

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Coal Ash, Oil and Gas, and Mining Commissions

RULE CITATION: 15A NCAC 05A, 05B, 05C, 05F, and 05G

RECOMMENDED ACTION: Remove 15A NCAC 05A, 05B, 05C, 05F, and 05G from the periodic review schedule until new appointments are made to the Coal Ash, Oil and Gas, and Mining Commissions and staff have consulted with the agency regarding the readoption date for these rules.

Discussion:

The decision of the North Carolina Supreme Court regarding the appointment of commissioners to the Coal Ash, Oil and Gas, and Mining Commissions has materially affected the periodic review of rules promulgated by those commissions (*see* e-mail from Jennifer Everett, Rulemaking Coordinator for the Department of Environmental Quality).

The Rules Review Commission has “broad authority to modify the schedule and extend the time for review in appropriate circumstances.” G.S. 150B-3A(d)(1). In light of the circumstances outlined in the e-mail of Ms. Everett, it appears appropriate to alter the schedule for review of the rules of these commissions. Moreover, because the Legislature has not yet acted to address the decision of the Court, it is not clear what the new schedule for review of these rules should be.

Typically, an extension of a period of review would be sought through a written request for a waiver, signed by the agency head (*see* 26 NCAC 05 .0204(a)). However, the decision of the Court vacated the agency heads of these commissions; therefore, there is no agency head to sign these waiver requests and, more fundamentally, no commissioners to authorize the requests.

Summary:

In light of the decision of the Court and the resulting circumstances surrounding the review of 15A NCAC 05A, 05B, 05C, 05F, and 05G, staff recommends that the Commission remove these rules from the periodic review schedule until new appointments are made to the Coal Ash, Oil and Gas, and

Jason Thomas
Commission Counsel

Mining Commissions and staff have consulted with the commissions regarding the readoption date for these rules.

§ 150B-21.3A. Periodic review and expiration of existing rules.

(d) Timetable. – The Commission shall establish a schedule for the review and readoption of existing rules in accordance with this section on a decennial basis as follows:

(1) With regard to the review process, the Commission shall assign each Title of the Administrative Code a date by which the review required by this section must be completed. In establishing the schedule, the Commission shall consider the scope and complexity of rules subject to this section and the resources required to conduct the review required by this section. **The Commission shall have broad authority to modify the schedule and extend the time for review in appropriate circumstances.** Except as provided in subsections (e) and (f) of this section, if the agency fails to conduct the review by the date set by the Commission, the rules contained in that Title which have not been reviewed will expire. The Commission shall report to the Committee any agency that fails to conduct the review. The Commission may exempt rules that have been adopted or amended within the previous 10 years from the review required by this section. However, any rule exempted on this basis must be reviewed in accordance with this section no more than 10 years following the last time the rule was amended.

26 NCAC 05 .0204 EXTENSION OF TIME

(a) If the agency cannot meet the filing deadline set forth in Rules .0203(c) and .0211 of this Section, **the agency head may submit a written request for an extension of time from the Commission.** The Commission shall consider the request at its next regularly scheduled meeting. The Commission's decision shall be made on a case by case basis, considering the justification offered by the agency requesting the extension, which may include:

- (1) the efforts of the agency to comply with the review;
- (2) any illness or incapacity of the staff member assigned responsibility for submitting the report;
- (3) changes of composition to the agency or its staff that resulted in a delay of the review;
- (4) whether the agency received a volume of comments that requires additional time to respond; and
- (5) arguments against the delay by members of the public.

(b) A request solely citing time constraints to complete the report is insufficient for an extension of time.

(c) If an agency head submits a request for an extension, the agency shall post notice on its website and notify its interested persons mailing list maintained pursuant to G.S. 150B-21.2(d) that the RRC will review the request at its next regularly scheduled meeting. The notice shall also inform the public that individuals may contact the Commission to object to the delay.

(d) Any person desiring to submit written arguments against the delay proposed by an agency shall submit the comments by email to the individual commissioners and to the RRC staff by 5:00 p.m. on the Tuesday prior to the meeting.

Burgos, Alexander N

Subject: FW: 15A NCAC 05A, B, C, F and G
Attachments: 15A NCAC 05A.pdf; 15A NCAC 05B.pdf; 15A NCAC 05C.pdf; 15A NCAC 05F.pdf; 15A NCAC 05G.pdf

From: Everett, Jennifer
Sent: Thursday, May 05, 2016 3:06 PM
To: Reeder, Amanda J <amanda.reeder@oah.nc.gov>; Hammond, Abigail M <abigail.hammond@oah.nc.gov>; Thomas, Jason S <jason.thomas@oah.nc.gov>; May, Amber Cronk <amber.may@oah.nc.gov>
Cc: Bromby, Craig A <craig.bromby@ncdenr.gov>
Subject: 15A NCAC 05A, B, C, F and G

Dear RRC Counsel:

We would like the following information to be provided at the May 19th RRC meeting for their consideration.

Pursuant to Session Law 2014-4 section 4.(a), the Oil and Gas Commission was created to replace the Mining and Energy Commission and the Mining Committee was reconstituted as the Mining Commission effective 01 Aug 2015. However, the constitutionality of legislative appointments and the make-up of the Coal Ash Commission was successfully challenged in McCrory v. Berger. The Supreme Court issued a decision on 29 Jan 2016 declaring unconstitutional the legislative appointments. As a result, these Commissions have yet to convene and will not be able to do so until after they are established through General Assembly action and Governor approval. If appointments were made during this session it is likely that their first meeting could be held this fall.

Considering that a typical commission meets on a quarterly or bi-monthly basis, new commissioners will not have the time to convene, become orientated with commission procedures, receive technical presentations on their rules, hold a 60-day public comment period and take final action and filed to the RRC by December 2016. As a result, we respectfully suggest extending the deadline for taking the periodic review action from January 2017 to December 2018 for 15A NCAC 05A, B, C, F and G.

If you have any questions, please let us know.

Thanks.

Jennifer

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CHAPTER 05 - MINING: MINERAL RESOURCES

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

SUBCHAPTER 05A - ORGANIZATION AND ADMINISTRATION

SECTION .0100 - MINING AND ENERGY COMMISSION

15A NCAC 05A .0101 NAME AND ADDRESS

The name of this agency shall be the North Carolina Mining and Energy Commission. Its address is Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611.

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

15A NCAC 05A .0102 GENERAL PURPOSES

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

15A NCAC 05A .0103 STRUCTURE

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

SECTION .0200 - ADMINISTRATION

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

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

15A NCAC 05A .0202 DELEGATION

(a) 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 the administration of the Mining Act of 1971:

- (1) the issuance, denial, modification, renewal, suspension 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 following powers and duties with regard to the administration of the Control of Exploration for Uranium in North Carolina Act of 1983:
- (1) the issuance, denial, modification, renewal, suspension and revocation of permits;
 - (2) 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.

History Note: Authority G.S. 74-50 through 74-53; 74-56 to 74-59; 74-77 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. 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, or transfer is considered approvable by the Department, an applicant or permittee must file a bond with the Department in an amount to be determined by the Director.

(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 his 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 his staff, the Director shall notify the applicant or permittee of his bond determination and the process and conditions used to set the bond amount.

(c) The Director may invite 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 staff, the Director shall notify the applicant or permittee of his 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). The bond amount shall be based on a range of five hundred dollars (\$500.00) to five thousand dollars (\$5,000) 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 accordingly. 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) 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 of blanket bond(s) for all sites reaches five hundred thousand dollars (\$500,000):

- (1) the applicant or permittee with separate bonds may substitute a five hundred thousand dollar (\$500,000) blanket bond to be used for all future sites, or
- (2) the applicant or permittee with the five hundred thousand dollar (\$500,000) 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 of security allowed under G.S. 74-54.

History Note: Authority G.S. 74-51; 74-54; 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 operation will have a waste water discharge or air contaminant emission which will require a permit from the division of environmental management;
- (7) method 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;
- (9) measures to be taken to minimize siltation of streams, lakes, or adjacent properties during the mining operation;
- (10) measures to be taken to screen the operation from public view.

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

- (1) intended plan for overall mine reclamation, subsequent land use and the general methods to be used in reclaiming;
- (2) intended practices to be taken 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;
- (10) plan for revegetation and reforestation or other surface treatment of the affected areas which plan must be approved in writing by one of the following prior to submission of the application:
 - (A) Authorized representatives of the local soil and water conservation district having jurisdiction over lands in question;
 - (B) Authorized representatives of the division of forest resources, Department of Environment, Health, and Natural Resources;
 - (C) County agricultural extension chairmen or research and extension personnel headquartered at North Carolina State University in the school of agriculture and life sciences;
 - (D) North Carolina licensed landscape architects;
 - (E) Private consulting foresters referred by the division of forest resources, Department of Environment, Health, and Natural Resources;
 - (F) Others as may be approved by the 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) 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.

(c) In addition to the application form, the operator shall also submit two copies of a county map showing the mine location and two copies of a mine map. Mine maps should be accurate drawings, aerial photographs or enlarged topographic maps of the mine area and must clearly 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.);
- (6) location and name of streams and lakes;
- (7) outline of settling ponds;
- (8) location of access roads;
- (9) map legend:
 - (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
- (10) names of owners of record, both public and private, of all adjoining land.

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

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

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

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

- (1) The name and address of all known owners, both private and public of all land adjoining the proposed mining site as determined by a diligent search of the tax records or other sources of information about property ownership in a manner reasonable calculated to identify the owners of all adjoining land and approved by the department. The proposed mining site means all land to be included within the proposed permitted area;
- (2) The name of the chief administrative officer of the county or municipality in which the proposed mining site is located together with the officer's mailing address; and
- (3) Proof satisfactory to the department that the applicant has made a reasonable effort to notify all owners of record of all adjoining land and the chief administrative officer of the county or municipality of the pending application. Proof satisfactory to the department shall include an affidavit by the applicant that he has caused a notice of the pending application to be sent by certified or registered mail to all known adjoining owners and to the chief administrative officer of the county or municipality. Other means of notice shall be satisfactory if approved in advance by the department.

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

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 may approve an application or reclamation plan subject to certain conditions. Such conditions of application approval may include:

- (1) additional erosion control measures to be installed during the mining operation;
- (2) a natural buffer to be left between any stream and the affected land;

- (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;
- (4) erosion control measures to be taken during the construction and operation of all haul roads or access roads to minimize off-site damage from sediment;
- (5) other conditions necessary to safeguard the adjacent surface resources or wildlife.

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.

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 determines that there exists a significant public interest in an application for a new mining permit, the director shall appoint a hearing officer to conduct a public hearing on the application which shall be held no sooner than 20 or later than 60 days of the filing of the application and before the department makes its final decision regarding the application.
- (b) At least ten days prior to the public hearing, the department shall publish notice thereof in a newspaper of general circulation in the county in which the proposed mine is located. The department may also give notice to the public by other

means. In addition, the department shall cause written notice of the hearing to be sent by certified or registered mail to the applicant and to the known owners of all adjoining land.

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

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

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

15A NCAC 05B .0112 PERMIT APPLICATION PROCESSING FEES

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

(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 conditions 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) 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:

TYPE	ACRES	NEW PERMIT	MAJOR	
			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, GEMSTONE AND BORROW PITS	1 but less than 5	150	100	100
	5 but less than 25	250	100	100
	25 but less than 50	500	250	500
QUARRY	50 or more	1000	500	500
	1 but less	250	100	100

INDUSTRIAL	than 10			
MINERALS,	10 but less	1000	250	500
DIMENSION	than 25			
STONE	25 but less	1500	500	500
	than 50			
	50 or more	2500	500	500
PEAT &	1 or more	2500	500	500
PHOSPHATE				
GOLD (HEAP	1 or more	2500	500	500
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.

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, modified permit, or permit renewal within 180 days after the date of receipt of the Department's written request(s) 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 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;
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)).

SUBCHAPTER 5C - GEOPHYSICAL EXPLORATION

15A NCAC 05C .0101 DEFINITIONS

- (a) Explorations. Whenever the word "explorations" is referred to in these rules, it shall mean geological, geophysical and other surveys and investigations, including seismic methods for the discovery and location of oil, gas or other mineral prospects, and which may or may not involve the use of explosives.
- (b) Seismic Explorations. The word "seismic explorations" shall mean any geophysical exploration method which involves the use of explosives.
- (c) Shot. The word "shot" as used in these rules shall mean the use and detonation of powder, dynamite, nitroglycerin or other explosives.
- (d) Department. Whenever the word "department" is referred to in these rules, it shall mean the North Carolina Department of Environment, Health, and Natural Resources in Raleigh, North Carolina.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Readopted Eff. August 1, 1982;
Amended Eff. April 1, 1990.

15A NCAC 05C .0102 SUPERVISION

The supervision and administration of these Rules shall be the responsibility of the Director of the Division of Energy, Mineral, and Land Resources.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); August 1, 1988.

15A NCAC 05C .0103 CORRESPONDENCE

Reports and correspondence by all parties in connection with these rules shall be addressed to "North Carolina Department of Environment, Health, and Natural Resources, Raleigh, N.C." unless from time to time parties subject to these rules shall be notified in writing by the department to direct communications to a specified division or a specified representative of the department.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Readopted Eff. August 1, 1982;
Amended Eff. April 1, 1990.

15A NCAC 05C .0104 SITE REGULATION

The Secretary of the Department of Environment, Health, and Natural Resources (and in areas in which wildlife resources will be appreciably affected, with the advice and approval of the Director of the N.C. Wildlife Resources Commission and representatives of the U.S. Fish and Wildlife Service) will designate when, where, and how much exploration work shall be conducted under these Rules.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Amended Eff. January 31, 1979;

*Readopted Eff. August 1, 1982;
Amended Eff. April 1, 1990.*

15A NCAC 05C .0105 PERMIT REQUIRED

A permit from the department is required for all seismic exploration work in the area to which these rules are applicable. No such seismic work shall be started without a permit and all such work must be carried out in such manner as may be approved by the said secretary.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0106 PERMIT APPLICATION

Application for permits for such exploration work must be filed in quadruplicate with the department at least 10 days before issuance of permits and must be accompanied by a detailed map showing the exact area in which the geophysical operations are to be conducted, such area to be shown, where possible, by reference to established coast objects or landmarks. (The department may hereafter require applications to be filed on special forms to be provided by the department.) Permittees will also obtain appropriate assent from the lessee if and where the area under investigation is leased, with exclusive exploration privilege, to other than the permittee.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0107 PERMIT DURATION

Permits are limited to a period of six months from date of issue, but may be renewed for not more than two additional 90-day periods at the discretion of the secretary. Applications for renewal may be made in letter form. After the expiration of a permit and any renewals thereof, work may continue or be resumed under any new permit issued or application made as provided in Rule .0006 of this Subchapter.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0108 GEOGRAPHIC LIMITS ON WORK

No seismic crew shall work outside the area or areas as described in its permit or permits.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0109 SEISMIC AGENTS

Each seismic exploration crew working under permit issued pursuant to these rules will always be accompanied by a seismic agent, unless written exception has been granted by the secretary. When a crew employs more than one shooting component

or unit and the units are at such a distance apart that it is impossible for the seismic agent to travel from one to the other in time to observe the shots of each crew, it will be required that an agent be assigned to each shooting component of the crew. The seismic agent will be constantly present during the shooting operations of the party to which he is assigned.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0110 DAILY REPORT REQUIRED

Daily reports on such exploration work shall be filed with the department by the seismic agent at the end of each working period. A separate report must be made for each day whether or not shooting is in progress. These reports must furnish complete information as indicated on the report form and must be signed by the party chief and by the seismic agent. The party chief will furnish only such information to the seismic agent as is required to fill out the daily reports. Should the department wish to secure any other information, it will furnish the party chief with a written request.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0111 NOTIFICATION

Operators shall notify the department at least one week in advance of the beginning, and shall give notice of interruption, and of cessation of work in any area, and shall keep the department informed of name and address of party chief, and location and movements of the crew or quarter boat.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0112 SIZE OF EXPLOSIVE CHARGES

Charges in excess of 50 pounds shall not be used except pursuant to written authorization from the department. Requests for the use of such charges must be made in writing, giving the reasons why such charges are needed, the size of charges to be used, and the depth at which they are to be suspended or buried. Such requests should be addressed to the department. Should multiple charges be used, the total amount of explosive should not exceed 50 pounds without special permission from the department.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0113 PLACING OF CHARGES

The placing of explosive charges on the bottoms of the water at any area covered by a permit issued pursuant to these rules is prohibited. No undetonated charges shall be left. No such charges should be detonated nearer to the bottom or water bed than five feet.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;

Readopted Eff. August 1, 1982.

15A NCAC 05C .0114 CURRITUCK SPECIAL

All shots in Currituck Sound and tributary waters from Currituck Bridge at Point Harbor to the Virginia state line shall be in bored holes regardless of the depth of the water.

The requirements of the preceding paragraph shall not apply to trial charges and charges for determining position and water speed; provided that such charges are not over five pounds, and are not fired without permission of the seismic agent, and then not more often than absolutely necessary.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0115 REMOVAL

All pipe used in geophysical operations must be removed by the party using such pipe to at least six feet below the bottom or water bed (and in charted navigable channels, at least eight feet below charted dredge depth) before finally leaving the shot-point.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0116 IDENTIFICATION

All parties using pipe must have clearly stamped at each end of each joint the name or abbreviation of the name of the company using the pipe.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0117 PIPES AND BUOYS

All pipes, buoys, and other markers used in connection with seismic work shall be properly flagged in the daytime and lighted at night according to the navigation rules of the U.S. Engineers and the U.S. Coast Guard.

*History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.*

15A NCAC 05C .0118 EXPLOSIVES

No explosives shall be discharged within 1,000 feet of a fishing boat operating in the waters, without notice being given to such boat so that it may move from the area. Before any shot is discharged the exploration party shall employ methods approved by the industry to frighten or drive away the fish and/or marine life which may be in the area where the shot is to be discharged. If there is a school or schools of fish in the area to be shot, operations must be suspended in that particular area until said school or schools of fish have been driven away.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0119 SHOOTING

- (a) No shooting will be allowed except in daylight hours so that the seismic agent may observe the results of each shot, except that, in the discretion of the department and on written request stating the reasons therefor special written permission may be granted for night shooting.
- (b) No shooting will be allowed in heavy fog due to danger to boats in close proximity.
- (c) Persistent gas and water spouts caused by drilling or shooting operations of seismic crews will be stopped by permittee as soon as possible after they occur.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0120 MINIMUM DEPTHS

- (a) Minimum required depths of charges detonated in holes below the bottom or bed of the inland or offshore waters within the jurisdiction of this state shall be as follows:
 - (1) five pounds or less 20 feet below the bottom,
 - (2) up to 20 pounds 40 feet below the bottom,
 - (3) up to 30 pounds 50 feet below the bottom,
 - (4) up to 40 pounds 60 feet below the bottom,
 - (5) up to 50 pounds 70 feet below the bottom.
- (b) No part of the charge shall be above the minimum required depth. Irrespective of the minimum depths specified in (a) of this Rule, all charges shall be detonated at sufficient depths to prevent cratering.
- (c) These minimum required depths shall not apply to trial charges and charges for determining condition of the weathering layer; provided that such charges are not over five pounds and not fired without permission of the seismic agent and then no more often than absolutely necessary.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0121 DETAILED PROVISIONS

- (a) When more than one shot is fired in the same hole and there is any reasonable doubt in the mind of either the seismic agent or the field manager of the party as to the legal depth of the hole after the shot is fired, the hole will be measured for depth before reloading to ascertain that it is the required depth in accordance with the table of charges and depth.
- (b) All 2 x 2's used for survey lines must be clearly stamped with the name of the company using the stakes at approximately three-foot intervals.
- (c) All holes drilled in geophysical operations in land areas must be filled, by the persons or agency drilling these holes, before leaving the location.
- (d) No explosives shall be discharged within 300 feet of any oyster reef or bed, including any state-owned natural reefs, or within 300 feet of any dock, pier, causeway or other fixed structure, without written permission signed by the owner and/or lessee of the reef or bed, approved by the department.
- (e) All shot charges suspended in the water by floats shall be of such type and packaged in such manner that same will disintegrate and neutralize in the water within a short time, and any suspended charge which fails to discharge shall be

immediately removed from the water if same can, in the opinion of the party chief or manager, be done without endangering the life of any member of the party, but, in no event, shall any such undischarged suspended charge be abandoned without destroying the floats attached thereto. Where inflated floats are used, all charges will be suspended from dual floats either of which will be capable of retaining the charge at the proper depth.

(f) Boats, marsh buggies or other types of marsh vehicles must be so used as to cause the minimum disturbance of an injury to lands, waterbottoms, and wildlife and fisheries thereon. All such vehicles shall be clearly painted or otherwise distinctively marked so as to be easily seen and identified.

(g) Agents assigned to seismic crews are to be employees of and under the supervision of the department.

(h) The department on request, will have access to all records, such as shot point location maps, shooters' logs and tracings, but only to the extent necessary to determine that all protective requirements have been complied with.

(i) The interpretation of these rules by the department will be accepted by the seismic operator and the seismic agent.

(j) The party chief will instruct the members of his party as to these rules, and to the duty and authority of the department and the seismic agent.

(k) The party chief will assist the seismic agent to fill out the required form by furnishing all necessary data.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0122 FEES

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Repealed Eff. August 1, 1988.

15A NCAC 05C .0123 POWERS OF SEISMIC AGENTS

The seismic agent has the right to stop any particular shooting, if, in his opinion, it will violate the rules in this Subchapter, but does not have the authority to shut down the entire exploration work. If, in the opinion of the seismic agent, such violations continue, he will immediately contact the department, and the members of the exploration party will assist him to do this with all the facilities at their disposal.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0124 DUTIES OF PARTY CHIEF

(a) The party chief will furnish the department supervisor or his agent with transportation facilities to enable him to visit the working area, if required.

(b) The party chief is required to notify the department immediately if the seismic agent is not on the job, and will notify the department supervisor if it should become necessary to relieve an agent at any time. The department supervisor will arrange relief for the agent.

History Note: Authority G.S. 113-391;
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0125 RELEASE FROM THESE REGULATIONS

No seismic agent shall have the right to release any operator from the obligations imposed by these rules. Exceptions may be granted by the department only, after written application setting forth reasons for exception. The release will designate the particular area and rule affected and the procedure to be followed in lieu of the established rule.

History Note: *Authority G.S. 113-391;*
 Eff. February 1, 1976;
 Readopted Eff. August 1, 1982.

15A NCAC 05C .0126 DUTIES OF OPERATORS

All operators conducting seismic operations shall use reasonable precaution in accordance with approved and accepted methods to prevent destruction of, or injury to fish, oysters, shrimp, and other aquatic life, wildlife, or other natural resources.

History Note: *Authority G.S. 113-391;*
 Eff. February 1, 1976;
 Readopted Eff. August 1, 1982.

15A NCAC 05C .0127 SURETY BONDS AND INSURANCE

15A NCAC 05C .0128 VIOLATIONS

History Note: *Authority G.S. 113-391;*
 Eff. February 1, 1976;
 Readopted Eff. August 1, 1982;
 Repealed Eff. August 1, 1988.

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 in assessing civil 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; and
- (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)).

15A NCAC 05F.0103 WHO MAY ASSESS

Civil penalties may be assessed by the director.

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

15A NCAC 05F.0104 WHEN ASSESSABLE

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

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, signed by the regional engineer in the region in which the violation occurred. The notice shall describe the violation with reasonable particularity, 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 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 shall consider whether the violator ceased mining, restored the affected area, or otherwise complied with the requirements of the notice of 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; 143B-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 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.

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 etseq., 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.

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.

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 Commission 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 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. If the application is approved, the department will determine the amount of the performance bond that 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 and an exploration permit has been issued.

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

- (1) The applicant shall provide the department with an estimate of the total length of the vehicular access roads 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 determines that the amount of the bond required under Subparagraph (b)(2) of this Rule is either excessive or inadequate due to specific site conditions, the department may negotiate a different bond amount that 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, Section .0100, Criteria and Standards Applicable to Water Supply and Certain Other Type Wells.

History Note: *Authority G.S. 74-78; 74-86; 143B-290;*
 Eff. December 1, 1983.