

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25 *Repealed Eff.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.*

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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31 *Repealed Eff.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40 *Repealed Eff.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.*

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15A NCAC 05A .0202 ~~DELEGATION~~ AUTHORITIES AND DEFINITIONS

(a) ~~The Secretary of the Department of Environmental Quality shall delegate to the Director The Director, Division of Energy, Mineral, and Land Resources, Department of Environment, Health, and Natural Resources, shall have the following powers and duties with regard to necessary for the administration of the Mining Act of 1971-1971. These powers and duties shall include, but are not limited to, the following:~~

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

(b) ~~The Director, Division of Energy, Mineral, and Land Resources, Department of Environment, Health, and Natural Resources shall have~~ The Secretary of the Department of Environmental Quality shall delegate to the Director the following powers and duties with regard to the administration of the Control of Exploration for Uranium in North Carolina Act of 1983. These powers and duties shall include, but are not limited to, the following:

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

(c) These terms as used in the Article, Subchapters 05A, 05B, 05F and 05G and permits issued thereunder are defined as follows:

- (1) “Commission” means the Mining Commission as established in G.S. 143B-290.
- (2) “Department” means the Department of Environmental Quality.
- (3) “Director” means the Director of the Division of Energy, Mineral and Land Resources of the Department of Environmental Quality.
- (4) “Administrative Change” means any change initiated by the Department or requested by the applicant to correct errors including, but not limited to, grammatical errors, typographical errors, and map inaccuracies, that do not substantially or substantively change the permit.
- (5) “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.
- (6) “Mining Buffer” means an area of undisturbed, vegetative, or unexcavated areas managed to protect adjacent land owners or areas of special concern.
 - (i) “Unexcavated” means no mine excavation shall occur. 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.
 - (ii) “Undisturbed” means no disturbance including timbering or removal of trees.

(iii) “Vegetative Buffer” means an unexcavated buffer that may be managed through landscaping or additional plantings.

(7) “Silviculture” means the harvesting of timber for sustainable, ongoing forestry management. ~~This shall not include the harvesting of timber in preparation for another land use or preparation for mining activity.~~ This shall also include references to “timbering” or “forestry”.

(8) “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 or sale of any extracted material off-site is incidental to the primary purpose and time limited.

(9) “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 so long as they comply with any requirements for approvals under G.S. 113A, Article 4.

(10) As applicable to G.S. 74-50(b3), “notice” includes written or electronic correspondence.

(11) “Affected land”, as defined in G.S. 74-49(1) shall not include an unrelated use that does not meet the definition of mining which occurs within the permit boundaries, including activities pertaining to agriculture and silviculture, so long as an erosion and sedimentation plan is approved under G.S. 113A, Article 4, when required, and the unrelated use area is shown on the mine map.

(12) As applicable to G.S. §74-51(b) an application submitted electronically outside of business hours, Monday through Friday, 8am to 5pm Eastern, shall be deemed filed at the start of the following business day.

History Note: Authority G.S. 74-50 through 74--53; 74--56 to 74---59; 74-7775 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.

1 **15A NCAC 05B .0103 BONDING REQUIREMENTS**

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

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

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

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

24 (e) The initial bond calculation amount shall be based upon the criteria included in the table in Subparagraph (1) below
25 and applied per acre of land approved by the Department to be affected.

26 (1) Table of Mining Reclamation Factors.

COMMODITY CODES:

| | | | | | | | |
|---------------|--------------------|-----------|-----------------|-----------|--------------------------------|-----------|------------|
| SG | Sand and/or Gravel | DS | Dimension Stone | PF | Pyrophyllite | CL | Clay/Shale |
| GS | Gemstone | FS | Feldspar | OL | Olivine | PE | Peat |
| Borrow | Borrow/fill dirt | MI | Mica | KY | Kyanite/Sillimanite/Andalusite | AU | Gold |
| CS | Crushed Stone | LI | Lithium | PH | Phosphate | TI | Titanium |
| OT | Other | | | | | | |

| TYPE | T/S PONDS | STOCKPILES | WASTE PILES | P. AREA/H.R. | MINE EXCAVATION |
|-----------------------------------|----------------------------|------------|-------------|--------------|----------------------------|
| SG, GS, Borrow | \$500/ac. (L) 1500 (FI) | \$1800/ac. | \$2000/ac. | \$1800/ac. | \$500/ac. (L) 2000 (PD) |
| CS, DS, FS, MI, LI, PF, OL, KY | 500 (L) 1500 (FI) | 1800 | 2000 | 2000 | 500 (L) 2500 (PD) |
| PH | 1000 (L) 2500(FI) | 2500 | 5000 | 5000 | 2000 (L) 5000 (PD) |
| CL | 1000 (L) 2500 (FI) | 2500 | 5000 | 5000 | 2000 (L) 3700 (PD) |
| PE, AU, TI, OT | 1000(L) 2500 (FI) | 2500 | 3000 | 3500 | 2000 (L) 5000 (PD) |

(L) = Reclamation to a lake and revegetating side slopes
 (FI) = Reclamation by filling in and revegetating
 (PD) = Reclamation by grading for positive drainage & revegetating

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

4 (d2) The final bond amount shall be calculated by increasing the initial bond calculation from (d1) ~~two~~ two percent per
 5 year of the estimated life of mine or life of lease to account for estimated inflation. The calculation shall be performed
 6 by Simple interest: Bond = Current Bond Value x (1+.02) x # of years

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

11 (1) the applicant or permittee with separate bonds may substitute a ~~five hundred thousand dollar~~
 12 ~~(\$500,000)~~ one million dollars (\$1,000,000) blanket bond to be used for all future sites, or

13 (2) the applicant or permittee with ~~five hundred thousand dollar (\$500,000)~~ one million dollars
 14 ~~(\$1,000,000)~~ blanket bond covering all sites may use that blanket bond for all future sites,

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

17 If the Director finds that the applicant or permittee does not have a good operating record, that the ~~five hundred~~
 18 ~~thousand dollars (\$500,000)~~ is not sufficient to reclaim all sites, or that additional reclamation money is needed, the

19 Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.

~~Strikethroughs~~ are words proposed for removal.
Underlines are words proposed for insertion.

~~(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.~~

(f) In accordance with G.S. §74-51(h) no permit shall be issued until the operator submits to 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 not to exceed 60 days shall be granted by the Director.

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

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 form 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 operation will have a ~~waste water~~ wastewater discharge ~~or air contaminant emission which~~ will require a permit from the ~~division of environmental management; Division of Water Resources,~~ an air contaminant emission which 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 to insure against landslides and acid water pollution;

1 (9) measures to **be taken** to minimize siltation of streams, lakes, or adjacent properties during the mining
2 operation;

3 (10) measures to be taken to screen the operation from public view.

4 **(11) Name of Mine and Location**

5 **(12) Responsible Officer Contact Information**

6 **(13) Site Contact Information**

7 **(14) Statement of Authority as provided in subsection (j), when necessary.**

8 (b) Information required in the reclamation plan shall include:

9 (1) intended plan for overall mine reclamation, subsequent land use and the **general** methods to be used
10 in reclaiming **the affected land**;

11 (2) intended practices to **be taken** to protect adjacent surface resources;

12 (3) intended methods to prevent or eliminate conditions hazardous to animal or fish life in or adjacent
13 to the affected areas;

14 (4) intended methods of rehabilitation of settling ponds;

15 (5) intended methods of restoration or establishment of stream channels and stream beds to a condition
16 minimizing erosion, siltation and other pollution;

17 (6) intended measures to stabilize slopes;

18 (7) intended measures to provide for safety to persons and adjoining property in excavation in rock;

19 (8) intended measures of disposal of mining refuse and control of contaminants;

20 (9) provisions to prevent collection of noxious, odious or foul water in mined areas; and

21 (10) plan for revegetation and reforestation or other surface treatment of the affected areas which plan
22 must be approved in writing by one of the following prior to submission of the application:

23 (A) Authorized ~~representatives~~ representative of the local soil and water conservation district
24 having jurisdiction over lands in question;

25 (B) Authorized ~~representatives~~ representative of the ~~division of forest resources, Department~~
26 ~~of Environment, Health, and Natural Resources; North Carolina Forest Service within the~~
27 Department of Agriculture and Consumer Services;

28 (C) NC Cooperative Extension County agricultural extension chairmen county director in a
29 county listed in the **reclamation plan** **county(s) where the site is located** or research and
30 extension personnel headquartered at North Carolina State University in the ~~school of~~
31 ~~agriculture and life sciences~~ School of Agriculture and Life Sciences;

32 (D) North Carolina licensed landscape ~~architects;~~ Architect pursuant to G.S. 89A;

33 (E) Private consulting ~~foresters~~ forester referred by the ~~division of forest resources,~~
34 ~~Department of Environment, Health, and Natural Resources;~~ **Division of Forest Resources,**
35 **Department of Environmental Quality** North Carolina Forest Service within the
36 Department of Agriculture and Consumer Services; or

- 1 (F) Others as may be approved by the ~~department~~; Department; Provided that areas expected
 2 to be in use beyond the maximum permissible permit period, such as processing plants or
 3 stockpiles, do not require a specific revegetation plan;
- 4 (G) North Carolina licensed Professional Engineer pursuant to G.S.89C;
 5 (H) N.C. Erosion and Sedimentation Control Planning and Design Manual;
 6 (I) N.C. Surface Mining Manual: A Guide for Permitting, Operation and Reclamation;
- 7 (11) time schedule of reclamation that provides that reclamation activities be conducted simultaneously
 8 with mining operations whenever feasible and in any event be initiated at the earliest practicable
 9 time after completion or termination of mining on any segment and completed within two years
 10 unless a longer period is specifically permitted by the Department.
- 11 (c) In addition to the application form, the operator shall also submit ~~two copies~~ a copy of a county map showing the
 12 mine location and ~~two copies~~ a copy of a mine map. Mine maps should be accurate drawings, aerial photographs or
 13 enlarged topographic maps of the mine area and must ~~clearly~~ show the following:
- 14 (1) property lines or affected area of mining operation;
 15 (2) outline of pits;
 16 (3) outline of stockpile areas;
 17 (4) outline of overburden disposal areas;
 18 (5) location of processing plants (Processing plants may be described as to location and distance from
 19 ~~mine if sufficiently far removed.); the mine if not contiguous to the mine property.);
 20 (6) location and name of streams and lakes;
 21 (7) outline of settling ponds;
 22 (8) location of access roads;
 23 (9) mine permit boundaries;
 24 (10) existing and proposed contours;
 25 (11) map legend:
 26 (A) name of company,
 27 (B) name of mine,
 28 (C) north arrow,
 29 (D) county,
 30 (E) scale,
 31 (F) date prepared,
 32 (G) name and title of person preparing map; and
 33 (12) names of owners of record, both public and private, of all adjoining ~~land~~. land as is specified in
 34 G.S. 74-50.
 35 (13) Any unrelated use areas that does not meet the definition of mining which occurs within the
 36 permit boundaries, including activities pertaining to agriculture and silviculture, so long as an erosion~~

1 and sedimentation plan is approved under G.S. 113A, Article 4, when required, and the unrelated use
 2 area is shown on the mine map

3 The mine maps should be correlated with the reclamation plan. The approximate areas to be mined during the life of
 4 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) As is specified in G.S. 74-50, ~~Proof~~ proof satisfactory to the ~~department~~ Department that the
 20 applicant has made ~~a reasonable~~ the required effort to notify all owners of record of all adjoining
 21 land and the chief administrative ~~officer~~ officers of the county ~~or~~ and municipality of the pending
 22 application. Proof satisfactory to the ~~department~~ Department shall include an affidavit by the
 23 applicant ~~that he has caused~~ stating that a notice of the pending application ~~to be~~ has been sent by
 24 certified or registered mail to all known adjoining owners and to the chief administrative ~~officer~~
 25 officers of the county or municipality. Other means of notice shall be satisfactory if approved in
 26 advance by the ~~department~~ Department.

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

31 (f) A recorded right of entry agreement that runs with the land, utilizing the Mining Permit Application form provided
 32 by the Department providing that the landowner may not interfere with the permittee's obligations nor the
 33 Department's ability to perform reclamation.

34 (g) Any application submitted to the Department for approval of mining activities pursuant to G.S. 74-50 shall include
 35 proof of ownership or a valid and unexpired lease agreement or option from the property owner allowing mining
 36 activities for all lands to be included in the permitted area as defined in 74-50(b)(3).

(h) Written authorization for the Department to launch and recover an unmanned aircraft system from the permitted site or to inspect the property via video or photographic imaging with an unmanned aircraft system for regulatory compliance, complaint, public safety or emergency purposes only. Any such operation for inspection purposes shall be subject to notice to the permittee in advance of utilizing the unmanned aircraft system.

(i) 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 that the operation will comply fully with the requirements and objectives of the Mining Act of 1971, the ~~director~~ Director may ~~approve~~ require that an application or reclamation plan include certain conditions. conditions that include but are not limited to: such as: Such conditions of application approval may include:

- (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, tree plantings at staggered 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 operation activities that are being screened and the current and future 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 neighboring public water supply wells and measures to mitigate potential adverse impacts.

(7) If the mine excavation is backfilled, at the time of notice to the Department that post-fill monitoring is scheduled to end and prior to release, the operator shall provide to the Department proof that either a note or notice of the mining reclamation activity has been recorded with the underlying property deed at the local Register of Deeds.

*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

(a) An application for a mining permit including new permits, modified permits and renewal permits and transferred permits, may be denied when the operation will have an undue adverse effect on wildlife or fisheries by: Department finds that any elements of G.S. 74-51(d) are expected to occur and can not be mitigated.

(b) For purposes of G.S. §74-51(d)(2), an operation will have an undue adverse effect on wildlife or fisheries when there will be:

- (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. The mine operator shall complete an annual mining reclamation report as

1 ~~required by § 74-55. In the event of permit release, the operator shall complete a release request which includes the~~
 2 ~~details found on the reclamation report.~~

3 (a) The mine operator shall complete an annual mining reclamation report as required by G.S. §74-55.

4 (b) Upon completion of reclamation of an area of land, the operator shall notify the Department and complete a release
 5 request which includes the details found on the reclamation report.

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

9
 10 *History Note: Authority G.S. 74-55; 143B---290;*

11 *Eff. March 30, 1978;*

12 *Amended Eff. November 1, 1984.*

13 14 **15A NCAC 05B .0111 PUBLIC HEARINGS**

15 (a) If the ~~department~~ Department determines that there exists a significant public interest in an application for a new
 16 mining permit, or for a modification that adds land to the existing permit, the ~~director~~ Director shall appoint a hearing
 17 officer to conduct a public hearing on the application which shall be held no ~~sooner than 20 or later than 60 days~~ 90
 18 days of the filing of the application and before the ~~department~~ Department makes its final decision regarding the
 19 application.

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

25 (c) Any person may appear at the public hearing and give oral or written comments on the proposed application. The
 26 hearing officer may impose ~~reasonable~~ limitations on the length of time that any person may speak and may summarize
 27 comments rather than recording them in full. The hearing officer may allow additional written comments to be
 28 submitted after the hearing within a period of time he or she deems appropriate which shall not exceed ten days.

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

34 ~~(e) The Department has the discretion to determine whether significant public interest exists. In the event the~~
 35 ~~Department receives at least 25 written requests that explicitly request a public hearing, the Department shall hold a~~
 36 ~~public hearing.~~

37
 38 *History Note: Authority G.S. 74-51; 74-63; 74-86;*

Eff. May 1, 1982.

15A NCAC 05B .0112 PERMIT APPLICATION PROCESSING FEES

(a) A nonrefundable permit application processing fee, in the amounts stated in G.S. 74-54.1, Paragraphs (b), (c) and (d) of this Rule, shall be paid when an application for a new mining ~~permit~~ permit or a permit modification, ~~or a 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 .0005~~, the rules of this Subchapter.

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

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

(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 to correct processing errors, to change permit standards or to implement new standards.~~

~~(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.~~

~~(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) e) For 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 |

Strikethroughs are words proposed for removal.
Underlines are words proposed for insertion.

| | | | | |
|----|-----------------------|------|-----|-----|
| 1 | 25 but less | 1000 | 500 | 500 |
| 2 | than 50 | | | |
| 3 | 50 or more | 1500 | 500 | 500 |
| 4 | SAND & 1 but less | 150 | 100 | 100 |
| 5 | GRAVEL, than 5 | | | |
| 6 | GEMSTONE 5 but less | 250 | 100 | 100 |
| 7 | AND than 25 | | | |
| 8 | BORROW 25 but less | 500 | 250 | 500 |
| 9 | PITS than 50 | | | |
| 10 | 50 or more | 1000 | 500 | 500 |
| 11 | QUARRY, 1 but less | 250 | 100 | 100 |
| 12 | INDUSTRIAL than 10 | | | |
| 13 | MINERALS, 10 but less | 1000 | 250 | 500 |
| 14 | DIMENSION than 25 | | | |
| 15 | STONE 25 but less | 1500 | 500 | 500 |
| 16 | than 50 | | | |
| 17 | 50 or more | 2500 | 500 | 500 |
| 18 | PEAT & 1 or more | 2500 | 500 | 500 |
| 19 | PHOSPHATE | | | |
| 20 | GOLD (HEAP 1 or more | 2500 | 500 | 500 |
| 21 | LEACH), | | | |
| 22 | TITANIUM & | | | |
| 23 | OTHERS | | | |
| 24 | | | | |

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

28 ~~(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~~
 29 ~~each state fiscal year, project revenues for the fiscal year from fees collected pursuant to this Rule. If this projection~~
 30 ~~shows that the statutory limit will be exceeded, the Director shall order a pro rata reduction in the fee schedule for~~
 31 ~~the remainder of the fiscal year to avoid revenue collection in excess of the statutory limits.~~

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

34
 35 *History Note: Filed as a Temporary Rule Eff. November 1, 1990, for a Period of 180 Days to Expire on April 29,*
 36 *1991;*
 37 *Authority G.S. 143B--290;*
 38 *ARRC Objection Lodged November 14, 1990;*
 39 *ARRC Objection Removed December 20, 1990;*
 40 *Eff. January 1, 1991;*
 41 *Amended Eff. December 1, 1991.*

42 43 **15A NCAC 05B .0113 RESPONSE DEADLINE TO DEPARTMENT'S REQUEST(S)**

44 An applicant or permittee shall submit to the Department supplemental information regarding an application for a new
 45 ~~permit~~ or modified, permit, or permit renewal or permit transfer within 180 days after the date of receipt of the

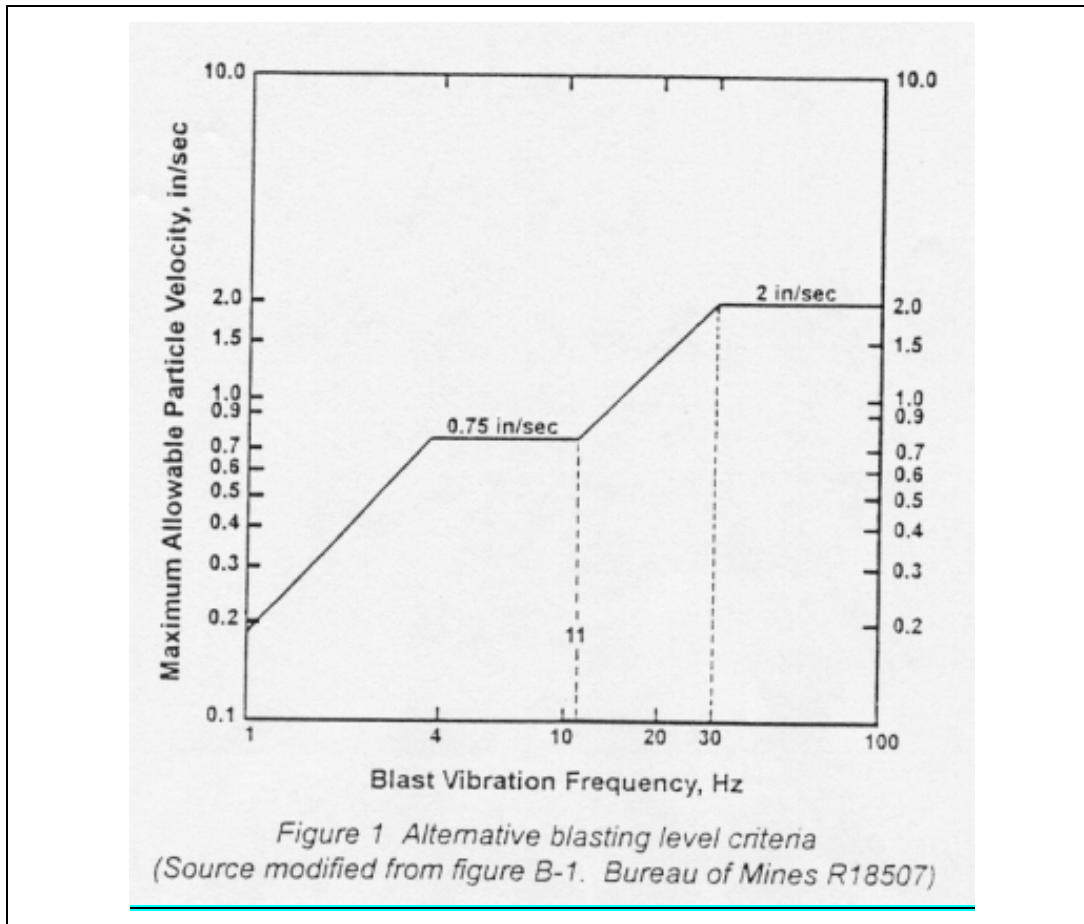
1 Department's written ~~request(s)~~ request for such information. Upon written request of the applicant or permittee to
 2 the Director, an additional ~~reasonable~~ specified period of time not to exceed one year shall be granted upon
 3 determination of good cause by the Director. Additional time may be granted by the Mining and Energy Commission,
 4 provided written request is made by the applicant or permittee before the expiration of the one-year period.

5
 6 *History Note: Authority G.S. 74-51; 74--52; 74--63; 143B---290; Note:*
 7 *RRC Objection Eff. September 15, 1994 due to lack of statutory authority;*
 8 *Eff. November 1, 1994;*
 9 *Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d))*

11 **15A NCAC 05B .0114 BLASTING**

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

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



1
2 (c) In the event of seismograph malfunction or other condition which prevents monitoring, blasting shall be conducted
3 in accordance with the following scaled distance formulas add reference:

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

- 4
5 W = Maximum charge weight of explosives per delay period of 8.0 milliseconds or
6 more (pounds).
7 D = Distance from the blast site to the nearest inhabited building not owned or leased
8 by the mine operator. (feet).
9 D_s = Scaled distance factor.
10 V = Peak Particle Velocity (inches per second).

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

12 (d) Air blast overpressure resulting from surface blasting shall not exceed 129 decibels linear (dBL) as measured at
13 the nearest location of any regularly occupied building not owned or leased by the operator outside of the permitted
14 area such as a dwelling house, church, school, or public, commercial, or institutional building, unless an alternate level
15 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> |
|---|------------------------|
|---|------------------------|

~~Strikethroughs~~ are words proposed for removal.
Underlines are words proposed for insertion.

| | |
|--------------------------------------|-----------------|
| <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 will be calculated using actual delay of separation, a minimum 1 milliseconds. When using non-electric detonators, the maximum charge weight will be calculated on a period 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.

(7) type and total pounds of explosives.

(8) maximum pounds per 8ms delay interval.

(9) amount of stemming and burden for each hole.

(10) blast location.

(11) distance from blast to closest offsite regularly occupied structure.

(12) weather conditions at the time of the blast.

1 (13) Whether mats or other protections were used.

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

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

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

9

10 **15A NCAC 05B .0115 MINING PERMIT TRANSFERS**

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

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

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

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

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

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

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

28 (6) Current Permit Number

29 (7) A copy of the recorded right of entry agreement that runs with the land, utilizing the Mining Permit
30 Application form provided by the Department providing that the landowner may not interfere with the
31 permittee's obligations or the Department's ability to perform reclamation.

32 (8) An acceptable security in the appropriate amount and using the proper forms established by the
33 Department to replace the existing security covering the site unless approval to use an alternative method
34 has been obtained from the Department. The new security shall be issued in the same successor operator
35 name used in the permit transfer application.

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

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

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

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

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

13 (h) Permit transfers due to corporate name changes shall comply with Rule .0116.

14 **15A NCAC 05B .0116 PERMIT TRANSFERS DUE TO CORPORATE NAME CHANGES**

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

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

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

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

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

28 (5) A copy of the recorded right of entry agreement that runs with the land, utilizing the Mining Permit
 29 Application form provided by the Department providing that the landowner may not interfere with the
 30 permittee's obligations nor the Department's ability to perform reclamation

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

33 **15A NCAC 05B .0117 DRAFT PERMITS**

34 Upon approval of an application prior to receipt of any performance bond or security, new or updated, any operating
 35 permit generated by the Department shall be considered a preliminary draft and shall not be considered issued or
 36 binding, regardless of whether the draft is shared with the applicant. Where a new or modified performance bond or
 37 binding, regardless of whether the draft is shared with the applicant. Where a new or modified performance bond or
 38 binding, regardless of whether the draft is shared with the applicant. Where a new or modified performance bond or

1 other security is required pursuant to G.S. 74-54, timely approval of an application, pursuant G.S. §74-51(h), shall
 2 satisfy the requirement to grant a permit within the deadlines included in G.S. 74-51(b).

5 SUBCHAPTER 05F - CIVIL PENALTIES

7 15A NCAC 05F .0101 PURPOSE AND SCOPE

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

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

12 *Eff. May 1, 1982;*

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

15 ~~15A NCAC 05F .0102~~ DEFINITIONS

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

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

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

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

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

23 *Eff. May 1, 1982;*

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

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

27 15A NCAC 05F .0103 WHO MAY ASSESS

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

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

31 *Eff. May 1, 1982.*

33 15A NCAC 05F .0105 CIVIL PENALTY FOR MINING WITHOUT A PERMIT

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

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

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

8 *Eff. May 1, 1982;*

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

10 11 **15A NCAC 05F .0106 CIVIL PENALTY FOR VIOLATING OPERATING PERMIT**

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

18 (b) If the violator does not comply with the requirements of the notice of violation within the time period specified in
 19 the notice, the ~~director~~ Director may assess a civil penalty for any violation(s) committed after the date of receipt of
 20 the notice of violation. The civil penalty assessment shall specify ~~with reasonable particularity~~ the violation(s) for
 21 which the penalty has been assessed and shall be transmitted to the violator by certified or registered mail, return
 22 receipt requested.

23 *History Note: Authority G.S. 74-60; 74-61; ~~74-62~~; 74-63; 74-64; 143B-10;*

24 *Eff. May 1, 1982;*

25 *Amended Eff. November 1, 1984.*

26 27 28 29 **15A NCAC 05F .0107 CRITERIA FOR DETERMINING AMOUNT OF PENALTY**

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

32 (1) ~~nature of the violation;~~

33 (2) ~~degree and extent of the harm, including off site damage;~~

34 (3) ~~duration of the violation;~~

35 (4) ~~cause of the violation;~~

36 (5) ~~cost of compliance and rectifying any harm or damage;~~

37 (6) ~~violator's previous record of compliance with the Mining Act, or any rules promulgated thereunder,~~
 38 ~~or any mining permit issued to the violator;~~

39 (7) ~~staff investigative costs; and~~

1 ~~(8) effectiveness of any action taken by the operator.~~

2
3 *History Note:* Authority G.S. 74-61; ~~74-62~~; 74-63; 74-64; 143B-10;
4 *Eff. May 1, 1982.*

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

6
7 **15A NCAC 05F .0108 ADMINISTRATIVE REMEDIES**

8 Within ~~60 days~~ 30 days after receipt of notification of any civil penalty assessment, the person against whom the civil
9 penalty is assessed may contest the decision of the department by filing a petition as described in G.S. 74-61 and G.S.
10 150B-23.

11
12 *History Note:* Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;
13 *Eff. May 1, 1982;*
14 *Amended Eff. August 1, 1988.*

15
16 **15A NCAC 05F .0109 HEARING PROCEDURES**

17 ~~(a) The final decision for purposes of judicial review under G.S. 74-61 shall be made by a majority vote of a quorum~~
18 ~~of the Mining and Energy Commission.~~

19 ~~(b) All hearings shall be conducted in accordance with the departmental hearing procedures in 15A NCAC 1B .0200~~
20 ~~et seq., and Chapter 150B of the General Statutes.~~

21
22 *History Note:* Authority G.S. 74-61; 74-62; 74-63; 143B-10; 150B-23;
23 *Eff. May 1, 1982;*
24 *Amended Eff. August 1, 2012 (see S.L 2012-143, s.1. (d)); August 1, 1988.*

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

26
27 **15A NCAC 05F .0110 TENDERS OF PAYMENT**

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

29
30 *History Note:* Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;
31 *Eff. May 1, 1982.*

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

33
34 **15A NCAC 05F .0111 REFERRAL TO ATTORNEY GENERAL**

35 (a) If the person against whom a civil penalty is assessed, fails to pay the assessment ~~respond~~ within ~~60 days~~ 30 days
36 as provided in G.S. 74-64(a)(3), Rule .0008 ~~or~~ file a contested case as provided in G.S. 74-61 during that time, the
37 ~~director~~ Director shall refer the matter to the Attorney General to recover the amount of the civil penalty.

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

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

4
 5 **15A NCAC 05F .0112 FURTHER REMEDIES**

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

9
 10 *History Note:* Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;
 11 *Eff. May 1, 1982;*
 12 *Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1. (d)).*

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20 **SUBCHAPTER 5G - URANIUM EXPLORATION REGULATIONS**

21
 22 **15A NCAC 05G .0101 PURPOSE**

23
 24 *History Note:* Authority G.S. 143B-290(1)(e); 74--75 through 74---89;
 25 *Eff. December 1, 1983;*
 26 *Repealed Eff. August 1, 1988.*

27
 28 **15A NCAC 05G .0102 ACTIVITIES REQUIRING PERMITS**

29
 30 *History Note:* Authority G.S. 74-76; 74---77;
 31 *Eff. December 1, 1983;*
 32 *Repealed Eff. November 1, 1984.*

33
 34 **15A NCAC 05G .0103 PROCEDURES FOR OBTAINING PERMITS**

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

36
 37 *History Note:* Authority G.S. 74-77 through 74---89;
 38 *Eff. December 1, 1983.*

39
 40 **15A NCAC 05G .0104 ABANDONMENT PLAN: BONDING REQUIREMENTS**

41 (a) After reviewing an application, the ~~department~~ Department shall determine whether it should be approved and
 42 notify the applicant of its determination. No application shall be approved unless it contains an abandonment plan

1 acceptable to the ~~department~~ Department. If the application is approved, the ~~department~~ Department will determine
 2 the amount of the performance bond that will be required and issue to the applicant a bond form to be used in securing
 3 the bond. A person shall not engage in exploration activity for the discovery of uranium until a bond in the required
 4 amount has been filed with the ~~department~~ Department and an exploration permit has been issued.

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

6 (1) The applicant shall provide the ~~department~~ Department with an estimate of the total length of the
 7 vehicular access roads which will involve the cutting of vegetation and/or grading and of the number
 8 of exploratory drill holes and test pits;

9 (2) The minimum amount of any bond shall be five thousand dollars (\$5,000.00). In addition to the
 10 minimum bond amount of five thousand dollars (\$5,000.00), an additional bond amount shall be
 11 required at the rate of two dollars (\$2.00) per each linear foot of vehicular access road and of two
 12 hundred dollars (\$200.00) per each exploratory drill hole or test pit; and

13 (3) If the ~~department~~ Department determines that the amount of the bond required under Subparagraph
 14 (b)(2) of this Rule is either excessive or inadequate due to specific site conditions, the ~~department~~
 15 Department may negotiate a different bond amount that will assure adequate abandonment in the
 16 event of bond forfeiture.

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

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

20 *Eff. December 1, 1983.*

21 **15A NCAC 05G .0105 DRILLING: CASING: TESTING AND ABANDONMENT**

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

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

27 *Eff. December 1, 1983.*