

CHAPTER 69-05.2-06
PERMIT APPLICATIONS - REQUIREMENTS FOR LEGAL, FINANCIAL, COMPLIANCE,
AND RELATED INFORMATION

Section

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69-05.2-06-01. Permit applications - Identification of interests.

1. In addition to satisfying the applicable requirements of subsection 1 of North Dakota Century Code section 38-14.1-14, each application must contain:
 - a. The names and addresses of the owner of record of surface and coal subsurface rights contiguous to the permit area extending one-fourth mile [402.33 meters] from the permit boundary.
 - b. The mine name and the mine safety and health administration identification number.
 - c. A statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands contiguous to the permit area extending one-fourth mile [402.33 meters] from the permit boundary.
 - d. The name, address, telephone number, and, as applicable, social security number and employer identification number of the:
 - (1) Applicant.
 - (2) Applicant's resident agent.
 - (3) Person who will pay the abandoned mine land reclamation fee.
 - e. For each person who owns or controls the applicant under the definition of "owned or controlled" or "owns or controls", as applicable:
 - (1) The person's name, address, social security number, and employer identification number.
 - (2) The person's ownership or control relationship to the applicant, including percentage of ownership and location in the organizational structure.
 - (3) The title of the person's position, date position was assumed, and, when submitted under subdivision e of subsection 3 of section 69-05.2-10-05, the date of departure from the position.
 - (4) Each additional name and identifying number, including employer identification number, federal or state permit number, and mine safety and health administration number with date of issuance, under which the person owns or controls, or previously owned or controlled, a surface coal mining and reclamation operation in the United States within the five years preceding the date of the application.
 - (5) The application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by the person in any state in the United States.

- f. For any surface coal mining operation owned or controlled by either the applicant or by any person who owns or controls the applicant under the definition of "owned or controlled" and "owns or controls", the operation's:
 - (1) Name, address, identifying numbers, including employer identification number, federal or state permit number and mine safety and health administration number, the date of issuance of the mine safety and health administration number, and the regulatory authority.
 - (2) Ownership or control relationship to the applicant, including percentage of ownership and location in the organizational structure.
2. With regard to the business entity information required by subdivisions d through f of subsection 1:
 - a. If this information is already in the applicant violator system maintained by the office of surface mining reclamation and enforcement, the applicant:
 - (1) May certify to the commission by affirming, under oath and in writing, that the relevant information in the applicant violator system is accurate, complete, and up to date; or
 - (2) If the part of the information in the applicant violator system is missing or incorrect, submit the necessary information or corrections and affirm, under oath and in writing, that the information submitted is accurate and complete.
 - b. The applicant shall affirm, under oath and in writing, that all business entity information provided in an application is accurate and complete.
 - c. The commission may establish a central file to house the applicant's business entity identity information, rather than place duplicate information in each permit file. If a central file is established for an applicant, the information in that file will be considered a component of each permit it is connected to. The commission will make information in a central file available to the public and the applicant shall file a copy with the county auditor in the county where mining is proposed.
 - d. After notification that the application is deemed ready for approval but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subdivisions d through f of subsection 1 or certify that information in the applicant violator system is still accurate, complete, and up to date.
3. The applicant shall submit information required by this section in any format prescribed by the office of surface mining reclamation and enforcement.
4. The submission of a social security number in subdivisions d and e of subsection 1 is voluntary.

History: Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; May 1, 1992; July 1, 1995; April 1, 2013.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14

69-05.2-06-02. Permit applications - Compliance information.

In addition to satisfying the applicable requirements of subsection 1 of North Dakota Century Code section 38-14.1-14, each application must contain:

1. A statement of any current or previous coal mining permits in any state held during the five years prior to application and by any person identified in paragraph 3 of subdivision e of subsection 1 of North Dakota Century Code section 38-14.1-14, and of any pending application to conduct operations in any state. The information must be listed by permit and pending application number for each.
2. The explanation required by subdivision h of subsection 1 of North Dakota Century Code section 38-14.1-14 including:
 - a. Identification number and permit issue date or date and amount of bond or similar security.
 - b. Identification of the authority that suspended or revoked a permit or forfeited a bond and the reasons for that action.
 - c. The current status of the permit, bond, or security.
 - d. The date, location, type, and current status of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture.
3. A list of all violation notices as required by subdivision g of subsection 1 of North Dakota Century Code section 38-14.1-14 including violations received by any person who owns or controls the applicant.
4. A list of all unabated cessation orders and unabated air and water quality violation notices received prior to the date of the application by any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant.
5. The lists required by subsections 3 and 4 must include, as applicable:
 - a. Any identifying numbers for the operation, including the federal or state permit number and mine safety and health administration number, the date of issuance of the violation notice and mine safety and health administration number, the name of the person to whom the violation was issued, and the identity of the issuing authority, department, or agency.
 - b. A brief description of the violation alleged.
 - c. The date, location, and type of any administrative or judicial proceedings initiated concerning the violation, including proceedings initiated by the applicant or by any person who owns or controls the applicant, to obtain administrative or judicial review.
 - d. The current status of the proceedings and violation notice.
 - e. Any actions taken by the applicant or by any person who owns or controls the applicant to abate the violation.
 - f. Any final resolution of each notice.
6. With regard to the violation information required by subsections 3 through 5:
 - a. If this information is already in the applicant violator system maintained by the office of surface mining reclamation and enforcement, the applicant:
 - (1) May certify to the commission by affirming, under oath and in writing, that the relevant information in the applicant violator system is accurate, complete, and up to date; or

- (2) If the part of the information in the applicant violator system is missing or incorrect, submit the necessary information or corrections and affirm, under oath and in writing, that the information you submit is accurate and complete.
- b. The applicant shall affirm, under oath and in writing, that all violation information provided in an application is accurate and complete.
- c. The commission may establish a central file to house the applicant's identity information, rather than place duplicate information in each permit file. If a central file is established for an applicant, the information in that file will be considered a component of each permit it is connected to. The commission will make information in a central file available to the public and the applicant shall file a copy with the county auditor in the county where mining is proposed.
- d. After notification that the application is deemed ready for approval but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsections 3 through 5 or certify that information in the applicant violator system is still accurate, complete, and up to date.

History: Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; May 1, 1990; May 1, 1992; June 1, 1994; July 1, 1995; April 1, 2013.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14

69-05.2-06-03. Permit applications - Right of entry and operation information.

1. In addition to satisfying subdivision k of subsection 1 of North Dakota Century Code section 38-14.1-14, the application must also contain a narrative and supporting certified copies of the appropriate documents which demonstrate that the applicant has complied with North Dakota Century Code section 38-18-06.
2. Following completion of coal removal operations on the lands covered by a coal lease, the copy of the lease may be deleted from an approved permit if:
 - a. The lease is no longer needed to show the surface right of entry for carrying out reclamation operations; or
 - b. The lease has expired or has been terminated.

If a coal lease is no longer provided for surface right of entry, other documents granting the permittee surface right of entry must be added to the permit.

History: Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; April 1, 2007.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14

69-05.2-06-04. Permit applications - Identification of other licenses and permits.

Each application must contain a list of all other licenses and permits needed to conduct mining activities and identify each license and permit by:

1. Type.
2. Name and address of issuing authority.
3. Identification numbers of permit or license applications or, if issued, the permit or license identification numbers.

4. If a decision has been made, the date of approval or disapproval by each issuing authority.

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

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14

69-05.2-06-05. Permit applications - Relationship to areas designated unsuitable for mining.

1. Each application must contain a statement of available information on whether the permit area is within an area designated unsuitable for mining under North Dakota Century Code section 38-14.1-05 and chapter 69-05.2-04 or under study for designation in an administrative proceeding.
2. If claiming the exemption in subdivision d of subsection 3 of North Dakota Century Code section 38-14.1-21, the applicant shall provide information supporting the assertion of substantial legal and financial commitments made before January 4, 1977.

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

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-05, 38-14.1-14, 38-14.1-21