



REGULATORY IMPACT ANALYSIS for

Proposed Readoption and Amendments to Mining Rules in 15A NCAC Chapter 05

General Information

Agency: Department of Environmental Quality, Division of Energy, Mineral, and Land Resources (DEMLR)

Commission: N.C. Mining Commission

Chapter Title: Mining: Mineral Resources

Citation: [15A NCAC Chapter 05](#), Subchapters: 05A, 05B, 05F and 05G

Rulemaking Authority: GS 143B-290

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Impact Summary:

State government:	Minor
Local government:	Minor
Federal government:	None
Regulated entities	Yes
Substantial economic impact:	No

A. Purpose of the Mining Act Rules in Chapter 05

The purpose of the Subchapters: 05A, 05B, 05F and 05G of the Mining Act Rules, codified in 15A NCAC Chapter 05, are to enable full implementation of the Mining Act of 1971 (The Act). The General Assembly realized that the extraction of minerals by mining is a basic and essential activity making an important contribution to the economic well-being of North Carolina and the nation. They also realized that it is not practical to extract minerals without disturbing the surface of the earth and producing waste materials, and that the very character of certain surface mining operations precludes complete restoration of the land to its original condition. However, they stated in the Act that it is possible to conduct mining in such a way as to minimize its effects on the surrounding environment through planning and restoration. The Act is written to provide a framework to provide for the protection of the environment. The Act gave the NC Mining Commission authority to adopt rules that provide more details about how that framework should be used to achieve full implementation of the Mining Act.

The rules for the mining program are codified in 15A NCAC Chapter 05, specifically in Subchapters 05A, 05B, 05F and 05G.

B. Necessity for Rule Changes

§ 150B-21.3A requires periodic review and readoption of all the rules used by state agencies on at least a 10-year basis. The Mining Commission has directed the DEMLR staff to implement the administrative process necessary for the review of the rules in Title 15A, Chapter 05 of the North Carolina Administrative Code. The proposed rule changes are designed not only to satisfy the readoption requirement, but also to update references and terminology and to revise requirements in line with current practices and technological advancements. These updates will help ensure the rules remain accurate, relevant, and effective.

C. Regulatory Baseline

As part of the permanent rulemaking process, N.C. Gen. Stat. § 150B-19.1(e) requires agencies to quantify to the “greatest extent possible” the costs and benefits of proposed rule changes to affected parties. To do so, it is necessary to establish a regulatory baseline for comparison. For this analysis, the following items are considered the baseline: (1) the current version of rules in Subchapters 15A NCAC 05A, 05B, 05F, and 05G; and (2) G.S. 74-46 et seq. (The Mining Act of 1971).

D. Rule Change Proposals and Expected Regulatory Impact

The Mining Commission is proposing 23 rules for either readoption, amendment, adoption, or repeal. These proposals include new rules, codification of existing practices, incorporation of material by reference, additions from other rules, minor language changes, or readoptions without changes.

The rules, as proposed, will continue to allow for mining activities while also helping ensure that the state's natural resources are mined in a manner that minimizes environmental impacts and protects surrounding communities. The rules will apply to anyone subject to the requirements in the Mining Act of 1971, which could include private companies, individuals, local governments. Pursuant to NCGS 74-67, NCDOT or their contractor, or mining on federal lands under a valid permit from USFS or US BLM are exempt from these rules. Year over year, the state maintains roughly 720 – 750 permits depending on new issuances and releases after the site has been reclaimed. Over the past 5 years, we averaged issuance of 25 new permits each year, and the Department believes that this general trend will continue. Likewise, over the past 5 years we have inspected and determined that the permit has been reclaimed and ready for release for roughly the same amount, 25 per year. As of August 2025, there are 722 permitted sites that the changes in the rules would apply to. In North Carolina there are various commodities that are extracted through mining. Of the 722 mines, 64% are sand and gravel sites, 20% are construction aggregate, 5% are brick clay mines, and the remainder are various commodities including lithium, phosphate, and silica.

1. Proposal to update rule .05A .0101 on “Name and Address” to Update the Department name and Mailing Address.

Expected Regulatory Impact: None.

2. Proposal to update rule .05A .0202 on “Authorities and Definitions” to Update the Department name and Mailing Address, as well as add the following definitions:

“Affected Land”, “Administrative Change”, “Contaminant”, “Director”, “Filed” or “Filing”, “Mining Buffer”, “Non-public roads”, “Notice”, “Transfer Material”, “On-site Construction”

Expected Regulatory Impact: Minor.

Added definitions will result in improved rule clarity. This improved clarity is expected to provide negligible benefits to applicants and permittees.

3. **Proposal to update rule .05B .0103 on “Bonding Requirements” to match changes to G.S. 74-54** that raised the maximum amount the Department can require for a bond for a single mining site, or a blanket bond for all sites, from \$500,000 to \$1,000,000. There is also a proposal added to this rule to adjust the per acre bond factors to account for inflation over the last 30 years. Factors established in 1994 by the Mining Commission have been proposed to increase at 2% per year to be implemented for 2026 and increased at 2% per year for each subsequent year. The Commission is proposing these increases to account for increased costs in order to ensure that adequate reclamation can be performed. Failing to increase the bonds to keep up with inflation would result in insufficient funds to perform reclamation. (The maximum of \$1,000,000 per site or the maximum blanket bond still applies.) Updates to the rule also include the requirements for information to be provided to the Department when completing Surety Bonds, Assignment of Savings Accounts, Irrevocable Standby Letter of Credits and Bank Guaranty.

Expected Regulatory Impact: Minor.

The increase on the maximum allowable bond to be required was a change in statute and the update in rule reflects that statutory change. The increase in the individual factors accounts for 30 years of inflation. Dollar values would be roughly equivalent to the 1994 values approved by the Commission accounting for inflation and would not result in a relative financial increase to the regulated community when inflation is considered. The bonding calculation will only be performed during permit actions (new, modification, transfers) or enforcement that would require the permittees to post new or additional bonding adequate to cover reclamation costs. Adding the required information to be included for the reclamation security submit to the Department is not changing the current process; however, it is placing in rule the information provided on forms.

4. **Proposal to update rule .05B .0104 on “Information Required in Permit Application” to add application requirements, mapping requirements, clarify where approvable reclamation resources can be found, clarify who is authorized to sign an application and clarify requirements on time for submitting application fees.** New requirements for the application require that the applicant identify the location of the mine and contact information. New map requirements include a requirement to show the permit boundary, existing and proposed contours, vicinity map, lands designated for use other than mining, cross sections of the excavation, and future reserves. The NC Sediment Manual, and NC Surface mining manual have been added as additional reclamation resources that may be approved for revegetation. Additional application elements include a recorded land entry agreement, proof of ownership, or proof of rights through a lease, and an authorization for the Department to launch drones for inspection purposes.

Expected Regulatory Impact: Minor.

The additional requirement to record the land entry agreement with the deed will add a cost for new applications. It is estimated that this cost will be \$26 (standard recording fee). However, this will eliminate the need to provide updated paperwork to the Department every time the land changes hands. Without this requirement in rule, it would be up to the permittee to have a new land entry completed and submitted to the Department each time the land is sold. Often this is not in the control of the permittee if they are operating on leased lands. It is rare for this to occur, however when it does, this rule offers protection to the land owner, the permittee, and the Department. It is the Department's estimate that it occurs less than once per year. The rule does not dictate who pays the recording fee.

5. **Proposal to update rule 05B .0105 on “Conditions which may be included in the permit” to add hydrogeologic analysis.** Not every site will require a hydrogeologic study, however, where there is a need to determine if there are adverse impacts to groundwater supplies, it may be necessary to add a condition to provide a study and mitigation efforts.

Expected Regulatory Impact: Minor.

This update does not represent a change in practice but rather a codification of a current practice to ensure consistency and clarity in permitting. The rule includes examples of conditions that could be included in permits if the site-specific conditions require, but they are not required in every permit. Some permits currently have the condition to provide a dewatering mitigation plan according to a hydrogeological study performed during the application process. Hydrogeological studies including modeling and reporting can range between \$150,000 up to \$350,000, with the average around \$170,000. These estimates were provided by current permittees within North Carolina. Over the last three years the Department estimates that there have only been 5 applications approved that required an in-depth hydrogeological study that would have been equivalent to the \$170,000 estimate.

6. **Proposal to repeal rule 05B .0106, “Standards for Denying an Application.”**

Expected Regulatory Impact: None.

The rule, as written, is repetitive and does not provide clarity to the denial criteria listed in GS 74-51(d). Denial criteria (2) states that an application may be denied if “the operation will have unduly adverse effects on potable groundwater supplies, wildlife, or fresh water or estuarine, or marine fisheries.” The Department is required by statute to request comments from the North Carolina Wildlife Resources Commission as part of the application process, which may state whether the operation as proposed will pose an unduly adverse effect to wildlife. Denial criteria (6) states that an application may be denied if “the operation will result in substantial deposits of sediment in stream beds or lakes.” Since these two denial criteria are already in statute, this rule is repetitive and repealing this rule will not change the current process.

7. **Proposal to update rule 05B .0110 “Mining Reclamation Reports” to be consistent with the statutes.** The portion of the rule requiring when mine operators had to file yearly reclamation reports and when to file after termination for an area under permit was removed and replaced by reference to the updated statute and more clarity was added on actions to take in the event of a permit release.

Expected Regulatory Impact: Minor.

Eliminating the requirement to submit an annual fee for sites that request release before the late deadline of September 30 would result in a loss of revenue to the State. Over the last 5 years, the Department received 30 release requests in the months of August and September that were then subsequently released, representing an average annual revenue loss of \$2,400. However, these sites were already complete and ready for release, and the fees were billed due to paperwork errors by the permittees. Allowing permittees to avoid paying the annual fee for sites that are complete and ready for release ensures that fees are not collected unnecessarily for sites that no longer require oversight.

8. Proposal to change conditions in rule 05B .0111 for the Department holding public hearings for applications for new or modified permit requests. The following changes were proposed:

- a) Made it clear in paragraph (a) that the Department can call for a public hearing not only for a new permit application but for a modification request that adds land area to an existing permit. The statutes allow for this, but the rule never clearly stated it.
- b) The existing rule requires in paragraph (a) that the public hearing on an application shall be held “No sooner than 20 or later than 60 days of the filing of the application.” The proposed rule change removes the “no sooner than 20” days and substitutes “90 days” for the “no . . . later than 60 days.” Since the statute allows up to 90 days to hold the hearing, it is recommended that the rule not place a 60-day maximum on the Department to hold a public hearing.
- c) The existing rule in paragraph (b) requires that the Department shall provide notice of a public hearing at least 10 days prior to a public hearing. The proposal is to change that to 20 days minimum notice which will provide more time for the public to be aware of the hearing. Allowing the public more time to provide comment can result in valuable feedback.
- d) The existing rule in paragraph (b) requires that the Department shall “publish notice in a newspaper.” The proposal is to add “or other media platform” to the rule to allow for notice to be given in another type of media, such as an electronic media, that has general coverage in the county. The change in this rule will allow the Department to adapt to the changing media environment. As current technology moves away from printed media, notice may occur potentially in an electronic format. The goal of this requirement remains the same: to effectively reach interested members of the public and encourage their participation in the decision-making process. The Department does not expect appreciable new costs or cost savings as a result of this change.
- e) Clarify in paragraph (c) that the hearing officer may allow written comments to be submitted up to 10 days after the hearing. This change is meant to emphasize the importance of adhering to the publicized public comment period dates, thereby encouraging stakeholders to provide their comments in a timely manner.
- f) The existing rule specifies in paragraph (d) that “Within ten days after the hearing or time for additional comment, the hearing office shall prepare a written report. . .” The proposed change eliminates the ambiguity of “within a period of time he deems appropriate.”
- g) Paragraph (e) limits the acceptance of public comments to 60 days for application that do not have a public hearing.

Expected Regulatory Impact: Minor.

The proposed changes are to provide clarity and more consistency with the statutes and not to introduce any new requirements. The impacts on the public or the state agency should be minimal or nonexistent.

9. Proposal to remove most of the fee requirement specifications in 05B .0112 “Permit Application Processing Fees.”

The existing rule contains outdated application processing fees that have since been modified by the General Assembly. It was concluded that including them again in the rule was not the best alternative since it runs the risk of violating the Administrative Procedure Act prohibitions on repeating statutes in the rules. Also, any future statutory fee change would necessitate the lengthy rule-making process to update the rules without providing a corresponding benefit.

Clarifications are proposed to be added to clarify how to total new acres added and new acres affected within a previously approved area. In addition, it is proposed to clarify the fee when considering acres between 25.0 and 26.0.

New paragraph (b) clarifies that administrative changes initiated by the Director require no fee.

New paragraph (c) states that new permits issued between September 1 and December 31-- which is after initial invoices are sent for the annual fees -- are not required to pay the annual fee for the same calendar year. This is a codification of an existing practice; as such, there will be no change for the regulated community or the state in terms of the process or the amount of fees collected.

Expected Regulatory Impact: Minor.

The removal of application processing fees from the rules will have no effect, as those fees are already addressed in statute.

Over the last 5 years, there were an average of 28 permits issued between September 1 and December 31, or an average of 5.6/year, which equates to roughly \$2,240 per year in annual fee revenue that was not collected. Because this is the existing practice, this should be considered an ongoing reduction in potential revenue. However, since the billing system is built around September 1 as a deadline for annual fee payments, requiring permits issued after that date to pay the same-year fee would be impractical. It would essentially mean billing new permit holders for a payment they had no realistic opportunity to make, and it would result in invoices that are immediately past due.

For this reason, while the rule does result in a small, but ongoing, cost to the State in the form of reduced fee revenue, it reflects the only feasible and administratively consistent approach.

10. Proposal to update rule 05B .0113 “Response Deadline to Department’s Request(s)” to update language consistent with statute. Since statute has changed to issue “Life of site” permits, renewals are no longer part of the permitting process. This rule also removes the authority of the Mining and Energy Commission to extend the time to respond to requests.

Expected Regulatory Impact: None.

11. Proposal to adopt new rule 05B .0114 “Blasting” to set requirements for monitoring air blast and ground vibration as well as reporting requirements and

mitigation efforts for flyrock. The rule specifies that all blasts must be monitored at the nearest non- company-owned dwelling by a seismograph. Compliance is determined by the “Z-Curve” that measures ground movement in inches/second measured against frequency. It also provides limits for air over pressure listed in a table. If the seismograph fails, there are formulas that have been added to calculate theoretical values. The rule also requires that blast records contain specific information including date and time of blast, geometry of shot and amount of explosives. These records shall be provided to the Department upon request.

Expected Regulatory Impact: Minor.

Currently, any site that conducts blasting is required to utilize a seismograph and monitor the blasts as well as maintain records of blasts and provide them to the Department when requested as part of their permit conditions. These conditions were developed to address mitigation of denial criteria 74-51(d)(4). This rule moves the conditions from the permit to rule. No changes from an operational standpoint are occurring. Any future site that has blasting as part of their operation would have to monitor using a seismograph as a permit condition. After soliciting feedback from several permittees, the Department estimates that seismograph monitoring costs are roughly \$400 – \$700 per seismograph per month. Over the last three years there have been 3 new applications that have blasting as a condition. Incorporating this language into a rule provides clarity and consistency in permitting procedures, helping to ensure that all stakeholders have a clear understanding of the requirements and processes.

- 12. Proposal to adopt new rule 05B .0115 “Mining Permit Transfers” to clarify the requirements of documents and information to submit to the Department.** The rule adds the requirement to submit a letter from the new permittee and existing permittee requesting the change, a non-refundable fee, contact information for the new permittee, business filing from the Secretary of State, land entry agreement, and reclamation security.

Expected Regulatory Impact: Minor.

There will be no changes to the current process because of this rule. The proposed rule is incorporating the requirements from an existing checklist that is currently used by the permittees. All requirements added are a subset of the new and modification requirements. Incorporating this language into a rule provides clarity and consistency in permit transfer procedures, helping to ensure that all stakeholders have a clear understanding of the requirements and processes.

- 13. Proposal to adopt new rule 05B .0116 “Permit Transfers Due to Corporate Name Changes” to clarify the requirements of documents and information to submit to the Department.** The rule adds the requirement to submit a letter from the new permittee and existing permittee requesting the change, a non-refundable fee, contact information for the new permittee, mine maps, land entry agreement, and reclamation security.

Expected Regulatory Impact: Minor.

There will be no changes to the current process because of this rule. The proposed rule is incorporating the requirements from an existing checklist that is currently used by the permittees. All requirements added are a subset of the new and modification requirements. Incorporating this language into a rule provides clarity and consistency in permit transfer procedures, helping to ensure that all stakeholders have a clear understanding of the requirements and processes.

14. Proposal to adopt new rule 05B .0117 “Draft Permits” to clarify that a preliminary draft that may be sent with a bond request is not issued or binding.

Expected Regulatory Impact: Minor.

The Department regularly circulates draft versions of the permit to the permittee upon application approval. This proposed rule aims to clarify that any circulated copies of draft working versions of the permit are not binding until issuance. Clarifying the status of draft permits will inform the public, the regulated community, and the Department about when a permit is binding, thus helping to avoid premature compliance efforts. It will also improve administrative efficiency by reducing misunderstandings and disputes regarding permit status.

15. Proposal to modify rule 05F .0101 “Purpose and Scope” to remove the authority of the Mining and Energy Commission to hear appeals of assessed penalties.

Expected Regulatory Impact: None.

This authority is set in statute and given to the Office of Administrative Hearings pursuant to 74-61

16. Proposal to modify rule 05F .0103 “Who may Assess” to capitalize Director.

Expected Regulatory Impact: None.

17. Proposal to modify 05F .0105 “Civil Penalty for Mining Without a Permit” to have the Division Director sign notification letters in the future. The existing rule specifies that the “regional engineer” signs the letter notifying the person alleged to be operating without a permit. However, 05F .0106 “Civil Penalty for Violating Operating Permit” specifies that the Director signs those letters. The staff could see no benefit from specifying that the “regional engineer,” which is now an inaccurate classification, sign the “Operating Without a Permit” letter and have the Director sign the “Violating Operating Permit” letter. Therefore, for consistency, Rule 05F .0105 is proposed to be modified to also assign that duty to the Division Director.

Expected Regulatory Impact: None.

There should be no regulatory impact for having the Director sign these letters. The proposed change is intended to provide more consistency in implementation. However, it seems that the Director now signs these notifications rather than the regional staff, so no impact is expected.

18. Proposal to modify rule 05F .0106 “Civil Penalty for Violating Operating Permit” to remove language that specifies notice prior to an assessment. The language in (a) matches almost exactly what exists in statute.

Expected Regulatory Impact: None.

The staff will still use the process defined in statute 74-64.

19. Proposal to repeal Rule 05F .0108 “Administrative Remedies”.

Expected Regulatory Impact: None.

The staff will still use the administrative remedies defined in statute.

20. Proposal to repeal Rule 05F .0111 “Referral to Attorney General”.

Expected Regulatory Impact: None.

The staff will still use the process defined in statute 74-64(a)(3).

21. Proposal to repeal Rule 05F .0112 “Further Remedies”.

Expected Regulatory Impact: None.

The staff will still use the process defined in statute.

22. Proposal to update Rule 05G .0104 “Abandonment Plan: Bonding Requirements” to make grammatical corrections and capitalize Department.

Expected Regulatory Impact: None.

23. Proposal to update Rule 05G .0105 “Drilling: Casing: Testing and Abandonment” to align with current rule formatting requirements.

Expected Regulatory Impact: None.

E. Summary

This document analyzes proposed revisions to North Carolina’s mining rules, including repeals, amendments, adoptions, and readoptions. Most changes are administrative or grammatical and are not expected to create significant regulatory impacts. Regulatory impacts of these changes are expected to be minor for both State and local governments as well as regulated entities, with no impact projected for federal entities. One of the more substantive changes includes updates to bonding levels to account for inflation, ensuring that financial assurances remain adequate for mine reclamation. Additional changes align fee structures with statutory requirements, clarify application procedures, and strengthen public participation processes.

Importantly, these revisions do not alter the core operation of State or local sediment control programs, nor do they increase regulatory burdens for most permittees; updates mostly codify current practices and support regulatory transparency. Enhanced clarity and consistency in the rules are expected to benefit applicants, permit holders, and agency staff, supporting North Carolina’s goal of responsible mineral extraction that minimizes environmental impacts and protects communities.

The Mining Commission’s proposals are informed by stakeholder feedback, industry best practices, and statutory mandates. By ensuring rules are clear, modernized, and environmentally protective, the State continues to foster both economic activity and environmental stewardship.

1 **CHAPTER 05 - MINING: MINERAL RESOURCES**

2 This Chapter, 15A NCAC 05, MINING: MINERAL RESOURCES; was transferred and recodified from 15 NCAC
3 05 effective November 1, 1989. The recodification was pursuant to G.S. 143B-279.1

4
5 **SUBCHAPTER 05A - ORGANIZATION AND ADMINISTRATION**

6
7 **SECTION .0100 – MINING AND ENERGY COMMISSION**

8
9 **15A NCAC 05A .0101 NAME AND ADDRESS**

10 The name of this agency shall be the North Carolina Mining ~~and Energy~~ Commission. Its address is Department of
11 Environmental Quality, Environment, Health, and Natural Resources, P.O. Box 27687, 1612 Mail Service Center,
12 Raleigh, North Carolina ~~27611~~. 27699.

13
14 *History Note: Authority G.S. 143B-290;*
15 *Eff. February 1, 1976;*
16 *Amended Eff. January 31, 1979;*
17 *Readopted Eff. August 1, 1982;*
18 *Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)); April 1, 1990.*

19
20 **15A NCAC 05A .0102 GENERAL PURPOSES**

21 *History Note: Authority G.S. 74-38; 74-61; 74-84; 74-86; 143B-290;*
22 *Eff. February 1, 1976;*
23 *Readopted Eff. August 1, 1982;*
24 *Amended Eff. November 1, 1984; December 1, 1983;*
25 *Repealed Eff. August 1, 1988.*

26
27 **15A NCAC 05A .0103 STRUCTURE**

28 *History Note: Authority G.S. 143B-291;*
29 *Eff. February 1, 1976;*
30 *Readopted Eff. August 1, 1982;*
31 *Repealed Eff. November 1, 1984.*

32
33 **SECTION .0200 - ADMINISTRATION**

34 **15A NCAC 05A .0201 DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY**
35 **DEVELOPMENT**

36 *History Note: Authority G.S. 74-50 through 74-60; 74-64; 74-68; 74-77 through 74-85; 74-87;*
37 *Eff. February 1, 1976;*
38 *Readopted Eff. August 1, 1982;*
39 *Amended Eff. December 1, 1983;*
40 *Repealed Eff. November 1, 1984.*

1
2 **15A NCAC 05A .0202 ~~DELEGATION~~ AUTHORITIES AND DEFINITIONS**

3 (a) The Director, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality,
4 ~~Department of Environment, Health, and Natural Resources,~~ shall have the following powers and duties ~~with regard~~
5 ~~to necessary to administer the administration of~~ the Mining Act of ~~1971-1971~~, including:

- 6 (1) the issuance, denial, modification, ~~renewal, suspension~~ suspension, transfer, and revocation of
7 permits;
8 (2) the approval of reclamation plans;
9 (3) the initiation of forfeiture proceedings;
10 (4) the giving of notices, setting of hearings and taking of action upon findings of violations; and
11 (5) the institution of all criminal and civil actions.

12 (b) The Director, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality,
13 ~~Department of Environment, Health, and Natural Resources~~ shall have the following powers and duties necessary to
14 administer ~~with regard to the administration of~~ the Control of Exploration for Uranium in North Carolina Act of ~~1983-~~
15 1983, including:

- 16 (1) the issuance, denial, modification, renewal, ~~suspension~~ suspension, transfer, and revocation of
17 permits;
18 (2) the review of the plans for the initiation ~~and approval~~ of the abandonment of affected land;
19 (3) the inspection and approval of the abandonment of affected land;
20 (4) the giving of notices, setting of hearings, and taking of action upon findings of violations;
21 and
22 (5) the institution of all criminal and civil actions.

23 (c) The following definitions apply to Subchapters 05A, 05B, 05F and 05G of Chapter 5 of title 15A of the North
24 Carolina Administrative Code:

- 25 (1) "Administrative Change" means any change initiated by the Department or requested by the
26 applicant to correct errors including, grammatical errors, typographical errors, and map
27 inaccuracies, that do not substantively change the permit.
28 (2) "Affected land", as defined in G.S. 74-49(1) shall not include an unrelated use that does not meet
29 the definition of mining that occurs within the permit boundaries, including activities pertaining to
30 agriculture and silviculture including timber harvesting, where an erosion and sedimentation plan is
31 approved under G.S. 113A, Article 4, when required, and the unrelated use area is shown on the
32 mine map.
33 (3) "Contaminants" shall be defined as set forth in 42 USC § 9601(33) "Pollutants or Contaminants",
34 which is hereby incorporated by reference, including any amendments or subsequent editions.
35 Copies may be accessed at <https://www.govinfo.gov/content/pkg/USCODE-2023->
36 title42/html/USCODE-2023-title42-chap103-subchapI-sec9601.htm at no charge.

- (4) "Director" means the Director of the Division of Energy, Mineral and Land Resources of the Department of Environmental Quality, or any position to which the Director has delegated their authority.
- (5) "Division" means the Division of Energy, Mineral, and Land Resources.
- (6) "Filed" or "Filing", as applicable to G.S. §74-51(b), shall be deemed to occur at the start of the following business day, when an application is submitted electronically outside of business hours.
- (7) "Mining Buffer" means an unexcavated, undisturbed, or vegetative area managed to protect adjacent land owners or areas of special concern.
- (A) "Unexcavated" means no mine excavation shall occur. Unexcavated buffers may be used for roadways, berms and erosion and sedimentation control or stabilization. Excavation may be allowed for sediment basins or erosion and sedimentation control when shown on the mine map.
- (B) "Undisturbed" means no disturbance shall occur.
- (C) "Vegetative Buffer" means an unexcavated buffer that may be managed through landscaping or additional plantings.
- (8) "Non-public roads" means any private road that is not maintained by the State or had maintenance requirements delegated to a municipality. Temporary access roads utilized for exploratory purposes shall not be considered non-public roads when they comply with any requirements for approvals pursuant to G.S. 113A, Article 4.
- (9) "Notice", as applicable to G.S. 74-50(b3), includes written or electronic correspondence.
- (10) "On-site Construction" means development of a site where the primary purpose is to construct, develop, or erect, structures, infrastructure, or waste facilities, and the removal, but not sale, of any extracted material off-site is incidental to the primary purpose and time limited.
- (11) "Transfer Material" means material brought into the mine permit boundary for the purpose of blending, recycling, or upgrading of onsite materials for the purpose of resale.

History Note: Authority G.S. 74-50 through 74--53; 74--56 to 74---59; 74-~~77~~75 through 74-85; 74---87; 143B--290;
Eff. February 1, 1976;
Amended Eff. January 31, 1979; September 3, 1976;
Readopted Eff. August 1, 1982;
Amended Eff. Xxxxx, 2023; August 1, 2012 (see S.L. 2012-143, s.1.(f)); April 1, 1990; December 1, 1983.

SUBCHAPTER 5B - PERMITTING AND REPORTING

15A NCAC 05B .0101 PURPOSE

15A NCAC 05B .0102 ACTIVITIES REQUIRING PERMITS

History Note: Authority G.S. 74-50; 74-63; 74-67; 143B-290(1)(d);

Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Repealed Eff. November 1, 1984.

15A NCAC 05B .0103 BONDING REQUIREMENTS

(a) After an application for a new mining permit or permit ~~renewal, modification,~~ modification, or transfer is ~~considered approvable-~~ approved by the Department, an applicant or permittee ~~shall~~ must file a bond with the Department in an amount to be determined by the ~~Director.~~ Director in accordance with this rule and G.S. 74-54.

(b) If the applicant or permittee disagrees with the bond amount determined by the Director, the applicant or permittee may submit to the Director for consideration, an estimate of reclamation costs from a third-party contractor to be used as the bond amount. The estimate shall be provided to the Director within 30 days following the receipt of the Director's initial bond determination. After considering the estimate and recommendations ~~provided by Division~~ his staff, the Director shall notify the applicant or permittee of ~~his~~ the bond determination and the process and conditions used to set the bond amount.

(c) The Director ~~may~~ shall ~~invite~~ allow the applicant or permittee to submit to the Department an estimate of reclamation costs from a third-party contractor for the Director's use in determining the required bond amount. After considering the estimate and the recommendations provided by ~~his~~ Division staff, the Director shall notify the applicant or permittee of ~~his~~ the bond determination and the process and conditions used to set the bond amount.

(d) The amount of the bond shall be based on the costs to reclaim the affected land as determined by the reclamation plan approved pursuant to G.S. 74-53 and ~~15A NCAC 5B .0004(b).~~ Rule 15A NCAC 5B .0104(b) of this Section. ~~The bond amount shall be based on a range of five hundred dollars (\$500.00) to five thousand (\$5000.00) per acre of land approved by the Department to be affected.~~ If the mining permit is modified to increase the total affected land, the bond shall be increased pursuant to this rule. The Director shall consider the method and extent of the required reclamation for a particular site in determining the bond amount. As areas at a site are reclaimed and formally released by the Department, the permittee may substitute a bond in an amount covering the remaining affected land at the site for the bond previously filed with the Department; otherwise, without such bond substitution, the Department shall retain the previously filed bond until all reclamation has been completed and approved by the Department.

(e) The initial bond calculation amount shall be based upon the criteria included in the table in Subparagraph (1) below and applied per acre of land approved by the Department to be affected. The criteria in subparagraph 1 below does not apply to existing bonds already on file with the Department, until action is required to change the bond including new, transfer, modified mining permits on file with the Department or compliance action taken by the Department.

(1) Table of Mining Reclamation Factors.

Commodity Codes:			
SG	Sand and/or Gravel	PF	Pyrophyllite
GS	Gemstone	OL	Olivine
Borrow	Borrow/fill dirt	KY	Kyanite/Sillimanite/Andalusite
CS	Crushed Stone	PH	Phosphate

DS	Dimension Stone	CL	Clay/Shale
FS	Feldspar	PE	Peat
MI	Mica	AU	Gold
LI	Lithium	TI	Titanium

Type	Tailings/ Sediment Ponds (Lake)	Tailings/ Sediment Ponds (Filled In)	Stockpiles	Wastepiles	Processing Area/Haul Roads	Mine Excavation (Lake)	Mine Excavation (Positive Drainage)
SG,GS, Borrow	\$810	\$2,430	\$2,916	\$3,240	\$,2916	\$810	\$3,240
CS, DS, FS, MI, LI, PF, OL, KY	\$810	\$2,430	\$2,916	\$3,240	\$3,240	\$810	\$4,050
PH	\$1,620	\$4,050	\$4,050	\$8,100	\$8,100	\$3,240	\$8,100
CL	\$1,620	\$4,050	\$4,050	\$8,100	\$8,100	\$3,240	\$5,994
PE, AU, TI, OT	\$1,620	\$4,050	\$4,050	\$4,860	\$5,670	\$3,240	\$8,100

(2) the amounts included in Subparapragh (1) above shall be increased by two percent per year on an annual basis beginning on July 1, 2027.

(f) The final bond amount shall be calculated by increasing the initial bond calculation from Paragraph (e), by two percent per year of the estimated life of mine or life of lease to account for estimated inflation. The calculation shall be performed by Simple interest: $\text{Bond} = \text{Current Bond Value} \times (1 + (.02 \times \# \text{ of years}))$.

(g) If an applicant or permittee has multiple sites, the applicant or permittee may file a separate bond with the Department for each site or the applicant or permittee may submit one blanket bond covering all sites in the aggregate amount of all bond totals. Once the total amount of all bonds for separate sites or the total blanket bond(s) bond for all sites reaches ~~five hundred thousand dollars (\$500,000)~~ one million dollars (\$1,000,000):

(1) the applicant or permittee with separate bonds may substitute a ~~five hundred thousand dollar (\$500,000)~~ one million dollars (\$1,000,000) blanket bond to be used for all future sites, or

(2) the applicant or permittee with ~~five hundred thousand dollar (\$500,000)~~ one million dollars (\$1,000,000) blanket bond covering all sites may use that blanket bond for all future sites,

~~if the Director finds that the applicant or permittee, in either case, has a good operating record, that the five hundred thousand dollars (\$500,000) is sufficient to reclaim all sites and that no additional reclamation bond money is needed.~~

~~If the Director finds that the applicant or permittee does not have a good operating record, that the five hundred~~

~~thousand dollars (\$500,000) is not sufficient to reclaim all sites, or that additional reclamation money is needed, the Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.~~

~~(f) For the purposes of this Rule, a good operating record is defined as two consecutive years of operation within the State of North Carolina without final assessment of a civil penalty or other enforcement action pursuant to G.S. 74-64, or having a permit suspended or revoked under G.S. 74-58, or having a bond or other surety forfeited under G.S. 74-59. For the purposes of this Rule, a bond shall include any and all types type of security allowed under G.S. 74-54.~~

(h) In accordance with G.S. §74-51(h) no permit shall be issued until the operator deposits with the Department a reclamation bond pursuant to G.S. §74-54. Upon written request of the applicant or permittee to the Director, an additional specified period of time to deposit the bond, not to exceed 60 days shall be granted by the Director.

(i) In accordance with G.S. §74-51(d)(1) failure to provide the required security within the specified time period, or any extension granted pursuant to paragraph (h) of this rule, shall result in denial of the application.

(j) Any bond deposited with the Department shall include the following elements:

(1) Surety Bonds:

(A) Name, address and type of business entity of Principal exactly matching name of Permittee;

(B) The State of North Carolina, Department of Environmental Quality 1612 Mail Service Center Raleigh, North Carolina 27699-1612 as the Obligee;

(C) Name and address of Surety authorized by the Insurance Commissioner of North Carolina to do business in North Carolina;

(D) Sum of bonded amount required under this Rule;

(E) Conditioned that the Principal conducts or will conduct mining operations in North Carolina as described in the application for an operating permit which includes a Reclamation Plan as provided in G.S. 74-53 and has obtained approval of the application from the Department of Environmental Quality;

(F) Further conditioned that if the Principal shall comply with the requirements set forth in "The Mining Act of 1971" (G.S. 74-46 through 74-68) and with the rules and regulations adopted pursuant thereto and faithfully perform all obligations under his approved Reclamation Plan then this obligation shall be null and void; otherwise to be and remain in full force and effect until released by the Department of Environmental Quality in accordance with G.S. 74-56 or canceled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department of Environmental Quality and the operator as provided in G.S. 74-54;

(G) Signature, Name, Title and Attestation by Officer of the Principal; and

(H) Notarization.

(2) Assignment of Savings Account:

(A) Name, address and type of business entity of Assignor exactly matching name of Permittee;

(B) The State of North Carolina, Department of Environmental Quality 1612 Mail Service Center Raleigh, North Carolina 27699-1612 as the Assignee;

- 1 (C) Name, address and account information for the bank holding assigned account;
2 (D) Sum of assigned amount required under this Rule;
3 (E) Statement that, in consideration of the promises contained in the agreement and the
4 Department accepting the assignment of the savings account in question, the Assignor sells,
5 assigns, transfers and sets over to the Department the sum in item (j)(2)(D) of this Rule and
6 directly authorizes the bank holding the assigned account to pay over to the Department
7 the sum in item (j)(2)(D) of this Rule upon request;
8 (F) Conditioned that if the Assignor conducts the mining operations faithfully, honestly, and
9 lawfully and in compliance with the requirements of the Mining Act of 1971 and applicable
10 Rules and Regulations adopted pursuant thereto, then the assignment shall be null and void;
11 otherwise it shall remain in full force and effect and that compliance with the requirement
12 of the Mining Act of 1971 and applicable Rules and Regulations shall be determined by
13 the Department;
14 (G) Specification that the assignment is made and held by the Department as collateral security
15 in lieu of a surety bond in accordance with "The Mining Act of 1971" (G.S. 74-46 through
16 74-68) to assure compliance and reclamation of the permitted operation and for all direct
17 or indirect liabilities of the assignor Operator to the assignee Department that may arise by
18 reason of the Mining Act 1971, Article 7, Chapter 74 of the General Statutes of North
19 Carolina;
20 (H) Signature, Name and Title of an officer of the Assignor;
21 (I) Notarization of the Assignor's signature;
22 (J) Signature, Name and Title of an officer of the bank holding the assigned account
23 acknowledging the assignment and committing that the funds assigned shall not be
24 disbursed except to the Department so long as the assignment remains in effect; and
25 (K) Notarization of the Bank's signature.
26 (3) Irrevocable Standby Letter of Credit (ILOC)
27 (A) Name, address and type of business entity of Operator exactly matching name of Permittee;
28 (B) Name, address and type of business entity of Issuing Institution;
29 (C) The State of North Carolina, Department of Environmental Quality, Department of
30 Environmental Quality 1612 Mail Service Center Raleigh, North Carolina 27699-1612 as
31 the Beneficiary;
32 (D) Effective Date of the ILOC;
33 (E) Automatic renewal clause, such that the ILOC is continuous in nature, subject to at least
34 60 days notice via certified mail, return receipt requested, to the Permittee and the
35 Department prior to nonrenewal;
36 (F) Sum of the ILOC required under this Rule;
37 (G) That the sum of the ILOC is available by the Department drafts on sight;

- 1 (H) ~~Instructions for drafts by the Department;~~
- 2 (I) ~~Non-transferability clause;~~
- 3 (J) ~~Choice of Law provisions specifying North Carolina venue for all disputes~~
- 4 (K) ~~Statement that the Issuing Institution agrees with the drawers, endorsers, and bona fide~~
- 5 ~~holders that all drafts drawn under and in compliance with the terms of the ILOC will be~~
- 6 ~~duly honored upon presentation to the Issuing Institution.~~
- 7 (L) ~~Statement that the ILOC is being issued in lieu of a surety bond in accordance with "The~~
- 8 ~~Mining Act of 1971" (G.S. 74-46 through 74-68) to assure compliance and reclamation of~~
- 9 ~~the permitted operation;~~
- 10 (M) ~~Signature, Name and Title of an officer of the Issuing Institution; and~~
- 11 (N) ~~Notarization of the Issuing Institution officer's signature.~~
- 12 (4) ~~Bank Guaranty~~
- 13 (A) ~~Name, address and type of business entity of Operator exactly matching name of Permittee;~~
- 14 (B) ~~Name, address and type of business entity of Issuing Institution;~~
- 15 (C) ~~The State of North Carolina, Department of Environmental Quality, Department of~~
- 16 ~~Environmental Quality 1612 Mail Service Center Raleigh, North Carolina 27699-1612 as~~
- 17 ~~the Beneficiary;~~
- 18 (D) ~~Effective Date of the guaranty;~~
- 19 (E) ~~Automatic renewal clause, such that the guaranty is continuous in nature, subject to at least~~
- 20 ~~60 days notice via certified mail, return receipt requested, to the Permittee and the~~
- 21 ~~Department prior to nonrenewal;~~
- 22 (F) ~~Sum of the guaranty required under this Rule;~~
- 23 (G) ~~That the sum of the guaranty is available by the Department drafts on sight;~~
- 24 (H) ~~Instructions for drafts by the Department;~~
- 25 (I) ~~Non-transferability clause;~~
- 26 (J) ~~Choice of Law provisions specifying North Carolina venue for all disputes~~
- 27 (K) ~~Statement that the Issuing Institution agrees with the drawers, endorsers, and bona fide~~
- 28 ~~holders that all drafts drawn under and in compliance with the terms of the guaranty will~~
- 29 ~~be duly honored upon presentation to the Issuing Institution.~~
- 30 (L) ~~Statement that the guaranty is being issued in lieu of a surety bond in accordance with "The~~
- 31 ~~Mining Act of 1971" (G.S. 74-46 through 74-68) to assure compliance and reclamation of~~
- 32 ~~the permitted operation;~~
- 33 (M) ~~Signature, Name and Title of an officer of the Issuing Institution; and~~
- 34 (N) ~~Notarization of the Issuing Institution officer's signature.~~
- 35 (5) ~~Cash Deposit:~~
- 36 (A) ~~Cash in the form of a cashiers or certified check in the sum required under this Rule; and~~

(B) Cover Letter specifically identifying Permittee and specifying the intended function of the money to serve as the required bond amount under this Rule

History Note: Authority G.S. 7451; 7454; 143B-290;

Eff. February 1, 1976;

Amended Eff. January 1, 1994; April 1, 1990; November 1, 1985; November 1, 1984.

15A NCAC 05B .0104 INFORMATION REQUIRED IN PERMIT APPLICATION

(a) The completed application for the mining permit shall include information concerning the mining operation and a reclamation plan for the restoration of all affected land. Information required concerning the mining operation shall include:

- (1) materials to be mined;
- (2) method of mining;
- (3) expected depth of mine;
- (4) size of the mine, including:
 - (A) acreage for tailings ponds,
 - (B) acreage for stockpiles,
 - (C) acreage for waste piles,
 - (D) acreage for processing plants,
 - (E) acreage for mine excavation,
 - (F) acreage for annual disturbance;
- (5) anticipated effect on wildlife, freshwater, estuarine or marine fisheries;
- (6) ~~whether or not the mining operation will have a waste water wastewater discharge or air contaminant emission which that will require a permit from the division of environmental management;~~
Division of Water Resources, an air contaminant emission that will require a permit from the Division of Air Quality, or will have a stormwater discharge that will require a permit from the Division of Energy, Mineral, and Land Resources;
- (7) methods to prevent physical hazard to any neighboring dwelling house, school, church, hospital, commercial or industrial building, or public road if the mining excavation will come within 300 feet thereof;
- (8) ~~measures to be taken required to insure~~ ensure against landslides and acid water pollution;
- (9) ~~measures to be taken required to minimize~~ minimize siltation of streams, lakes, or adjacent properties during the mining operation;
- (10) ~~measures to be taken required to screen the mining operation from public view.~~
- (11) Name of Mine and Location
- (12) Responsible Officer Contact Information
- (13) Site Contact Information
- (14) Statement of Authority as provided in Paragraph (f), when necessary.

(b) Information required in the reclamation plan shall include: methods and construction details for:

- (1) intended plan for overall mine reclamation, subsequent land use and the ~~general~~ methods to be used in reclaiming the affected land;
- (2) intended practices ~~to be taken~~ required to protect adjacent surface resources;
- (3) intended methods to prevent or eliminate conditions hazardous to animal or fish life in or adjacent to the affected areas;
- (4) intended methods of rehabilitation of settling ponds;
- (5) intended methods of restoration or establishment of stream channels and stream beds to a condition minimizing erosion, siltation and other pollution;
- (6) intended measures to stabilize slopes;
- (7) intended measures to provide for safety to persons and adjoining property in excavation in rock;
- (8) intended measures of disposal of mining refuse and control of contaminants;
- (9) provisions to prevent collection of noxious, odious or foul water in mined areas; and
- (10) plan for revegetation and reforestation or other surface treatment of the affected areas which plan ~~shall must~~ be approved in writing by one of the following prior to submission of the application:
 - (A) Authorized ~~representatives~~ representative of the local soil and water conservation district having jurisdiction over lands in question;
 - (B) Authorized ~~representatives~~ representative of the ~~division of forest resources, Department of Environment, Health, and Natural Resources;~~ North Carolina Forest Service within the Department of Agriculture and Consumer Services;
 - (C) North Carolina Cooperative Extension County agricultural extension chairmen County Director in a county listed in the county(s) where the site is located or research and extension personnel headquartered at North Carolina State University in the ~~school of agriculture and life sciences~~ School of Agriculture and Life Sciences;
 - (D) North Carolina licensed ~~landscape architects;~~ Landscape Architect pursuant to G.S. 89A;
 - (E) North Carolina licensed Professional Engineer pursuant to G.S.89C;
 - (F) Private consulting ~~foresters~~ forester referred by the ~~division of forest resources, Department of Environment, Health, and Natural Resources;~~ North Carolina Forest Service within the Department of Agriculture and Consumer Services; or
 - (G) Others as may be approved by the ~~department;~~ Department; Provided that areas expected to be in use beyond the maximum permissible permit period, such as processing plants or stockpiles, do not require a specific revegetation plan;
- (11) In lieu of the written approval required by Subparagraph (10) a plan for revegetation and reforestation developed utilizing one of the following:
 - (A) North Carolina Erosion and Sedimentation Control Planning and Design Manual; or
 - (B) North Carolina Surface Mining Manual: A Guide for Permitting, Operation and Reclamation.

(12) time schedule of reclamation that provides that reclamation activities be conducted simultaneously with mining operations whenever feasible and in any event be initiated at the earliest practicable time after completion or termination of mining on any segment and completed within two ~~years.~~ years unless a longer period is specifically permitted by the Department.

(c) An application shall include ~~In addition to the form, the operator shall also submit two copies of a county map showing the mine location and two copies~~ a copy of a mine map. Mine maps shall be consistent with the reclamation plan and shall ~~should~~ be accurate drawings, aerial photographs or enlarged topographic maps of the mine area and ~~must clearly~~ shall show the following:

- (1) property lines or affected area of mining operation;
- (2) outline of pits;
- (3) outline of stockpile areas;
- (4) outline of overburden disposal areas;
- (5) location of processing plants (Processing plants may be described as to location and distance from ~~mine if sufficiently far removed.);~~ the mine if not contiguous to the mine property.);
- (6) location and name of streams and lakes;
- (7) outline of settling ponds;
- (8) location of access roads;
- (9) mine permit boundaries;
- (10) existing and proposed contours showing all drainage areas;
- (11) map legend, including:
 - (A) name of company,
 - (B) name of mine,
 - (C) north arrow,
 - (D) county,
 - (E) scale,
 - (F) date prepared,
 - (G) name and title of person preparing map; and
- (12) names of owners of record, both public and private, of all adjoining ~~land.~~ land as is specified in G.S. 74-50.
- (13) Any unrelated use area, that has the potential to disturb the soil surface, that does not meet the definition of mining within the permit boundaries.
- (14) Vicinity map showing the mining operation in relation to the general area at a minimum scale of 1:24,000.
- (15) Drawings showing typical sections or cross sections and layout of proposed reclamation where such drawings will assist in describing reclamation.
- (16) Approximate limits of future reserves not included in affected area.

1 (17) Intended reclamation for projected phases or segments when reclamation is accomplished
2 concurrently with mining.

3 ~~The mine maps should be correlated with the reclamation plan. The approximate areas to be mined during the life~~
4 ~~of the permit should be clearly marked.~~

5 ~~If reclamation is to be accomplished concurrently with mining, then show segments that are to be mined and~~
6 ~~reclaimed during each year of the permit.~~

7 ~~Add drawings showing typical sections or cross sections and layout of proposed reclamation where such drawings~~
8 ~~will assist in describing reclamation.~~

9 (d) An application for a mining permit shall include:

10 (1) The ~~name~~ names and ~~address~~ addresses of all known owners, both private and public of all land
11 adjoining the proposed mining site as is specified in G.S. 74-50 and as determined by a ~~diligent~~
12 search of the tax records or other sources of information approved in advance by the Department
13 ~~about property ownership in a manner reasonable calculated to identify~~ that identifies the owners of
14 all adjoining land and approved by the ~~department~~ Department. The proposed mining site means all
15 land to be included within the proposed permitted area;

16 (2) The ~~name~~ names and addresses of the county, city and town managers, who serve as the chief
17 administrative ~~officer~~ officers, ~~of the county or municipality of the local governments in which any~~
18 part of the proposed mining site is ~~located together with the officer's mailing address;~~ located; and

19 (3) Pursuant to G.S. 74-50, Proof ~~proof~~ satisfactory to the department Department that the applicant has
20 made ~~a reasonable~~ the required effort to notify all owners of record of all adjoining land and the
21 chief administrative ~~officer~~ officers of the county ~~or~~ and municipality of the pending application.
22 Proof satisfactory to the ~~department~~ Department shall include an affidavit by the applicant ~~that he~~
23 ~~has caused~~ stating that a notice of the pending application ~~to be~~ has been sent by certified or
24 registered mail to all known adjoining owners and to the chief administrative ~~officer~~ officers of the
25 county or municipality. Other means of notice shall be satisfactory if approved in advance by the
26 ~~department~~ Department.

27 (4) A copy of the recorded right of entry agreement that runs with the land, is binding on landowners,
28 lessees and permittees and extinguishes permit release, providing that the landowner may not
29 interfere with the permittee's obligations or the Department's ability to perform reclamation.

30 (5) Any application submitted to the Department for approval of mining activities pursuant to G.S. 74-
31 50 shall include proof of ownership or the portion of valid and unexpired Memorandum Of Lease
32 or option from the property owner allowing mining activities for all lands to be included in the
33 permitted area as defined in G.S. 74-50(b)(3).

34 (e) An application for a mining permit shall not be deemed filed under G.S. 74-51(b) until the nonrefundable permit
35 application processing fee required under G.S. 74-54.1 is received by the Department. If the necessary fee is not
36 received within 30 days of initial receipt of the application, the application shall be denied and required to be
37 resubmitted in its entirety.

(f) Permit applications shall be signed as follows:

- (1) in the case of corporations, by a principal executive officer of at least the level of vice-president, or his authorized representative;
- (2) in the case of a partnership or limited partnership, by a general partner;
- (3) in the case of a sole proprietorship, by the proprietor;
- (4) in the case of a municipal, state or other public entity by either a principal executive officer, ranking official or other duly authorized employee.
- (5) in the case of a limited liability company, by a managing member.

The signature of the consulting engineer or other agent shall be accepted on the application only if accompanied by a letter of authorization from one of the individuals mentioned in Subparagraphs 1 through 5 of this Paragraph.

History Note: Authority G.S. 74-63; 74--51; 74---53; 74-56

Eff. February 1, 1976;

Amended Eff. April 1, 1990; May 1, 1982; September 1, 1979; January 31, 1979.

15A NCAC 05B .0105 CONDITIONS WHICH MAY BE INCLUDED IN PERMIT

To ~~assure~~ ensure that the mining operation ~~will comply fully~~ fully complies with the requirements and objectives of the Mining Act of 1971, the ~~director~~ Director may ~~approve an application or reclamation plan subject to certain conditions. Such conditions of application approval may include:~~ require that a permit or reclamation plan contain conditions including:

- (1) additional erosion control measures to be installed during the mining ~~operation;~~ operation as specified in G.S. 74-51;
- (2) a ~~natural vegetated~~ buffer to be left between any stream and the affected ~~land;~~ land when specified in State or local stream protection requirements.
- (3) visual screening such as existing ~~natural vegetation,~~ vegetated earthen berms, and tree plantings at staggered ~~spacing~~ spacing, etc. to be installed and maintained ~~as feasible~~ between any affected land and any adjoining property containing occupied buildings or public access within view of the affected land; any screening conditions shall take into consideration the mining operation activities that are being screened and the current usage of the neighboring property.
- (4) erosion control measures to be taken during the construction and operation of all haul roads or access roads to minimize offsite damage from ~~sediment;~~ sediment.
- (5) other conditions necessary to safeguard the adjacent surface resources or wildlife.
- (6) Hydrogeological analysis to assess potential influences of mine dewatering on water supply wells and measures to mitigate potential adverse impacts.

History Note: Authority G.S. 74-63; 74---51;

Eff. February 1, 1976;

Amended Eff. May 1, 1992; November 1, 1984.

15A NCAC 05B .0106 STANDARDS FOR DENYING AN APPLICATION

~~An application for a mining permit including new permits, modified permits and renewal permits, may be denied when the operation will have an unduly adverse effect on wildlife or fisheries by:~~

- ~~(1) substantial siltation of streams or lake beds, increasing the average water temperature of adjacent waterways to a temperature detrimental to the pre-existing aquatic wildlife; or~~
- ~~(2) other conditions designated by the North Carolina Wildlife Resources Commission as being unduly detrimental to wildlife.~~

*History Note: Authority G.S. 74-51; 74--58; 74---63;
Eff. February 1, 1976;
Amended Eff. November 1, 1984.*

15A NCAC 05B .0107 MODIFICATION OF MINING PERMIT

15A NCAC 05B .0108 RENEWAL OF MINING PERMIT

15A NCAC 05B .0109 STANDARDS FOR SUSPENDING OR REVOKING A MINING PERMIT

*History Note: Authority G.S. 74-52; 74--57; 74---58;
Eff. February 1, 1976;
Repealed Eff. November 1, 1984.*

15A NCAC 05B .0110 MINING RECLAMATION REPORTS

~~The mine operator shall, by February 1 of each year during the life of the permitted operation, and within 30 days of completion or termination of mining on an area under permit, file with the department a mining reclamation report on a form prescribed by the department.~~

(a) Upon completion of reclamation of an area of land, the operator shall notify the Department and complete a release request that includes the details found on the reclamation report as required to be filed by G.S. 74-55.

(b) If the Department receives a release request on or before September 30, the Department may waive the annual fee for the permit year. Where a site is determined to not be eligible for release under G.S. 74-56, the Department may revoke the waiver prior to December 31.

*History Note: Authority G.S. 74-55; 143B---290;
Eff. March 30, 1978;
Amended Eff. November 1, 1984.*

15A NCAC 05B .0111 PUBLIC HEARINGS

(a) If the ~~department~~ Department determines that there exists a significant public interest in an application for a new mining permit, or for a modification that adds land to the existing permit, the ~~director~~ Director shall appoint a hearing

1 officer to conduct a public hearing on the application which shall be held no ~~sooner than 20 or later than 60 days~~ 90
2 ~~days of from~~ the filing of the application and before the ~~department~~ Department makes its final decision regarding the
3 application.

4 (b) At least ~~40~~ 20 days prior to the public hearing, the ~~department~~ Department shall ~~publish~~ provide notice ~~thereof~~ in
5 a newspaper ~~of~~ or other media platform with general coverage in the county(s) in which the proposed mine is located.
6 ~~The department may also give notice to the public by other means.~~ In addition, the ~~department~~ Department shall cause
7 written notice of the hearing to be sent by certified or registered mail to the applicant and to the known owners of all
8 adjoining ~~land.~~ land as specified in G.S. 74-50.

9 (c) Any person may appear at the public hearing and give oral or written comments on the proposed application. The
10 hearing officer may impose ~~reasonable~~ limitations on the length of time that any person may speak and may summarize
11 comments rather than recording them in full. The hearing officer may allow additional written comments to be
12 submitted for up to ten days after the hearing ~~hearing after which the public comment period will be considered closed~~
13 and no other public comments can be considered in the final determination of the application. ~~within a period of time~~
14 ~~he deems appropriate which shall not exceed ten days.~~

15 (d) Within ten days after the hearing or time for additional comment, the hearing officer shall prepare a written report
16 summarizing the comments that were submitted regarding the application. The report shall include copies of all written
17 comments submitted. Copies of the report shall be made available to the applicant or members of the public upon
18 request. The ~~department~~ Department shall give full consideration to all comments contained in the hearing record in
19 making its final determination on the application.

20 (e) In the event there is not a public hearing, public comments will be accepted for 60 days following the receipt of
21 the application after which the public comment period will be considered closed and no other public comments will
22 be considered in the final determination of the application.

23
24 *History Note: Authority G.S. 74-51; 74-63; 74-86;*
25 *Eff. May 1, 1982.*

26 27 **15A NCAC 05B .0112 PERMIT APPLICATION PROCESSING FEES**

28 (a) A nonrefundable permit application processing fee, in the amounts stated in G.S. 74-54.1, ~~Paragraphs (b), (c) and~~
29 ~~(d) of this Rule,~~ shall be paid when an application for a new mining ~~permit~~ permit or a permit modification, ~~or a~~
30 ~~renewal permit~~ or transfer is filed in accordance with G.S. 74-51 or G.S. 74-52 and ~~15A NCAC 5B .0003, .0004, and~~
31 ~~.0005.~~ the rules of this Subchapter.

32 (1) The acreage for a new permit application shall include the total acreage contained within the
33 permitted area.

34 (2) The acreage for a permit modification shall be limited to the increase in proposed acreage of affected
35 land internal to the existing permitted area plus any new acreage proposed to be added to the
36 permitted area beyond the existing permit boundary.

37 (3) The fee for a permit transfer shall remain a flat fee regardless of acreage.

(4) For purposes of calculations under G.S. 74-54.1, the referenced acreage ranges shall include anything less than 26 acres as “0-25 acres” and anything equal to or greater than 26 acres as “26+ acres”.

(b) No fee is required for administrative changes initiated by the Director.

~~(b)~~ A non refundable fifty dollar (\$50.00) permit application processing fee is required for minor permit modifications. Minor permit modifications include administrative changes such as ownership transfers, name changes, and bond substitutions. A minor permit modification also includes lands added to a permitted area, outside of the minimum permit buffer zone requirements, where no plans for mining related disturbance of the added lands have been approved. All other changes to the permit are major modifications. No fee is required for administrative changes initiated by the Director to correct processing errors, to change permit standards or to implement new standards.

~~(c)~~ A non refundable fifty dollar (\$50.00) permit application processing fee is required for permit renewal of an inactive site, provided that any previously disturbed areas have been reclaimed in a manner acceptable to the Department. Once renewed, prior to initiating any mining related disturbance, an application for a major modification and a processing fee shall be submitted to and approved by the Department. For purposes of this Paragraph, and notwithstanding Paragraph (d) of this Rule, the acreage for a major modification shall be the total acreage at the site. All other modifications to the renewed permit shall be governed by Paragraphs (b) and (d) of this Rule.

~~(d)~~ cFor the purposes of this Rule, acres for new permits and renewal permits means the total acreage at the site; and acres for major modification of permits means that area of land affected by the modification within the permitted mine area, or any additional land that is to be disturbed and added to an existing permitted area, or both. Each permit application shall be deemed incomplete until the permit application processing fee is paid. Schedule of Fees:

—MAJOR					
TYPE	ACRES	NEW PERMIT		MODIFICATION	RENEWAL
CLAY	1 but less than 25		\$ 500	\$ 250	\$ 250
	25 but less than 50	1000	500	500	
	50 or more	1500	500	500	
SAND & GRAVEL,	1 but less than 5		150	100	100
GEMSTONE	5 but less than 25		250	100	100
AND BORROW	25 but less than 50		500	250	500
PITS	50 or more	1000	500	500	
QUARRY,	1 but less than 10		250	100	100
INDUSTRIAL	10 but less than 25		1000	250	500
MINERALS,	25 but less than 50		1500	500	500
DIMENSION	50 or more	2500	500	500	
STONE	1 or more		2500	500	500
PEAT &					

PHOSPHATE

GOLD (HEAP	1 or more	2500	500	500
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LEACH);

TITANIUM &

OTHERS

(e) ~~Payment of the permit application processing fee shall be by check or money order made payable to the "N.C. Department of Environment, Health, and Natural Resources". The payment shall refer to the new permit, permit modification or permit renewal.~~

(f) ~~In order to comply with the limit on fees set forth in G.S. 143B-290(4)b, the Director shall, in the first half of each state fiscal year, project revenues for the fiscal year from fees collected pursuant to this Rule. If this projection shows that the statutory limit will be exceeded, the Director shall order a pro rata reduction in the fee schedule for the remainder of the fiscal year to avoid revenue collection in excess of the statutory limits.~~

(c) Any new permit issued between September 1 and December 31 shall not be required to pay the annual operating fee or submit the annual reclamation report for that same calendar year.

History Note: Filed as a Temporary Rule Eff. November 1, 1990, for a Period of 180 Days to Expire on April 29, 1991;

Authority G.S. 143B--290;

ARRC Objection Lodged November 14, 1990;

ARRC Objection Removed December 20, 1990;

Eff. January 1, 1991;

Amended Eff. December 1, 1991.

15A NCAC 05B .0113 RESPONSE DEADLINE TO DEPARTMENT'S REQUEST(S)

An applicant or permittee shall submit to the Department supplemental information regarding an application for a new ~~permit or modified, permit, or permit renewal or permit transfer~~ within 180 days after the date of receipt of the Department's written ~~request(s)~~ request for such information. Upon written request of the applicant or permittee to the Director, an additional ~~reasonable~~ specified period of time not to exceed one year ~~shall~~ may be granted ~~upon determination of good cause by the Director. Additional time may be granted by the Mining and Energy Commission, provided written request is made by the applicant or permittee before the expiration of the one year period.~~

History Note: Authority G.S. 74-51; 74--52; 74--63; 143B---290; Note:

RRC Objection Eff. September 15, 1994 due to lack of statutory authority;

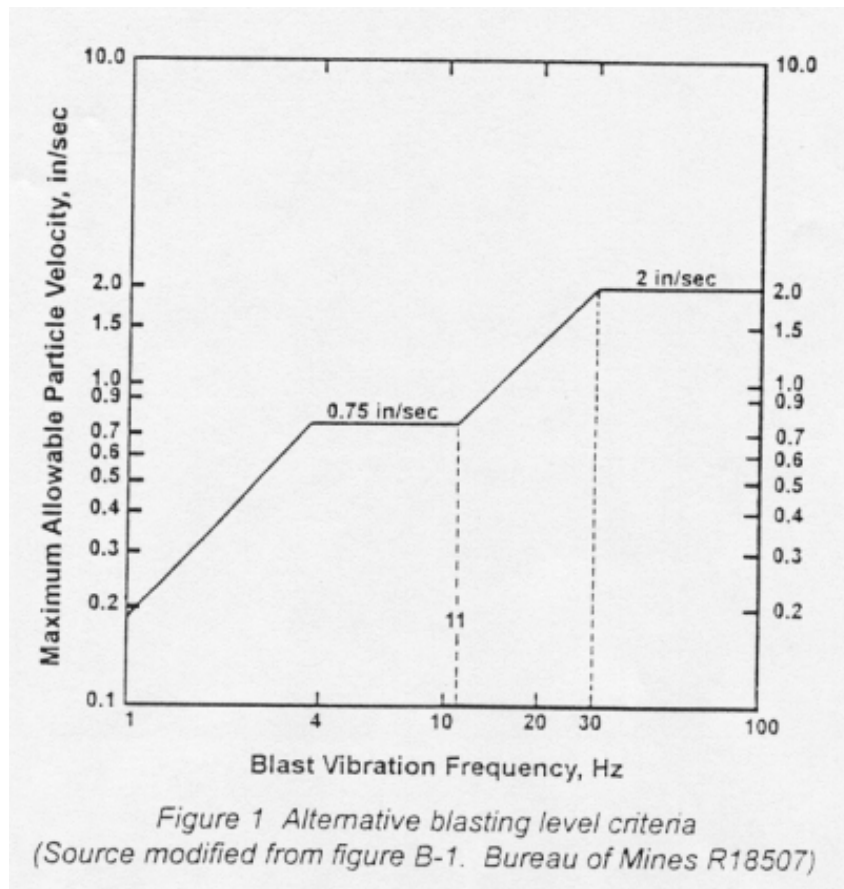
Eff. November 1, 1994;

Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d))

15A NCAC 05B .0114 BLASTING

(a) At any site where blasting occurs, the operator shall monitor each blast with a seismograph located at a distance no farther than the closest off site regularly occupied structure not owned or leased by the operator. A seismographic record including peak particle velocity, air overpressure, and vibration frequency levels shall be kept for each blast, except as provided in Paragraphs (c) and (e) of this Rule.

(b) In all blasting operations, the maximum peak particle velocity of any component of ground motion shall not exceed the alternative ground vibration limits in this Paragraph at the nearest regularly occupied building outside of the permitted area such as a dwelling house, church, school, or public, commercial, or institutional building.



(c) In the event of seismograph malfunction or other condition which prevents monitoring, blasting shall be conducted in accordance with the following scaled distance formulas:

$$W = \left(\frac{D}{Ds}\right)^2 \quad Ds = \frac{D}{\sqrt{W}} \quad V = 160(Ds)^{-1.6}$$

W = Maximum charge weight of explosives per delay period of 8.0 milliseconds or more (pounds).

D = Distance from the blast site to the nearest inhabited building not owned or leased by the mine operator. (feet).

Ds = Scaled distance factor.

V = Peak Particle Velocity (inches per second).

The peak particle velocity of any component shall not exceed 1.0 inch per second, for the purposes of this Paragraph.

(d) Air blast overpressure resulting from surface blasting shall not exceed 129 decibels linear (dBL) as measured at the nearest regularly occupied building not owned or leased by the operator outside of the permitted area such as a dwelling house, church, school, or public, commercial, or institutional building, unless an alternate level based on the sensitivity of the seismograph microphone as specified below is being used:

<u>Lower Frequency Limit of Measuring System (Hz)</u>	<u>Max Level (dBL)</u>
<u>0.1 Hz or lower-flat response</u>	<u>134 peak</u>
<u>2.0 Hz or lower-flat response</u>	<u>133 peak</u>
<u>6.0 Hz or lower-flat response</u>	<u>129 peak</u>

(e) In the event of seismograph malfunction or other condition which prevents monitoring, blasting shall be conducted in accordance with the following formulas:

Formula from ISEE Blasters Handbook 17th Edition ISBN:1-892396-00-9

$$P = 1.0 \left(\frac{D}{\sqrt[3]{W}} \right)^{-1.1}$$

$$dB = 20 \log \left(\frac{P}{2.9 \times 10^{-9}} \right)$$

P = Airblast overpressure average burial (pounds per square inch).

W = Maximum charge weight of explosives per delay period of 8.0 milliseconds or more (pounds).

D = Distance from the blast site to the nearest inhabited building not owned or leased by the mine operator (feet).

dB = Airblast overpressure average burial (decibels).

A = Air blast or air overpressure for typical quarry situations (decibels).

The air blast/overpressure shall not exceed 129 decibels, for the purposes of this Paragraph.

(f) For the purposes of calculating Scale Distance, when using electronic detonators, the maximum charge weight of explosives per delay shall be calculated using actual delay of separation, a minimum 1 milliseconds. When using non-electric detonators, the maximum charge weight shall be calculated on a delay of 8.0 milliseconds

(g) The operator shall maintain records on each individual blast describing:

(1) Name of Company or contractor

(2) date, and time of the blast.

(3) Type of material blasted

(4) the total number of holes.

(5) pattern of holes and delay of intervals.

(6) depth and size of holes.

- 1 (7) type and total pounds of explosives.
2 (8) maximum pounds per 8ms delay interval.
3 (9) amount of stemming and burden for each hole.
4 (10) blast location.
5 (11) distance from blast to closest offsite regularly occupied structure.
6 (12) weather conditions at the time of the blast.
7 (13) Whether mats or other protections were used.

8 Records shall be maintained at the permittee's mine office and copies shall be provided to the Department upon request.

9 (h) The operator shall take all reasonable precautions to ensure that flyrock is not thrown beyond areas where access
10 is temporarily or permanently guarded by the operator.

11 (i) The operator shall provide to the Department a copy of the findings of the seismic studies conducted at the mine
12 site by the permittee or their representative in response to an exceedance of a level allowed by these blasting
13 conditions. The operator shall make an effort to incorporate the studies' recommendations into the production blasting
14 program.

15
16 History Note: Authority G.S. 74-51; 74-63

17 Eff. XXXX X, XXXX;
18

19 **15A NCAC 05B .0115 MINING PERMIT TRANSFERS**

20 (a) Pursuant G.S. 74-51(i), a permit may be transferred from one operator to another, if both operators have complied
21 with the requirements of the Act. The sale or lease of the operation alone does not constitute an approved transfer of
22 the permit. Until a permit has been transferred by the Department to the successor operator, the existing operator shall
23 be held responsible for any activities at the site, including liability for any documented violations at the site. Liability
24 shall remain with the existing operator until such violations have been addressed to the satisfaction of the Department
25 and the Department has transferred the permit in its entirety to the successor operator.

26 (b) A valid permit may be transferred from one operator to another provided the following information has been
27 submitted on a form furnished by the Department:

28 (1) A signed statement from the existing operator requesting that the permit be transferred to the successor
29 operator. The existing mine name and permit number shall be identified in the statement.

30 (2) A non-refundable permit transfer processing fee per G.S. 74-54.1(a).

31 (3) A signed statement from the successor operator identifying the existing mine name and permit number,
32 requesting that the permit be transferred in its entirety, and accepting all responsibilities and liabilities for
33 the site with respect to the Article.

34 (4) A mine map showing the successor operator's name and contact information, current mining permit
35 boundary, acreage table, and reference to current permit number and conditions.

36 (5) The information required in Rule .0104(a)(1) through (a)(4) and (a)(12) through (15) of this Section

1 (6) A copy of the recorded right of entry agreement that runs with the land, is binding on landowners, lessees
2 and permittees and extinguishes permit release, providing that the landowner may not interfere with the
3 permittee's obligations or the Department's ability to perform reclamation.

4 (7) An acceptable security in the amount determined in Rule .0103 of this Subchapter and using the forms
5 established pursuant to in Rule .0103 of this Subchapter covering the site. The security shall be issued in
6 the same successor operator name used in the permit transfer application.

7 (c) The permit transfer application shall be submitted to the Department no later than 60 days from the execution of
8 any purchase or lease agreement associated with a change in the responsibility for operation of the permitted site.

9 (d) Any pit expansion or other land disturbing activity anticipated within the permitted area not previously approved
10 by the Department shall require a permit modification. Expansion of permit boundaries to include additional land
11 under the permit shall require a permit modification.

12 (e) Upon approval of the permit transfer, responsibility for the full extent of the existing permitted area shall be
13 transferred to the successor operator unless the Department has authorized the release of a portion of the permitted
14 area from reclamation liability.

15 (f) Upon approval of the permit transfer, the Department shall send the new permit document to the successor operator.
16 Such permit may include updated operating and reclamation conditions to ensure compliance with the Article.

17 (g) The prior operator shall be notified by the Department of the completed permit transfer and that the prior operator
18 has been released from further liability with respect to the permit for the site. The security posted by the prior operator
19 to cover reclamation obligations at the site shall be returned by the Department to the prior operator provided the
20 security is no longer needed to cover other permitted sites under the prior operator's name.

21 (h) Permit transfers due to corporate name changes shall comply with Rule .0116 of this Subchapter.

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23 History Note: Authority G.S. 74-51; 74-54.1; 74-63

24 Eff. XXXX X, XXXX;

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26
27 **15A NCAC 05B .0116 PERMIT TRANSFERS DUE TO CORPORATE NAME CHANGES**

28 (a) In the event that the corporate name of the operator holding the permit changes, the operator shall submit a permit
29 transfer application as follows to the Department within 60 calendar days of the effective date of the corporate name
30 change:

31 (1) A letter identifying the existing and new corporate names, the effective date of the new corporate name,
32 any changes in company officers and associated contact information, and each mining permit number and
33 mine name impacted by the corporate name change.

34 (2) The Secretary of State corporate filing certificate or other legal paperwork verifying the new corporate
35 name is registered in North Carolina.

36 (3) A non-refundable permit transfer processing fee for each permit affected by the corporate name change
37 pursuant G.S. 74-54.1(a).

(4) An updated or new security in the new corporate name, including any associated contact information. The updated or new security shall be in the same amount as the prior security covering the reclamation obligations at the site.

(5) A copy of the recorded right of entry agreement that runs with the land, is binding on landowners, lessees and permittees and extinguishes permit release, providing that the landowner may not interfere with the permittee's obligations or the Department's ability to perform reclamation.

(b) Upon approval of the corporate name change, the Department shall send a letter with the updated pages of the relevant permits to the operator to attach to the existing relevant permits.

History Note: Authority G.S. 74-50; 74-51; 74-54.1; 74-63

Eff. XXXX X, XXXX.

15A NCAC 05B .0117 DRAFT PERMITS

Upon approval of an application prior to receipt of any performance bond or security, new or updated, any operating permit generated by the Department shall be considered a preliminary draft and shall not be considered issued or binding, regardless of whether the draft is shared with the applicant. Where a new or modified performance bond or other security is required pursuant to G.S. 74-54, timely approval of an application, pursuant G.S. 74-51(h), shall satisfy the requirement to grant a permit within the deadlines included in G.S. 74-51(b).

History Note: Authority G.S. 74-51; 74-63

Eff. XXXX X, XXXX.

SUBCHAPTER 05F - CIVIL PENALTIES

15A NCAC 05F .0101 PURPOSE AND SCOPE

These rules set forth the procedures and standards to be followed by the ~~director~~ Director in assessing civil penalties.
~~Penalties and by the Mining and Energy Commission in hearing appeals from the assessment of such penalties.~~

History Note: Authority G.S. 74-61; ~~74-62~~; 74-63; 74-64; 143B-10;

Eff. May 1, 1982;

Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)); November 1, 1984.

~~15A NCAC 05F .0102~~ — DEFINITIONS

~~The terms used herein shall be as defined in G.S. 74-49 as follows:~~

(1) ~~"Director" means the Director, Division of Energy, Mineral, and Land Resources;~~

(2) ~~"Regional Engineer", means any regional engineer of the Land Quality Section, Division of Energy, Mineral, and Land Resources;~~

(3) ~~"Mining and Energy Commission", means that body created by N.C.G.S. 143B-290.~~

History Note: Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;

Eff. May 1, 1982;

Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)).

Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0103 WHO MAY ASSESS

Civil penalties may be assessed by the ~~director~~ Director.

History Note: Authority G.S. 74-61; ~~74-62~~; 74-63; 74-64; 143B-10;

Eff. May 1, 1982.

15A NCAC 05F .0105 CIVIL PENALTY FOR MINING WITHOUT A PERMIT

(a) Prior to the assessment of any civil penalty for mining without a permit, the alleged violator shall be given notice by registered or certified mail, return receipt requested. ~~requested, signed by the Regional engineer in the region in which the violation occurred.~~ The notice shall describe the ~~violation with reasonable particularity;~~ violation, order the violator ~~immediately~~ to cease mining until a valid operating permit has been obtained, and specify a time period ~~reasonably~~ calculated to permit the restoration of any disturbed area. ~~area as deemed necessary by the regional engineer.~~ The notice shall also state that a civil penalty may be assessed for any violation.

(b) In determining whether to assess a civil penalty for any violation committed prior or subsequent to receipt of the notice of violation, the ~~director~~ Director shall consider whether the violator ceased mining, restored the affected area, or otherwise complied with the requirements of the notice of violation. ~~Violation and shall also consider the various criteria in Rule 5F-.0007.~~ The civil penalty assessment shall specify ~~with reasonable particularity~~ the violation(s) for which the penalty has been assessed and shall be transmitted to the violator by certified or registered mail, return receipt requested.

History Note: Authority G.S. 74-60; 74--61; 74--63; 74--64; 143--B-10;

Eff. May 1, 1982;

Amended Eff. December 1, 1988; November 1, 1984.

15A NCAC 05F .0106 CIVIL PENALTY FOR VIOLATING OPERATING PERMIT

(a) ~~Prior to the assessment of a civil penalty against a permitted operator for violating any provisions of the Mining Act of 1971, or any rules promulgated thereunder, or any conditions of his mining permit, the alleged violator or his agent shall be given notice by registered or certified mail, return receipt requested, signed by the director. The notice shall describe the violation with reasonable particularity and specify a time period reasonably calculated to permit the violator to correct the violation. The notice shall also state that civil penalties may be assessed against the alleged violator if he fails to correct the violation within the specified time.~~

(b) If the violator does not comply with the requirements of the notice of violation within the time period specified in the notice, the ~~director~~ Director may assess a civil penalty for any violation(s) committed after the date of receipt of

the notice of violation. The civil penalty assessment shall specify ~~with reasonable particularity~~ the violation(s) for which the penalty has been assessed and shall be transmitted to the violator by certified or registered mail, return receipt requested.

History Note: Authority G.S. 74-60; 74-61; ~~74-62~~; 74-63; 74-64; 143B-10;
Eff. May 1, 1982;
Amended Eff. November 1, 1984.

15A NCAC 05F .0107 CRITERIA FOR DETERMINING AMOUNT OF PENALTY

~~In determining the amount of a civil penalty assessment, the director shall consider the following criteria insofar as they are appropriate to the violation:~~

- ~~(1) nature of the violation;~~
- ~~(2) degree and extent of the harm, including off site damage;~~
- ~~(3) duration of the violation;~~
- ~~(4) cause of the violation;~~
- ~~(5) cost of compliance and rectifying any harm or damage;~~
- ~~(6) violator's previous record of compliance with the Mining Act, or any rules promulgated thereunder, or any mining permit issued to the violator;~~
- ~~(7) staff investigative costs ; and~~
- ~~(8) effectiveness of any action taken by the operator .~~

History Note: Authority G.S. 74-61; ~~74-62~~; 74-63; 74-64; 143B-10;
Eff. May 1, 1982.
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0108 ADMINISTRATIVE REMEDIES

~~Within 60 days after receipt of notification of any civil penalty assessment, the person against whom the civil penalty is assessed may contest the decision of the department by filing a petition as described in G.S. 74-61 and G.S. 150B-23.~~

History Note: Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;
Eff. May 1, 1982;
Amended Eff. August 1, 1988.

15A NCAC 05F .0109 HEARING PROCEDURES

- ~~(a) The final decision for purposes of judicial review under G.S. 74-61 shall be made by a majority vote of a quorum of the Mining and Energy Commission.~~
- ~~(b) All hearings shall be conducted in accordance with the departmental hearing procedures in 15A NCAC 1B .0200 et seq., and Chapter 150B of the General Statutes.~~

History Note: Authority G.S. 74-61; 74-62; 74-63; 143B-10; 150B-23;
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1. (d)); August 1, 1988.
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0110 TENDERS OF PAYMENT

~~The director shall accept and acknowledge all tenders of payment.~~

History Note: Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;
Eff. May 1, 1982.
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

~~15A NCAC 05F .0111~~ REFERRAL TO ATTORNEY GENERAL

~~(a) If the person against whom a civil penalty is assessed, fails to respond within 60 days as provided in Rule .0008, the director shall refer the matter to the Attorney General to recover the amount of the civil penalty.~~

~~(b) If payment of any civil penalty assessed pursuant to the rules of this Subchapter is not received by the director within 30 days following denial of any appeal pursuant to G.S. 74-61 and G. S. 74-62 the director shall refer the matter to the Attorney General to recover the amount of the civil penalty.~~

History Note: Authority G.S. 74-61; ~~74-62~~ 74-63; 74-64; 143B-10;
Eff. May 1, 1982.

15A NCAC 05F .0112 FURTHER REMEDIES

~~No provision of this Subchapter shall be construed to restrict or impair the right of the director or the Mining and Energy to pursue any other remedy provided by law for violations of the Mining Act of 1971 or the rules of this Chapter.~~

History Note: Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1. (d)).

SUBCHAPTER 5G - URANIUM EXPLORATION REGULATIONS

15A NCAC 05G .0101 PURPOSE

*History Note: Authority G.S. 143B-290(1)(e); 74--75 through 74---89;
Eff. December 1, 1983;
Repealed Eff. August 1, 1988.*

15A NCAC 05G .0102 ACTIVITIES REQUIRING PERMITS

*History Note: Authority G.S. 74-76; 74---77;
Eff. December 1, 1983;
Repealed Eff. November 1, 1984.*

15A NCAC 05G .0103 PROCEDURES FOR OBTAINING PERMITS

The application for and issuance of exploration permits is governed by the procedures in this Subchapter.

*History Note: Authority G.S. 74-77 through 74---89;
Eff. December 1, 1983.*

15A NCAC 05G .0104 ABANDONMENT PLAN: BONDING REQUIREMENTS

(a) After reviewing an application, the ~~department~~ Department shall determine whether it should be approved and notify the applicant of its determination. No application shall be approved unless it contains an abandonment plan acceptable to the ~~department~~ Department. If the application is approved, the ~~department~~ Department ~~shall~~ will determine the amount of the performance bond that ~~is~~ will be required and issue to the applicant a bond form to be used in securing the bond. A person shall not engage in exploration activity for the discovery of uranium until a bond in the required amount has been filed with the ~~department~~ Department and an exploration permit has been issued.

(b) The required amount of the bond shall ~~that will be required is to be~~ determined as follows:

- (1) The applicant shall provide the ~~department~~ Department with an estimate of the total length of the vehicular access roads ~~that which will~~ involve the cutting of vegetation and/or grading and of the number of exploratory drill holes and test pits;
- (2) The minimum amount of any bond shall be five thousand dollars (\$5,000.00). In addition to the minimum bond amount of five thousand dollars (\$5,000.00), an additional bond amount shall be required at the rate of two dollars (\$2.00) per each linear foot of vehicular access road and of two hundred dollars (\$200.00) per each exploratory drill hole or test pit; and
- (3) If the ~~department~~ Department determines that the amount of the bond required under Subparagraph (b)(2) of this Rule is ~~either excessive or inadequate to complete the required abandonment, due to specific site conditions,~~ the ~~department~~ Department may negotiate a different bond amount that shall ~~will~~ assure adequate abandonment in the event of bond forfeiture.

(c) A permittee shall be in violation of its permit if the length of the vehicular access roads or the number of exploratory drill holes or test pits exceeds the length or number authorized by the amount of its bond.

History Note: Authority G.S. 74-78; 74--79; 74---86;

Eff. December 1, 1983.

15A NCAC 05G .0105 DRILLING: CASING: TESTING AND ABANDONMENT

The methods and procedures utilized in drilling, casing, testing and abandonment shall be in accordance with the requirements of Title 15A NCAC Subchapter 2C, of 15A NCAC 02C Section .0100, Criteria and Standards Applicable to Water Supply and Certain Other Type Wells, and is hereby incorporated by reference, including subsequent amendments.

History Note: Authority G.S. 74-78; 74--86; 143B---290;

Eff. December 1, 1983.