



# 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, 2<sup>nd</sup> 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

attachments

**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 67<sup>th</sup> 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 65<sup>th</sup> 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 12<sup>th</sup> floor of the State Capitol, 600 East Boulevard Ave, Dept. 408, Bismarck, North Dakota. A copy of the proposed rules or amendments and/or a regulatory analysis may be requested by writing the above address, emailing [ndpsc@nd.gov](mailto: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](http://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

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Vacant