

BYLAWS OF THE MINING COMMISSION OF NORTH CAROLINA

ARTICLE I Authority

These procedures are adopted pursuant to the authority contained in North Carolina General Statute § 143B-290.

ARTICLE II Purpose

The purpose of the Commission shall be to fulfill the duties prescribed for it in the General Statutes of North Carolina, particularly those provided in N.C.G.S. §§ 143B-290 through 293, and §§ 74-46 through 74, et seq., which are referred to as the Mining Act of 1971.

ARTICLE III Membership

The membership of this Commission shall be as set forth in N.C.G.S. § 143B-291.

ARTICLE IV Officers and Staff

Section 1. Officers of this Commission shall be a Chair and Vice-Chair. The Chair shall be designated by the Governor from among the members of the Commission pursuant to N.C.G.S. § 143B-292. The Vice-Chair shall be elected from and by the members of the Commission and shall serve for a term of two years or until his or her regular term expires, whichever comes first.

Section 2. The staff of the Commission and all administrative services of the Commission shall be supplied by the Secretary of the Department of Environmental Quality as provided by North Carolina General Statutes, Chapters 143B and 74.

ARTICLE V Meetings

Section 1. The Commission shall meet at least semiannually and may hold special meetings at any time and place within the State at the call of the chair, and the chair may call a special meeting upon the written request of at least four members pursuant to N.C.G.S. § 143B-293. The Chair shall set the dates of regular meetings.

Section 2. The Chair may call special meetings as he or she deems necessary. Timely notice in advance of all special meetings must be given to each member of the Commission in accordance with the requirements of the North Carolina General Statutes. The notice requirement may be adequately discharged by mailings to the members of the Commission by letter or comparable electronic means to the members of the Commission at their last known address.

Section 3. At the election of the Chair, meetings of the Commission or a committee may take place via telephone, video conference, or other electronic means that allows for two-way voice interaction provided timely notice shall be given to each member and the public as provided by N.C.G.S. §§ 143-318.12 and 143-318.13.

Section 4. A majority of duly appointed members of the Commission shall constitute a quorum.

Section 5. Meetings of the Commission shall be open to the public; provided, the Commission may hold an executive session where allowed by N.C.G.S. § 143-318.11.

ARTICLE VI Records

Section 1. Minutes and other records of all Commission meetings shall be kept under the direction of the Director of the Division of Energy, Mineral, and Land Resources, said record to be supplemented, where possible, by electronic recording. Minutes shall be maintained according to the retention schedule approved by the Division of Archives and History.

Section 2. The Secretary of the Department of Environmental Quality, or his or her designee, shall be responsible for filing all rules (as defined in N.C.G.S. § 150B-2) of the Commission in proper form as required by Chapter 150B, Articles 2 and 5 of the North Carolina General Statutes.

ARTICLE VII Standard Order of Business

Section 1. The Mining Commission adopts the following as its Standard Order of Business, provided that order of business may be altered by the Chair in his or her discretion in order to more efficiently carry out the Commission's business or for the convenience of the public:

1. Preliminary Matters
 - a. Call to Order
 - b. Ethics statement and member's disclosure of conflicts of interest
 - c. Recognition of those attending
 - d. Swearing in of New Members, if present
 - e. Approval of minutes of previous meeting
2. Action Items
3. Informational Items and Reports
4. Concluding Remarks
 - a. By Division of Energy, Mineral, and Land Resources Director
 - b. By Commission members
 - c. By Commission counsel
 - d. By Chairperson
5. Adjournment

ARTICLE VIII Notice Requirements

Section 1. In accordance with the North Carolina General Statutes, Chapters 74, 143, 143B and 150B, the Secretary of the Department of Environmental Quality, or an appropriate designee, shall be responsible for the timely issuance of any applicable notices to those parties upon whom the right of legal notice of Commission hearings, meetings, committee meetings, decisions, and official actions is conferred.

Section 2. Notice to the public in advance of all meetings and committee meetings shall be given in accordance with N.C.G.S. § 143-318.12.

ARTICLE IX Committees

Section 1. The Chair shall appoint such committees, standing, special, or advisory, as the Commission Chair shall from time to time deem necessary. The Chair shall appoint all members of committees, standing, special, or advisory. The Chair shall designate the chair and vice-chair of each committee, standing, special, or advisory from among its members and shall be an *ex officio* member of all committees. A majority of duly appointed members of each committee shall constitute a quorum.

Section 2. Duly appointed committees may adopt at their discretion any internal procedures necessary to the discharge of their business; provided, no procedures adopted by any committee shall be inconsistent with these procedures or any other rules adopted by the Commission, or with any statutes applicable to the Commission. The committee chair shall report any committee recommendation to the Commission.

Section 3. The Commission shall have a standing committee on Rules, which shall consist of three members of the Commission as appointed by the Chair. The Rules Committee shall first consider and recommend to the Commission any action with respect to the review, adoption, or amendment, including the re-adoption or the deletion of an existing rule, prior to the Commission's action on the rule(s). The Chair may, in his or her discretion, refer other issues pertaining to rulemaking to the Rules Committee as the Chair deems appropriate or necessary, including petitioners for rulemaking.

ARTICLE X Parliamentary Authority

Section 1. The rules contained in the current edition of Robert's Rules of Order shall govern the Commission in all meetings, where applicable and not inconsistent with these procedures and any special rules of order the Commission may adopt, or with any statutes applicable to the Commission. The Commission Chair and the chairs of each committee, or other appropriate presiding officer, shall serve as Parliamentarian and shall be empowered to rule on all motions, points of order, or other such issues raised pursuant to Robert's Rules of Order, and shall have the authority and duty to preside over the conduct of the meeting.

Section 2. The Commission Chair and the chair of any committee may or may not vote on any issue before the body over which that person is presiding and may vote to either break or create a tie vote on any motion before the body. If a tie occurs, the motion fails.

ARTICLE XI Attendance

Section 1. Regular attendance at Commission meetings is a duty of each member. Commission members recognize that, pursuant to N.C.G.S. § 143B-13(b)(iv), their membership becomes vacant by their ceasing to discharge the duties of their office over a period of three consecutive meetings except when prevented by sickness.

ARTICLE XII Conflicts of Interest

Section 1. The Commission is subject to the State Government Ethics Act, N.C.G.S. § 138A-1, *et. seq.*, as amended and as it may later be amended. The members of the Commission, regardless of

appointing authority, are bound by the standards enunciated in the State Government Ethics Act and the interpretations of the standards as developed through promulgations and advisory opinions of the State Ethics Commission.

Section 2. Members of the Commission must police themselves against actual and potential conflicts in the discharge of their statutory duties, as required by the State Ethics Act (Chapter 138A of the North Carolina General Statutes) and any other applicable Executive Order or governing act of the General Assembly. In circumstances involving an actual conflict of interest, the member must publicly announce their conflict and immediately discontinue any involvement in the matter including discussions of it with other members of the Commission or staff to the Commission, and the conflict shall be recorded in the Commission's minutes. Members who disqualify themselves for actual conflict of interest must also file a written statement with the Chair. Members of the Commission may appear to defend themselves if regulatory actions are initiated against them by the State Ethics Commission.

Section 3. Unless a member of the Commission with a potential conflict of interest places it in the public record, the member must withdraw from participation in the matter. When a member publicly withdraws from a matter due to a potential conflict of interest, no further explanation is required. Should the potential conflict of interest be disclosed in a written document, it must be read into the minutes of the Commission before deliberation or discussion of the matter begins. A member with a potential conflict of interest who decides to participate in the pending matter must disclose, in the Commission meeting when the matter is called as an agenda item, the nature of the potential conflict of interest and the reason it does not cause them to withdraw from further participation in the matter.

ARTICLE XIII Amendments to the Bylaws

Section 1. These procedures may be amended at any regular or special meeting of the Commission by a three-fourths vote of the members present; provided that a copy of the proposed amendment must be sent by electronic mail to each Commission member at least seven days prior to the consideration of any proposed amendment to these procedures by the Commission.

Effective:

Thomas Freeman, Chair
Mining Commission