation of the department of environmental quality, the transfer of duties and responsibilities of the state department of health relating to environmental quality to the department of environmental quality, and biennial reports of the department of environmental quality.

The proposed rulemaking updates North Dakota Administrative Code Article 69-05.2 by changing all state engineer and water commission references to the department of water resources and updates one state department of health reference to the department of environmental quality.

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.

This concludes my testimony.

Proposed Rule Chgs\2022\Staff_Testimony_3-9-22
Case Admin. RC-22-28

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

**Public Service Commission
Pipeline Safety
Rulemaking**

Case No. GS-21-442

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

Case No. RC-22-28

FISCAL NOTE

March 30, 2022

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

17 RC-22-28 Filed 03/30/2022 Pages: 1
Fiscal Note
Public Service Commission

16 GS-21-442 Filed 03/30/2022 Pages: 1
Fiscal Note
Public Service Commission

Hamre, John G.

From: Hamre, John G.
Sent: Tuesday, April 19, 2022 8:31 AM
To: Kempenich, Keith A.; Porter, Todd K.; Jessica Bell (jessicabell@nd.gov); Wardner, Rich P.
Cc: Schuh, John M.; Brinkman, Zanna A.
Subject: PSC Rules regarding SB-2327
Attachments: Attachment - Proposed Rules as revised.pdf; 19 January email.pdf

On 19 January I sent to you proposed Rules and Notice regarding Rules to implement enrolled Senate Bill No. 2327.

On 13 April the PSC Amended the Order submitting the proposed Rules to the Attorney General due to a typo we found in the proposed Rules as originally proposed.

Attached is a copy of the email I sent to you on 19 January along with the proposed Rules as amended.

Thank you,
John

John G. Hamre
North Dakota Public Service Commission
600 E. Blvd. Ave.
Dept. 408
Bismarck, ND 58505-0480
701-224-8091
jghamre@nd.gov

Hamre, John G.

From: Hamre, John G.
Sent: Wednesday, January 19, 2022 1:44 PM
To: Kempenich, Keith A.; Porter, Todd K.; Bell, Jessica K.; Wardner, Rich P.
Cc: Schuh, John M.; Brinkman, Zanna A.
Subject: PSC Rules regarding SB-2327
Attachments: Page 1 only - Enrolled Senate Bill No. 2327.pdf; proposed Rules with Full Notice.pdf

Attached are the Public Service Commission proposed Rules and Notice regarding enrolled Senate Bill No. 2327.

Best regards,
John

John G Hamre
Administrative Assistant
North Dakota Public Service Commission
600 E Blvd Ave
Dept 408
Bismarck, ND 58505-0480
701-328-2400

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2327
(Senators Unruh, Armstrong, Wardner)
(Representatives Carlson, Kempenich, Porter)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24, title 23.1, and subdivision v of subsection 1 of section 54-06-04 of the North Dakota Century Code, relating to the creation of the department of environmental quality, the transfer of duties and responsibilities of the state department of health relating to environmental quality to the department of environmental quality, and biennial reports of the department of environmental quality; to amend and reenact section 4-35.2-01, subdivision b of subsection 5 of section 6-09.4-03, sections 11-33-01, 11-33-02.1, and 11-33-22, subdivision d of subsection 2 of section 12.1-06.1-01, sections 15-05-16, 20.1-13-05, 20.1-17-01, and 23-01-02, subsection 8 of section 23-01.3-01, sections 23-20.2-02, 23-20.2-03, and 24-03-23, subsection 5 of section 28-32-50, sections 38-08-04.5, 38-11.1-03.1, 38-11.1-04.1, and 38-11.2-02, subsection 12 of section 38-14.1-03, subsection 2 of section 38-14.1-21, sections 38-22-07, 38-22-12, 40-47-01, 43-18-02, 43-18-09, 43-35-03, 43-35-19, 43-35-19.1, 43-35-19.2, 43-35-20, and 43-35-23, subsection 11 of section 43-48-03, sections 43-62-01 and 43-62-03, subsection 1 of section 43-62-15, subsection 3 of section 44-04-18.4, section 44-04-32, subsection 1 of section 54-07-01.2, subsection 3 of section 54-12-08, section 54-44.3-30, subsection 33 of section 57-43.2-01, sections 58-03-11, 58-03-11.1, and 58-03-17, subsection 13 of section 58-06-01, section 61-04.1-04, subsections 1 and 2 of section 61-28-02, subsection 2 of section 61-28.1-02, subsection 15 of section 61-28.1-03, subsection 2 of section 61-28.2-01, and sections 61-29-04, 61-33-09, and 61-35-24 of the North Dakota Century Code, relating to the transfer of duties and responsibilities of the state department of health to the department of environmental quality and the regulation of x-ray operators; to repeal chapters 19-10 and 19-16.1, sections 23-01-01.2, 23-01-04.1, 23-01-23, 23-01-30, and 23-01-36, chapters 23-20, 23-20.1, 23-20.3, 23-20.5, 23-25, 23-26, 23-29, 23-29.1, 23-31, 23-32, 23-33, 23-37, and 39-26, and sections 61-28-03 and 61-28-05 of the North Dakota Century Code, relating to the transfer of duties and responsibilities of the state department of health to the department of environmental quality; to provide a penalty; to provide a continuing appropriation; to provide for transition; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. STATE DEPARTMENT OF HEALTH TRANSITION OF ENVIRONMENTAL QUALITY FUNCTIONS. Notwithstanding any other provision of law, during the 2017-18 interim, the state department of health shall take all necessary and appropriate steps to transfer the authority, powers, and duties of the department related to environmental quality, as provided in this Act, to the department of environmental quality before the start of the sixty-sixth legislative assembly. Before July 1, 2019, the state department of health shall obtain the required approvals from, and amend the necessary agreements with, federal agencies and other public and private entities to ensure the state will continue to meet all primacy requirements. When the chief of the environmental health section of the state department of health has assurance from the necessary federal agencies that the state will meet all the primacy requirements after the transfer of authority, powers, and duties to the new department, the chief shall certify the same to the legislative management. Until the time of the certification, the chief of the environmental health section of the state department of health has the authority to operate, administer, manage, and restructure the environmental health section, reassign employees of the section, and control the funds appropriated for the section, to operate the section in the most efficient manner possible. To the extent required by the environmental health section, the state department of health shall continue to provide support and administrative services to the section. The chief of the environmental health section may adopt rules under this Act contingent and effective upon the establishment of the department of environmental quality.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

Proposed Rules (as originally proposed)

January 18, 2022

69-05.2-05-06. Permit applications - Coordination with requirements under other laws.

The commission will, to avoid duplication, coordinate permit review and issuance with:

1. Any other applicable state permit process including permits required by the:
 - a. Air Pollution Control Act (North Dakota Century Code chapter 23-25).
 - b. Solid Waste Management and Land Protection Act (North Dakota Century Code chapter 23-29).
 - c. Control, prevention, and abatement of pollution of surface waters (North Dakota Century Code chapter 61-28).
 - d. ~~State engineer, state water commission,~~ Department of Water Resources and water resource districts (North Dakota Century Code chapters 61-01, 61-02, 61-03, 61-04, 61-15, 61-16.1, 61-16.2, 61-31, and 61-32).
2. The appropriate state and federal agencies who administer other applicable natural resource and environmental protection acts.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-42

CHAPTER 69-05.2-16
PERFORMANCE STANDARDS - HYDROLOGIC BALANCE - GENERAL REQUIREMENTS

Section	
69-05.2-16-01	Performance Standards - Hydrologic Balance - General Requirements
69-05.2-16-02	Performance Standards - Hydrologic Balance - Compliance With State Department of Health Standards <u>Water Quality</u>
69-05.2-16-03	Performance Standards - Hydrologic Balance - Compliance With the Requirements of the State Engineer <u>Department of Water Resources</u> and Water Resource District
69-05.2-16-04	Performance Standards - Hydrologic Balance - Water Quality Standards and Effluent Limitations
69-05.2-16-05	Performance Standards - Hydrologic Balance - Surface Water Monitoring
69-05.2-16-06	Performance Standards - Hydrologic Balance - Diversion of Overland Flow
69-05.2-16-07	Performance Standards - Hydrologic Balance - Stream Channel Diversions
69-05.2-16-08	Performance Standards - Hydrologic Balance - Sediment Control Measures
69-05.2-16-09	Performance Standards - Hydrologic Balance - Sedimentation Ponds Performance
69-05.2-16-10	Standards - Hydrologic Balance - Discharge Structures Performance Standards -
69-05.2-16-11	Hydrologic Balance - Toxic Mine Drainage
69-05.2-16-12	Performance Standards - Hydrologic Balance - Permanent and Temporary Impoundments
69-05.2-16-13	Performance Standards - Hydrologic Balance - Ground Water Protection Performance
69-05.2-16-14	Standards - Hydrologic Balance - Ground Water Monitoring
69-05.2-16-15	Performance Standards - Hydrologic Balance - Protection of Ground Water Recharge Capacity
69-05.2-16-16	Performance Standards - Hydrologic Balance - Transfer of Wells
69-05.2-16-17	Performance Standards - Hydrologic Balance - Water Rights and Replacement
69-05.2-16-18	Performance Standards - Hydrologic Balance - Discharge of Waters Into an Underground Mine
69-05.2-16-19	Performance Standards - Hydrologic Balance - Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
69-05.2-16-20	Performance Standards - Hydrologic Balance - Stream Buffer Zones

69-05.2-16-03. Performance standards - Hydrologic balance - Compliance with the requirements of the ~~state engineer~~ Department of Water Resources and water resource district.

Any water impoundment, diversion, structure, or drainage ditch built as part of an approved mining and reclamation plan must be constructed to meet the requirements of the North Dakota ~~state engineer~~ Department of Water Resources and the appropriate water resource district, as well as those of this article. The commission will not issue or revise a mining permit until the ~~state engineer~~ Department of Water Resources and the water resource district have had an opportunity to review the applicable information and plans. No rights under the mining permit shall be exercised until the necessary ~~state engineer~~ Department of Water Resources and water resource district permits are obtained.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03, 38-14.1-42

Law Implemented: NDCC 38-14.1-24, 38-14.1-42

69-05.2-16-20. Performance standards - Hydrologic balance - Stream buffer zones.

1. The operator may not disturb land within one hundred feet (30.48 meters) of an intermittent or perennial stream unless the commission, after consulting the state-engineer Department of Water Resources and the department of environmental quality, specifically authorizes surface mining activities closer to, or through, the stream, after finding that:
 - a. Surface mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and
 - b. If there will be a temporary or permanent stream channel diversion, it will comply with section 69-05.2-16-07.
2. Areas not to be disturbed must be designated buffer zones and marked according to section 69-05.2-13-04.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-05.2-20-01. Performance standards - Dams and embankments constructed of or impounding coal processing waste - General requirements.

Dams and embankments constructed of or impounding coal processing waste as a temporary disposal method must comply with this chapter and permanent disposal of the waste must comply with section 69-05.2-19-02. Waste may not be used to construct the dams and embankments unless it has been demonstrated to the commission that the stability of the structure conforms to the requirements of subsection 1 of section 69-05.2-20-03. It must also be demonstrated that the use of waste material will not have a detrimental effect on downstream water quality or the environment due to toxic seepage through the dam or embankment. All demonstrations must be approved by the commission. Prior to commission approval, the state engineer Department of Water Resources will have an opportunity to review the plans and design of the structures.

History: Effective August 1, 1980; amended effective May 1, 1990; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24, 38-14.1-25

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-21-442

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

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

January 18, 2022

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the North Dakota Administrative Code to amend Section 69-09-03-02, to amend Section 69-05.2-05-06, to amend Chapter 69-05.2-16 index, to amend Section 69-05.2-16-03, to amend Section 69-05.2-16-20, and to amend Section 69-05.2-20-01.

A public hearing will be held on the proposed rules at 1:30 p.m. Central Time on 9 March 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 21 March 2022.

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

Case No. GS-21-442 - Section 69-09-03-02 – Pipeline Safety

The purpose of this amendment 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 August 20, 2020, current to December 1, 2021. The proposed change is not expected to have an impact on the regulated community in excess of \$50,000.

Case No. RC-22-28 - Section 69-05.2-05-06, Chapter 69-05.2-16 index, Section 69-05.2-16-03, Section 69-05.2-16-20, and Section 69-05.2-20-01. – Surface Coal Mining and Reclamation Operations

- 4 RC-22-28 Filed 01/18/2022 Pages: 2
(Full) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Public Hearing
Public Service Commission 1
- 4 GS-21-442 Filed 01/18/2022 Pages: 2
(Full) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Public Hearing
Public Service Commission

The purpose of this amendment is to change all state engineer and water commission references to the department of water resources and to change one state department of health reference to the department of environmental quality.

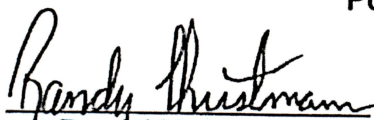
The proposed rulemaking implements House Bill 1353 enacted by the 67th Legislative Session, relating to the establishment of the department of water resources, and the powers and duties of the department of water resources and the state engineer, and implements Senate Bill 2327 enacted by the 65th Legislative Session relating to the creation of the department of environmental quality, the transfer of duties and responsibilities of the state department of health relating to environmental quality to the department of environmental quality, and biennial reports of the department of environmental quality.

The proposed rules and amendments may be reviewed at the Public Service Commission's offices on the 12th 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 21 March 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

Vacant

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

Proposed Rules (as revised)

April 13, 2022

69-05.2-05-06. Permit applications - Coordination with requirements under other laws.

The commission will, to avoid duplication, coordinate permit review and issuance with:

1. Any other applicable state permit process including permits required by the:
 - a. Air Pollution Control Act (North Dakota Century Code chapter 23-25).
 - b. Solid Waste Management and Land Protection Act (North Dakota Century Code chapter 23-29).
 - c. Control, prevention, and abatement of pollution of surface waters (North Dakota Century Code chapter 61-28).
 - d. ~~State engineer, state water commission,~~ Department of Water Resources and water resource districts (North Dakota Century Code chapters 61-01, 61-02, 61-03, 61-04, 61-15, 61-16.1, 61-16.2, 61-31, and 61-32).
2. The appropriate state and federal agencies who administer other applicable natural resource and environmental protection acts.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-42

CHAPTER 69-05.2-16
PERFORMANCE STANDARDS - HYDROLOGIC BALANCE - GENERAL REQUIREMENTS

Section

- 69-05.2-16-01 Performance Standards - Hydrologic Balance - General Requirements
- 69-05.2-16-02 Performance Standards - Hydrologic Balance - Compliance With State Department of Health Standards Environmental Quality Standards
- 69-05.2-16-03 Performance Standards - Hydrologic Balance - Compliance With the Requirements of the ~~State Engineer~~ Department of Water Resources and Water Resource District
- 69-05.2-16-04 Performance Standards - Hydrologic Balance - Water Quality Standards and Effluent Limitations
- 69-05.2-16-05 Performance Standards - Hydrologic Balance - Surface Water Monitoring
- 69-05.2-16-06 Performance Standards - Hydrologic Balance - Diversion of Overland Flow
- 69-05.2-16-07 Performance Standards - Hydrologic Balance - Stream Channel Diversions
- 69-05.2-16-08 Performance Standards - Hydrologic Balance - Sediment Control Measures
- 69-05.2-16-09 Performance Standards - Hydrologic Balance - Sedimentation Ponds Performance
- 69-05.2-16-10 Standards - Hydrologic Balance - Discharge Structures Performance Standards -
- 69-05.2-16-11 Hydrologic Balance - Toxic Mine Drainage
- 69-05.2-16-12 Performance Standards - Hydrologic Balance - Permanent and Temporary Impoundments
- 69-05.2-16-13 Performance Standards - Hydrologic Balance - Ground Water Protection Performance
- 69-05.2-16-14 Standards - Hydrologic Balance - Ground Water Monitoring
- 69-05.2-16-15 Performance Standards - Hydrologic Balance - Protection of Ground Water Recharge Capacity
- 69-05.2-16-16 Performance Standards - Hydrologic Balance - Transfer of Wells
- 69-05.2-16-17 Performance Standards - Hydrologic Balance - Water Rights and Replacement
- 69-05.2-16-18 Performance Standards - Hydrologic Balance - Discharge of Waters Into an Underground Mine
- 69-05.2-16-19 Performance Standards - Hydrologic Balance - Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
- 69-05.2-16-20 Performance Standards - Hydrologic Balance - Stream Buffer Zones

69-05.2-16-03. Performance standards - Hydrologic balance - Compliance with the requirements of the state-engineer Department of Water Resources and water resource district.

Any water impoundment, diversion, structure, or drainage ditch built as part of an approved mining and reclamation plan must be constructed to meet the requirements of the North Dakota state-engineer Department of Water Resources and the appropriate water resource district, as well as those of this article. The commission will not issue or revise a mining permit until the state engineer Department of Water Resources and the water resource district have had an opportunity to review the applicable information and plans. No rights under the mining permit shall be exercised until the necessary state-engineer Department of Water Resources and water resource district permits are obtained.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992;_____.

General Authority: NDCC 38-14.1-03, 38-14.1-42

Law Implemented: NDCC 38-14.1-24, 38-14.1-42

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1. The operator may not disturb land within one hundred feet [30.48 meters) of an intermittent or perennial stream unless the commission, after consulting the ~~state engineer~~ Department of Water Resources and the department of environmental quality, specifically authorizes surface mining activities closer to, or through, the stream, after finding that:
 - a. Surface mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and
 - b. If there will be a temporary or permanent stream channel diversion, it will comply with section 69-05.2-16-07.
2. Areas not to be disturbed must be designated buffer zones and marked according to section 69-05.2-13-04.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-05.2-20-01. Performance standards - Dams and embankments constructed of or impounding coal processing waste - General requirements.

Dams and embankments constructed of or impounding coal processing waste as a temporary disposal method must comply with this chapter and permanent disposal of the waste must comply with section 69-05.2-19-02. Waste may not be used to construct the dams and embankments unless it has been demonstrated to the commission that the stability of the structure conforms to the requirements of subsection 1 of section 69-05.2-20-03. It must also be demonstrated that the use of waste material will not have a detrimental effect on downstream water quality or the environment due to toxic seepage through the dam or embankment. All demonstrations must be approved by the commission. Prior to commission approval, the ~~state engineer~~ Department of Water Resources will have an opportunity to review the plans and design of the structures.

History: Effective August 1, 1980; amended effective May 1, 1990; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24, 38-14.1-25

Hamre, John G.

From: Hamre, John G.
Sent: Tuesday, April 19, 2022 8:41 AM
To: Schmidt, James E.; Delzer, Jeff W.; Monson, David C.; Nelson, Jon O.; Pollert, Chet A.; Kreun, Curt E.; Schaible, Donald G.; Sorvaag, Ronald G.; Jessica Bell (jessicabell@nd.gov); Wardner, Rich P.
Cc: Schuh, John M.; Brinkman, Zanna A.
Subject: Enrolled House Bill No. 1353
Attachments: 19 January email.pdf; Attachment - Proposed Rules as revised.pdf

On 19 January I sent to you proposed Rules and Notice regarding Rules to implement enrolled House Bill No. 1353.

On 13 April the PSC Amended the Order submitting the proposed Rules to the Attorney General due to a typo we found in the proposed Rules as originally proposed.

Attached is a copy of the email I sent to you on 19 January along with the proposed Rules as amended.

Thank you,
John

John G. Hamre
North Dakota Public Service Commission
600 E. Blvd. Ave.
Dept. 408
Bismarck, ND 58505-0480
701-224-8091
jghamre@nd.gov

Hamre, John G.

From: Hamre, John G.
Sent: Wednesday, January 19, 2022 1:39 PM
To: Schmidt, James E.; Delzer, Jeff W.; Monson, David C.; Nelson, Jon O.; Pollert, Chet A.; Kreun, Curt E.; Schaible, Donald G.; Sorvaag, Ronald G.; Bell, Jessica K.; Wardner, Rich P.
Cc: Schuh, John M.; Brinkman, Zanna A.
Subject: PSC Rules regarding HB-1353
Attachments: Page 1 only - Enrolled House Bill No. 1353.pdf; proposed Rules with Full Notice.pdf

Attached are the Public Service Commission proposed Rules and Notice regarding enrolled House Bill No. 1353.

Best regards,
John

John G Hamre
Administrative Assistant
North Dakota Public Service Commission
600 E Blvd Ave
Dept 408
Bismarck, ND 58505-0480
701-328-2400

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1353
(Representatives Schmidt, Delzer, Monson, J. Nelson, Pollert)
(Senators Kreun, Schaible, Sorvaag, Bell, Wardner)

AN ACT to create and enact sections 61-03-01.1, 61-03-01.2, and 61-03-01.3 of the North Dakota Century Code, relating to the establishment of the department of water resources and powers and duties of the director of the department of water resources; to amend and reenact subsection 1 of section 4.1-01-18, sections 4.1-35-01 and 4.1-35-04, subsection 3 of section 4.1-35-05, section 11-33.2-12.1, subsection 1 of section 23.1-01-02, sections 23.1-08-13, 23.1-11-06, 23.1-11-10, 23.1-11-11, 24-03-06, 24-03-08, and 24-06-26.1, subsection 2 of section 37-17.1-11, subsection 12 of section 38-14.1-03, subdivision n of subsection 1 of section 38-14.1-14, subsection 2 of section 38-14.1-21, subsection 7 of section 38-14.1-24, subsection 1 of section 38-14.1-25, subsection 1 of section 38-23-08, subsection 11 of section 40-50.1-01, section 43-35-03, subsection 1 of section 54-57-03, sections 57-02-08.6 and 57-28-09, subsection 4 of section 61-01-01, sections 61-01-03, 61-01-05, 61-01-06, 61-01-25, 61-02-05, 61-02-14.2, 61-02-23.3, 61-02-26, 61-02-27, 61-02-30, 61-02-32, 61-02-33, 61-02-41, 61-02-68.10, 61-02.1-01, 61-03-03, 61-03-04, 61-03-06, 61-03-08, 61-03-10, 61-03-12, 61-03-13, 61-03-14, 61-03-15, 61-03-16, 61-03-17, 61-03-18, 61-03-19, 61-03-20, 61-03-21, 61-03-21.1, 61-03-21.2, 61-03-21.3, 61-03-21.4, 61-03-22, 61-03-23, 61-03-24, 61-03-25, and 61-04-01, subsections 1 and 15 of section 61-04-01.1, sections 61-04-02, 61-04-02.1, 61-04-02.2, 61-04-03, 61-04-03.1, 61-04-04, 61-04-04.1, 61-04-04.2, 61-04-04.3, 61-04-05, 61-04-05.1, 61-04-06, 61-04-06.1, 61-04-06.2, 61-04-06.3, 61-04-07.2, 61-04-07.3, 61-04-09, 61-04-11, 61-04-12, 61-04-14, 61-04-15, 61-04-15.2, 61-04-15.3, 61-04-15.4, and 61-04-23, subsection 1 of section 61-04-24, sections 61-04-25, 61-04-26, 61-04-27, 61-04-28, 61-04-29, 61-04-30, 61-04-31, and 61-04.1-04, subsection 3 of section 61-05-01, sections 61-05-07, 61-05-08, 61-05-09, 61-05-10, 61-05-11, 61-05-12, 61-05-13, 61-05-14, 61-05-15, 61-05-16, 61-05-17, 61-05-18, 61-05-19, 61-05-20, 61-06-01, 61-06-03, 61-06-04, 61-06-05, 61-06-19, 61-07-08, 61-07-19, 61-07-27, 61-09-02, 61-10-27, 61-10-30, 61-10-35, 61-10-37, 61-11-04, 61-11-08, 61-11-09, 61-11-15, 61-12-46, 61-14-01, 61-14-03, 61-14-06, 61-14-07, 61-14-13, 61-15-03, 61-15-09, and 61-16-06.1, subsection 1 of section 61-16.1-09.1, sections 61-16.1-23, 61-16.1-37, 61-16.1-38, 61-16.1-39, 61-16.1-53.1, 61-16.2-01, 61-16.2-02, 61-16.2-03, 61-16.2-04, and 61-16.2-05, subsection 1 of section 61-16.2-09, sections 61-16.2-11, 61-16.2-13, 61-16.2-14, 61-20-02, 61-20-03, 61-20-06, 61-20-07, 61-21-02.1, 61-21-22, 61-21-34, 61-24-07, 61-24.3-01, 61-24.5-01, 61-24.5-18, 61-24.6-01, 61-24.6-02, 61-24.6-03, 61-24.6-05, 61-24.8-01, 61-24.8-18, and 61-29-04, subsection 6 of section 61-31-02, and sections 61-32-03, 61-32-03.1, 61-32-08, 61-33-01, 61-33-01.1, 61-33-02, 61-33-03, 61-33-05, 61-33-05.1, 61-33-07, 61-33-08, 61-33-09, 61-33-10, 61-33.1-07, 61-34-01, 61-34-04, 61-35-01, 61-35-02, 61-35-02.1, 61-35-04, 61-35-05, 61-35-07, 61-35-08, 61-35-16, 61-35-18, 61-35-20, 61-35-21, 61-35-22, 61-35-23, 61-35-25, 61-35-63, 61-38-01, 61-38-02, 61-38-03, 61-38-04, 61-38-05, 61-38-06, 61-38-07, 61-38-08, 61-38-09, 61-38-10, 61-38-11, 61-39-01, and 61-40-07 of the North Dakota Century Code, relating to the powers and duties of the department of water resources and the state engineer and updates to statutory language; and to repeal sections 61-03-01, 61-03-02, and 61-03-05.1 of the North Dakota Century Code, relating to the powers and duties of the state engineer and the water use fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 4.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

1. The federal environmental law impact review committee consists of:
 - a. The commissioner, who shall serve as the chairman;

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

Proposed Rules (as originally proposed)

January 18, 2022

69-05.2-05-06. Permit applications - Coordination with requirements under other laws.

The commission will, to avoid duplication, coordinate permit review and issuance with:

1. Any other applicable state permit process including permits required by the:
 - a. Air Pollution Control Act (North Dakota Century Code chapter 23-25).
 - b. Solid Waste Management and Land Protection Act (North Dakota Century Code chapter 23-29).
 - c. Control, prevention, and abatement of pollution of surface waters (North Dakota Century Code chapter 61-28).
 - d. ~~State engineer, state water commission,~~ Department of Water Resources and water resource districts (North Dakota Century Code chapters 61-01, 61-02, 61-03, 61-04, 61-15, 61-16.1, 61-16.2, 61-31, and 61-32).
2. The appropriate state and federal agencies who administer other applicable natural resource and environmental protection acts.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-42

CHAPTER 69-05.2-16
PERFORMANCE STANDARDS - HYDROLOGIC BALANCE - GENERAL REQUIREMENTS

Section	
69-05.2-16-01	Performance Standards - Hydrologic Balance - General Requirements
69-05.2-16-02	Performance Standards - Hydrologic Balance - Compliance With State Department of Health Standards <u>Water Quality</u>
69-05.2-16-03	Performance Standards - Hydrologic Balance - Compliance With the Requirements of the State Engineer <u>Department of Water Resources</u> and Water Resource District
69-05.2-16-04	Performance Standards - Hydrologic Balance - Water Quality Standards and Effluent Limitations
69-05.2-16-05	Performance Standards - Hydrologic Balance - Surface Water Monitoring
69-05.2-16-06	Performance Standards - Hydrologic Balance - Diversion of Overland Flow
69-05.2-16-07	Performance Standards - Hydrologic Balance - Stream Channel Diversions
69-05.2-16-08	Performance Standards - Hydrologic Balance - Sediment Control Measures
69-05.2-16-09	Performance Standards - Hydrologic Balance - Sedimentation Ponds Performance
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69-05.2-16-20	Performance Standards - Hydrologic Balance - Stream Buffer Zones

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Any water impoundment, diversion, structure, or drainage ditch built as part of an approved mining and reclamation plan must be constructed to meet the requirements of the North Dakota state-engineer Department of Water Resources and the appropriate water resource district, as well as those of this article. The commission will not issue or revise a mining permit until the state engineer Department of Water Resources and the water resource district have had an opportunity to review the applicable information and plans. No rights under the mining permit shall be exercised until the necessary state-engineer Department of Water Resources and water resource district permits are obtained.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03, 38-14.1-42

Law Implemented: NDCC 38-14.1-24, 38-14.1-42

69-05.2-16-20. Performance standards - Hydrologic balance - Stream buffer zones.

1. The operator may not disturb land within one hundred feet [30.48 meters) of an intermittent or perennial stream unless the commission, after consulting the ~~state engineer~~ Department of Water Resources and the department of environmental quality, specifically authorizes surface mining activities closer to, or through, the stream, after finding that:
 - a. Surface mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and
 - b. If there will be a temporary or permanent stream channel diversion, it will comply with section 69-05.2-16-07.
2. Areas not to be disturbed must be designated buffer zones and marked according to section 69-05.2-13-04.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-05.2-20-01. Performance standards - Dams and embankments constructed of or impounding coal processing waste - General requirements.

Dams and embankments constructed of or impounding coal processing waste as a temporary disposal method must comply with this chapter and permanent disposal of the waste must comply with section 69-05.2-19-02. Waste may not be used to construct the dams and embankments unless it has been demonstrated to the commission that the stability of the structure conforms to the requirements of subsection 1 of section 69-05.2-20-03. It must also be demonstrated that the use of waste material will not have a detrimental effect on downstream water quality or the environment due to toxic seepage through the dam or embankment. All demonstrations must be approved by the commission. Prior to commission approval, the state engineer Department of Water Resources will have an opportunity to review the plans and design of the structures.

History: Effective August 1, 1980; amended effective May 1, 1990; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24, 38-14.1-25

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Pipeline Safety
Rulemaking

Case No. GS-21-442

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

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

January 18, 2022

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the North Dakota Administrative Code to amend Section 69-09-03-02, to amend Section 69-05.2-05-06, to amend Chapter 69-05.2-16 index, to amend Section 69-05.2-16-03, to amend Section 69-05.2-16-20, and to amend Section 69-05.2-20-01.

A public hearing will be held on the proposed rules at 1:30 p.m. Central Time on 9 March 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 21 March 2022.

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

Case No. GS-21-442 - Section 69-09-03-02 – Pipeline Safety

The purpose of this amendment 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 August 20, 2020, current to December 1, 2021. The proposed change is not expected to have an impact on the regulated community in excess of \$50,000.

Case No. RC-22-28 - Section 69-05.2-05-06, Chapter 69-05.2-16 index, Section 69-05.2-16-03, Section 69-05.2-16-20, and Section 69-05.2-20-01. – Surface Coal Mining and Reclamation Operations

4 RC-22-28 Filed 01/18/2022 Pages: 2
(Full) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Public Hearing
Public Service Commission 1

4 GS-21-442 Filed 01/18/2022 Pages: 2
(Full) Notice of Intent to Adopt and Amend Admin. Rules and Notice of Public Hearing
Public Service Commission

The purpose of this amendment is to change all state engineer and water commission references to the department of water resources and to change one state department of health reference to the department of environmental quality.

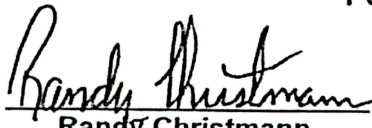
The proposed rulemaking implements House Bill 1353 enacted by the 67th Legislative Session, relating to the establishment of the department of water resources, and the powers and duties of the department of water resources and the state engineer, and implements Senate Bill 2327 enacted by the 65th Legislative Session relating to the creation of the department of environmental quality, the transfer of duties and responsibilities of the state department of health relating to environmental quality to the department of environmental quality, and biennial reports of the department of environmental quality.

The proposed rules and amendments may be reviewed at the Public Service Commission's offices on the 12th 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 **21 March 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

Vacant

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Surface Coal Mining and Reclamation Operations
Rulemaking

Case No. RC-22-28

Proposed Rules (as revised)

April 13, 2022

69-05.2-05-06. Permit applications - Coordination with requirements under other laws.

The commission will, to avoid duplication, coordinate permit review and issuance with:

1. Any other applicable state permit process including permits required by the:
 - a. Air Pollution Control Act (North Dakota Century Code chapter 23-25).
 - b. Solid Waste Management and Land Protection Act (North Dakota Century Code chapter 23-29).
 - c. Control, prevention, and abatement of pollution of surface waters (North Dakota Century Code chapter 61-28).
 - d. ~~State engineer, state water commission,~~ Department of Water Resources and water resource districts (North Dakota Century Code chapters 61-01, 61-02, 61-03, 61-04, 61-15, 61-16.1, 61-16.2, 61-31, and 61-32).
2. The appropriate state and federal agencies who administer other applicable natural resource and environmental protection acts.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-03, 38-14.1-42

CHAPTER 69-05.2-16
PERFORMANCE STANDARDS - HYDROLOGIC BALANCE - GENERAL REQUIREMENTS

Section	
69-05.2-16-01	Performance Standards - Hydrologic Balance - General Requirements
69-05.2-16-02	Performance Standards - Hydrologic Balance - Compliance With State Department of Health Standards <u>Environmental Quality Standards</u>
69-05.2-16-03	Performance Standards - Hydrologic Balance - Compliance With the Requirements of the State Engineer <u>Department of Water Resources</u> and Water Resource District
69-05.2-16-04	Performance Standards - Hydrologic Balance - Water Quality Standards and Effluent Limitations
69-05.2-16-05	Performance Standards - Hydrologic Balance - Surface Water Monitoring
69-05.2-16-06	Performance Standards - Hydrologic Balance - Diversion of Overland Flow
69-05.2-16-07	Performance Standards - Hydrologic Balance - Stream Channel Diversions
69-05.2-16-08	Performance Standards - Hydrologic Balance - Sediment Control Measures
69-05.2-16-09	Performance Standards - Hydrologic Balance - Sedimentation Ponds Performance Standards - Hydrologic Balance - Discharge Structures Performance Standards -
69-05.2-16-11	Hydrologic Balance - Toxic Mine Drainage
69-05.2-16-12	Performance Standards - Hydrologic Balance - Permanent and Temporary Impoundments
69-05.2-16-13	Performance Standards - Hydrologic Balance - Ground Water Protection Performance Standards - Hydrologic Balance - Ground Water Monitoring
69-05.2-16-14	Standards - Hydrologic Balance - Ground Water Monitoring
69-05.2-16-15	Performance Standards - Hydrologic Balance - Protection of Ground Water Recharge Capacity
69-05.2-16-16	Performance Standards - Hydrologic Balance - Transfer of Wells
69-05.2-16-17	Performance Standards - Hydrologic Balance - Water Rights and Replacement
69-05.2-16-18	Performance Standards - Hydrologic Balance - Discharge of Waters Into an Underground Mine
69-05.2-16-19	Performance Standards - Hydrologic Balance - Postmining Rehabilitation of Sedimentation Ponds, Diversions, Impoundments, and Treatment Facilities
69-05.2-16-20	Performance Standards - Hydrologic Balance - Stream Buffer Zones

69-05.2-16-03. Performance standards - Hydrologic balance - Compliance with the requirements of the ~~state engineer~~ Department of Water Resources and water resource district.

Any water impoundment, diversion, structure, or drainage ditch built as part of an approved mining and reclamation plan must be constructed to meet the requirements of the North Dakota ~~state engineer~~ Department of Water Resources and the appropriate water resource district, as well as those of this article. The commission will not issue or revise a mining permit until the ~~state engineer~~ Department of Water Resources and the water resource district have had an opportunity to review the applicable information and plans. No rights under the mining permit shall be exercised until the necessary ~~state engineer~~ Department of Water Resources and water resource district permits are obtained.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03, 38-14.1-42

Law Implemented: NDCC 38-14.1-24, 38-14.1-42

69-05.2-16-20. Performance standards - Hydrologic balance - Stream buffer zones.

1. The operator may not disturb land within one hundred feet [30.48 meters) of an intermittent or perennial stream unless the commission, after consulting the ~~state engineer~~ Department of Water Resources and the department of environmental quality, specifically authorizes surface mining activities closer to, or through, the stream, after finding that:
 - a. Surface mining activities will not cause or contribute to the violation of applicable state or federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and
 - b. If there will be a temporary or permanent stream channel diversion, it will comply with section 69-05.2-16-07.
2. Areas not to be disturbed must be designated buffer zones and marked according to section 69-05.2-13-04.

History: Effective August 1, 1980; amended effective May 1, 1990; May 1, 1992; _____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-05.2-20-01. Performance standards - Dams and embankments constructed of or impounding coal processing waste - General requirements.

Dams and embankments constructed of or impounding coal processing waste as a temporary disposal method must comply with this chapter and permanent disposal of the waste must comply with section 69-05.2-19-02. Waste may not be used to construct the dams and embankments unless it has been demonstrated to the commission that the stability of the structure conforms to the requirements of subsection 1 of section 69-05.2-20-03. It must also be demonstrated that the use of waste material will not have a detrimental effect on downstream water quality or the environment due to toxic seepage through the dam or embankment. All demonstrations must be approved by the commission. Prior to commission approval, the state engineer-Department of Water Resources will have an opportunity to review the plans and design of the structures.

History: Effective August 1, 1980; amended effective May 1, 1990;_____.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24, 38-14.1-25