

**CHAPTER 69-05.2-24**  
**PERFORMANCE STANDARDS - ROADS - OTHER TRANSPORTATION FACILITIES -**  
**SUPPORT FACILITIES**

Section

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**69-05.2-24-01. Performance standards - Roads - General requirements.**

1. Each road, as defined in subsection 93 of section 69-05.2-01-02, must be classified as either a primary or ancillary road.
  - a. A primary road is any road which is:
    - (1) Used for transporting coal or spoil;
    - (2) Frequently used for access or other purposes for a period in excess of six months;  
or
    - (3) To be retained for an approved postmining land use.
  - b. An ancillary road is any road not classified as a primary road.
2. Each road must be located, designed, constructed, reconstructed, used, maintained, and reclaimed so as to:
  - a. Control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices.
  - b. Control or prevent damage to fish, wildlife, or their habitat and related environmental values.
  - c. Control or prevent additional contributions of suspended solids to streamflow or runoff outside the permit area.
  - d. Neither cause nor contribute to, directly or indirectly, the violation of state or federal water quality standards applicable to receiving waters.
  - e. Refrain from seriously altering the normal flow of water in streambeds or drainage channels.
  - f. Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects on lands within the boundaries of units of the national park system, the national wildlife refuge system, the national system of trails, the national wilderness preservation system, the wild and scenic rivers system, including designated study rivers, and national recreation areas designated by act of Congress.

- g. Use nonacid-forming and nontoxic-forming substances in road surfacing.
- 3. The design and construction or reconstruction of roads must incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, and culvert size, in accordance with current, prudent engineering practices, and any necessary design criteria established by the commission.
- 4. Roads must be located to minimize downstream sedimentation and flooding, but in no case may roads be located in the channel of an intermittent or perennial stream unless specifically approved by the commission under section 69-05.2-16-20, and all other applicable requirements of chapter 69-05.2-16 are met.
- 5. Roads must be maintained to meet the performance standards of this chapter and any additional criteria specified by the commission.
- 6. A road damaged by a catastrophic event, such as a flood or earthquake, must be repaired as soon as is practicable after the damage has occurred.

**History:** Effective August 1, 1980; amended effective May 1, 1992; April 1, 2007.

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

**Law Implemented:** NDCC 38-14.1-24

**69-05.2-24-02. Performance standards - Roads - Location.**

Repealed effective May 1, 1992.

**69-05.2-24-03. Performance standards - Roads - Design and construction of primary roads.**

Primary roads must meet the requirements of section 69-05.2-24-01 and the additional requirements of this section.

- 1. The construction or reconstruction of primary roads must be certified in a report to the commission by a qualified registered professional engineer with experience in the design and construction of roads. The report must indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.
- 2. Each primary road embankment must have a minimum static factor of safety of 1.3.
- 3. To minimize erosion, a primary road must be located, insofar as is practicable, on the most stable available surface.
- 4. Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the commission as temporary routes during periods of road construction.
- 5. In accordance with the approved plan, all primary roads must:
  - a. Be constructed or reconstructed and maintained to have adequate drainage control, using structures such as bridges, ditches, cross drains, and ditch relief drains. The drainage control system must be designed to safely pass the peak runoff from a ten-year, six-hour precipitation event, or greater event as specified by the commission.
  - b. Have drainage pipes and culverts installed as designed. Both must be maintained in a free and operating condition and erosion at inlets and outlets must be prevented or controlled.

- c. Have drainage ditches constructed and maintained to prevent uncontrolled drainage over the road surface and embankment.
- d. Have culverts installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road.
- e. Not alter or relocate natural stream channels unless specifically approved by the commission under section 69-05.2-16-20 and all other applicable requirements of chapter 69-05.2-16 are met.
- f. Except as provided by subsection 4, construct perennial or intermittent stream channel crossings using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The commission will ensure that low-water crossings are designed, constructed, and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to streamflow.
- g. Be surfaced with material approved by the commission as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

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

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

**Law Implemented:** NDCC 38-14.1-24

**69-05.2-24-04. Performance standards - Roads - Drainage.**

Repealed effective May 1, 1992.

**69-05.2-24-05. Performance standards - Roads - Surfacing.**

Repealed effective May 1, 1992.

**69-05.2-24-06. Performance standards - Roads - Maintenance.**

Repealed effective May 1, 1992.

**69-05.2-24-07. Performance standards - Roads - Restoration.**

1. Unless the commission approves retention of a road as suitable for the approved postmining land use, immediately after the road is no longer needed for mining and reclamation operations:
  - a. The road must be closed to vehicular traffic;
  - b. The natural-drainage patterns must be restored;
  - c. All bridges and culverts must be removed;
  - d. Roadbeds must be ripped, plowed, and scarified;
  - e. Cut and fill areas must be graded in accordance with section 69-05.2-21-02;
  - f. Cross drains, dikes, and water bars must be constructed to minimize erosion; and
  - g. Disturbed surfaces must be covered with suitable plant growth material in accordance with section 69-05.2-15-04 and revegetated in accordance with chapter 69-05.2-22.

2. Unless otherwise authorized by the commission, all road-surfacing materials must be removed, hauled or conveyed, and disposed of under section 69-05.2-19-04.

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

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

**Law Implemented:** NDCC 38-14.1-24

**69-05.2-24-08. Performance standards - Other transportation facilities.**

Railroad loops, spurs, sidings, surface conveyor systems, chutes, aerial tramways, or other transportation facilities must be designed, constructed or reconstructed, and maintained, and the area restored, to:

1. Control and minimize diminution or degradation of water quality and quantity;
2. Control and minimize erosion and siltation;
3. Control and minimize air pollution; and
4. Prevent damage to public or private property.

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

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

**Law Implemented:** NDCC 38-14.1-24

**69-05.2-24-09. Performance standards - Support facilities and utility installations.**

1. Support facilities required for, or used incidentally to, the operation of the mine, including mine buildings, coal loading facilities at or near the minesite, coal storage facilities, equipment storage facilities, fan buildings, hoist buildings, preparation plants, sheds, shops, and other buildings, must be designed, constructed or reconstructed, and located to prevent or control erosion and siltation, water pollution, and damage to public or private property.
2. All surface mining activities must be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the commission.

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

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

**Law Implemented:** NDCC 38-14.1-24