15A NCAC 05A .0101 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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 Environmental Quality, ~~Environment, Health, and Natural Resources, P.O. Box 27687,~~ 1612 Mail Service Center, Raleigh, North Carolina ~~27611.~~ 27699-1612.

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;
Readopted Eff. August 1, 2026.

15A NCAC 05A .0202 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

(a) The Director, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality, ~~Department of Environment, Health, and Natural Resources,~~ shall have the following powers and duties ~~with regard to~~ necessary to administer ~~the administration of~~ the Mining Act of ~~1971:~~ 1971, as set forth in Article 7, Chapter 74 of the General Statutes, including:

(1) the issuance, denial, modification, ~~renewal,~~ ~~suspension~~ 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~~] 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 Environmental Quality, ~~Department of Environment, Health, and Natural Resources~~ shall have the following powers and duties necessary to administer ~~with regard to the administration of~~ the Control of Exploration for Uranium in North Carolina Act of ~~1983:~~ 1983, as set forth in Article 8, Chapter 74 of the General Statutes, including:

(1) the issuance, denial, modification, renewal, ~~suspension~~ 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) The definitions found in Article 7 of Chapter 74 of the General Statutes and the following definitions apply to Subchapters 05A, 05B, [~~05F~~] 05F, and 05G of Chapter 5 of Title 15A of the North Carolina Administrative Code:

(1) "Administrative [~~Change"~~] change" means any change initiated by the Department or requested by the applicant to correct [~~errors~~] errors, [~~including,~~] including grammatical errors, typographical errors, and map inaccuracies, that do not substantively change the permit.

(2) "Affected land", as defined in G.S. [~~74-49(1)~~] 74-49(1), shall not include an unrelated use that (i) does not meet the definition of mining set forth in G.S. 74-49(7) and (ii) [~~that~~] occurs within the permit boundaries, including activities pertaining to agriculture and silviculture including timber harvesting, (iii) where an erosion and sedimentation plan is approved pursuant to G.S. 113A, Article 4, when required, and (iv) the unrelated use area is shown on the mine map.

(3) "Contaminants" shall be defined as set forth in [~~42 USC 9601(33)~~] 42 U.S.C. 9601(33), "Pollutants or Contaminants", which is hereby incorporated by reference, including any amendments or

subsequent editions. Copies may be accessed at https://www.govinfo.gov/content/pkg/USCODE-2023-title42/html/USCODE-2023-title42-chap103-subchapI-sec9601.htm at no charge.

(4) "Director" means the Director of the Division of Energy, [~~Mineral~~] Mineral, and Land Resources of the Department of Environmental Quality, or any Department position to which the Director has delegated [~~their~~] his or her authority.

(5) "Division" means the Division of Energy, Mineral, and Land [~~Resources.~~] Resources of the Department of Environmental Quality.

(6) "Filed" or "Filing", as applicable to G.S. 74-51(b), shall be deemed to occur at the start of the following business [~~day,~~] day when an application is submitted electronically outside of business hours.

(7) "Mining [~~Buffer"~~] buffer" means an unexcavated, undisturbed, or vegetative area managed to protect adjacent land owners or areas needing spatial protections.[~~area of special concern.~~]

(A) "Unexcavated" means no mine excavation shall occur. Unexcavated buffers may be used for roadways, [~~berms~~] berms, and erosion and sedimentation control or stabilization. Excavation may be allowed for sediment basins or erosion and sedimentation control when shown on the mine map.

(B) "Undisturbed" means no disturbance shall occur.

(C) "Vegetative [~~Buffer"~~] buffer" means an unexcavated buffer that may be managed through landscaping or additional plantings.

(8) "Non-public [~~roads"~~] road" means any private road that is not maintained by the State or [~~had~~] has no maintenance requirements delegated to a municipality. Temporary access roads utilized for exploratory purposes shall not be considered non-public roads when they comply with any requirements for approvals pursuant to G.S. 113A, Article 4.

(9) "Notice", as applicable to G.S. 74-50(b3), includes written or electronic correspondence.

(10) "On-site [~~Construction"~~] construction" means development of a site where the primary purpose is to construct, develop, or [~~erect,~~] erect structures, infrastructure, or waste facilities, and the removal, but not sale, of any extracted material off-site is incidental to the primary purpose and [~~time limited.~~] time-limited.

(11) "Transfer [~~Material"~~] material" means material brought into the mine permit boundary for the purpose of blending, recycling, or upgrading of [~~onsite~~] on-site materials for the purpose of resale.

History Note: *Authority G.S. 74-50 through 74-53; 74-56 to 74-59; 74-63; 74-75 through ~~74-85;~~ 74-87; ~~143B-290;~~ 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;

Readopted Eff. August 1, 2026.

15A NCAC 05B .0103 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 WITH CHANGES AS FOLLOWS:

15A NCAC 05B .0103 BONDING REQUIREMENTS

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

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

(c) The Director ~~may~~ shall ~~invite~~ allow the applicant or permittee to submit to the Department an estimate of reclamation costs from a third-party contractor for the Director's use in determining the initial required bond amount. After considering the estimate and the recommendations provided by ~~his~~ Division staff, the Director shall notify the applicant or permittee of ~~his~~ the initial 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).~~ 15A NCAC 05B .0104(b). ~~The bond amount shall be based on a range of five hundred dollars ($500.00) to five thousand ($5000.00) per acre of land approved by the Department to be affected.~~ If the mining permit is modified to increase the total affected land, the bond shall be increased ~~accordingly~~ pursuant to this Rule. The Director shall consider the method and extent of the required reclamation for a particular site in determining the bond amount. As areas at a site are reclaimed and formally released by the Department, the permittee may substitute a bond in an amount determined by the Department in accordance with this Rule covering the remaining affected land at the site for the bond previously filed with the Department; otherwise, without such bond substitution, the Department shall retain the previously filed bond until all reclamation has been completed and approved by the Department.

(e) The initial bond calculation amount shall be based upon the criteria included in the table in Subparagraph (1) of this Paragraph and applied per acre of land to be affected approved by the [~~Department to be affected.~~] Department. The criteria in Subparagraph (1) of this Paragraph does not apply to existing bonds already on file with the Department, until action is required to change the bond, including new, [~~transfer~~] transferred, and modified mining permits on file with the ~~[Department or compliance action taken by the Department.~~] Department, or pursuant to compliance action taken by the Department resulting in requirement for an application for new, [~~transferred~~] transferred, or modified mining permits.

(1) Table of Mining Reclamation Factors.

Commodity Codes:			
SG	Sand and/or Gravel	PF	Pyrophyllite

GS	Gemstone	OL	Olivine
Borrow	Borrow/fill dirt	KY	Kyanite/Sillimanite/Andalusite
CS	Crushed Stone	PH	Phosphate
DS	Dimension Stone	CL	Clay/Shale
FS	Feldspar	PE	Peat
MI	Mica	AU	Gold
LI	Lithium	TI	Titanium

Type	**Tailings/ Sediment Ponds (Lake)**	**Tailings/ Sediment Ponds (Filled In)**	**Stockpiles**	**Wastepiles**	**Processing Area/Haul Roads**	**Mine Excavation (Lake)**	**Mine Excavation (Positive Drainage)**
SG,GS, Borrow	[~~$810~~] $820	[~~$2,430~~] $2,460	[~~$2,916~~] $2,952	[~~$3,240~~] $3,280	[~~$2,916~~] $2,952	[$810] $820	[~~$3,240~~] $3,280
CS, DS, FS, MI, LI, PF, OL, KY	[~~$810~~] $820	[~~$2,430~~] $2,460	[~~$2,916~~] $2,952	[~~$3,240~~] $3,280	[~~$3,240~~] $3,280	[~~$810~~] $820	[~~$4,050~~] $4,100
PH	[~~$1,620~~] $1,640	[~~$4,050~~] $4,100	[~~$4,050~~] $4,100	[~~$8,100~~] $8,200	[~~$8,100~~] $8,200	[~~$3,240~~] $3,280	[~~$8,100~~] $8,200
CL	[~~$1,620~~] $1,640	[~~$4,050~~] $4,100	[~~$4,050~~] $4,100	[~~$8,100~~] $8,200	[~~$8,100~~] $8,200	[~~$3,240~~] $3,280	[~~$5,994~~] $6,068
PE, AU, TI, OT	[~~$1,620~~] $1,640	[~~$4,050~~] $4,100	[~~$4,050~~] $4,100	[~~$4,860~~] $4,920	[~~$5,670~~] $5,740	[~~$3,240~~] $3,280	[~~$8,100~~] $8,200

(2) [~~the~~]The amounts included in Subparapragh (1) of this Paragraph shall be increased by two percent on July 1, 2027, and by two percent on each July 1 thereafter. [~~per year on an annual basis beginning on July 1, 2027.~~]

(3) [~~the~~]The Department shall publish the Mining Reclamation Factors that will be in effect on July 1 of each year in the offices of the Department and on the Department's website.

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

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

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

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

~~if the Director finds that the applicant or permittee, in either case, has a good operating record, that the five hundred thousand dollars ($500,000) is sufficient to reclaim all sites and that no additional reclamation bond money is needed. If the Director finds that the applicant or permittee does not have a good operating record, that the five hundred thousand dollars ($500,000) is not sufficient to reclaim all sites, or that additional reclamation money is needed, the Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.~~

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

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

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

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

(1) Surety Bonds:

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

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

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

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

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

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

(G) Signature, [Name, Title and Attestation by Officer of the Principal;] name, title, and attestation by officer of the Principal; and

(H) Notarization.

(2) Assignment of Savings Account:

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

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

(C) Name, [address] address, and account information for the bank holding assigned account;

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

(E) Statement that, in consideration of the promises contained in the agreement and the Department accepting the assignment of the savings account in question, the Assignor sells, assigns, [transfers] transfers, and sets over to the Department the sum in Part (j)(2)(D) of this Rule and directly authorizes the bank holding the assigned account to pay over to the Department the sum in Part (j)(2)(D) of this Rule upon request;

(F) Conditioned that if the Assignor conducts the mining operations faithfully, honestly, and lawfully and in compliance with the requirements of the Mining Act of 1971 and applicable rules [and regulations] adopted pursuant thereto, then the assignment shall be null and void; otherwise it shall remain in full force and effect and that compliance with the requirement of the Mining Act of 1971 and applicable rules [and regulations] shall be determined by the Department;

(G) Specification that the assignment is made and held by the Department as collateral security in lieu of a surety bond in accordance with ["The Mining Act of 1971" (G.S. 74-46 through 74-68)] The Mining Act of 1971, G.S. 74-46 through 74-68, to assure compliance and reclamation of the permitted operation and for all direct or indirect liabilities of the assignor Operator to the assignee Department that may arise by reason of the Mining Act 1971, Article 7, Chapter 74 of the General Statutes of North Carolina;

(H) Signature, name, and title [Name and Title] of an officer of the Assignor;

(I) Notarization of the Assignor's signature;

(J) Signature, [~~Name and Title~~] name, and title of an officer of the bank holding the assigned account acknowledging the assignment and committing that the funds assigned shall not be disbursed except to the Department so long as the assignment remains in effect; and

(K) Notarization of the Bank's signature.

(3) Irrevocable Standby Letter of Credit (ILOC)

(A) Name, [~~address~~] address, and type of business entity of Operator exactly matching name of Permittee;

(B) Name, [~~address~~] address, and type of business entity of Issuing Institution;

(C) The State of North Carolina, Department of Environmental Quality, [~~Department of Environmental Quality~~] 1612 Mail Service [~~Center~~] Center, Raleigh, North Carolina 27699-1612 as the Beneficiary;

(D) Effective Date of the ILOC;

(E) Automatic renewal clause, such that the ILOC is continuous in nature, subject to at least 60 days notice via certified mail, return receipt requested, to the Permittee and the Department prior to nonrenewal;

(F) Sum of the ILOC required under this Rule;

(G) That the sum of the ILOC is available by the Department drafts on sight;

(H) Instructions for drafts by the Department;

(I) Non-transferability clause;

(J) Choice of Law provisions specifying North Carolina venue for all [~~disputes~~] disputes;

(K) Statement that the Issuing Institution agrees with the drawers, endorsers, and bona fide holders that all drafts drawn under and in compliance with the terms of the ILOC will be duly honored upon presentation to the Issuing [~~Institution.~~] Institution;

(L) Statement that the ILOC is being issued in lieu of a surety bond in accordance with [~~"The Mining Act of 1971" (G.S. 74-46 through 74-68)~~] The Mining Act of 1971, G.S. 74-46 through 74-68, to assure compliance and reclamation of the permitted operation;

(M) Signature, [~~Name and Title of an officer of the Issuing Institution;~~] name, and title of an officer of the Issuing Institution; and

(N) Notarization of the Issuing Institution officer's signature.

(4) Bank Guaranty

(A) Name, [~~address~~] address, and type of business entity of Operator exactly matching name of Permittee;

(B) Name, [~~address~~] address, and type of business entity of Issuing Institution;

(C) The State of North Carolina, Department of Environmental Quality, [~~Department of Environmental Quality~~] 1612 Mail Service [~~Center~~] Center, Raleigh, North Carolina 27699-1612 as the Beneficiary;

(D) Effective Date of the guaranty;

(E) Automatic renewal clause, such that the guaranty is continuous in nature, subject to at least 60 days notice via certified mail, return receipt requested, to the Permittee and the Department prior to nonrenewal;

(F) Sum of the guaranty required under this Rule;

(G) That the sum of the guaranty is available by the Department drafts on sight;

(H) Instructions for drafts by the Department;

(I) Non-transferability clause;

(J) Choice of Law provisions specifying North Carolina venue for all [~~disputes~~] disputes;

(K) Statement that the Issuing Institution agrees with the drawers, endorsers, and bona fide holders that all drafts drawn under and in compliance with the terms of the guaranty will be duly honored upon presentation to the Issuing [~~Institution.~~] Institution;

(L) Statement that the guaranty is being issued in lieu of a surety bond in accordance with [~~"The Mining Act of 1971" (G.S. 74-46 through 74-68)~~] The Mining Act of 1971, G.S. 74-46 through 74-68, to assure compliance and reclamation of the permitted operation;

(M) Signature, [~~Name and Title~~] name, and title of an officer of the Issuing Institution; and

(N) Notarization of the Issuing Institution officer's signature.

(5) Cash Deposit:

(A) Cash in the form of a cashiers or certified check in the sum required under this Rule; and

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

History Note: *Authority G.S. ~~7451; 7454;~~ 74-51; 74-54; 143B-290;*
Eff. February 1, 1976;
Amended Eff. January 1, 1994; April 1, 1990; November 1, 1985; November 1, 1984;
Readopted Eff. August 1, 2026.

15A NCAC 05B .0104 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 WITH CHANGES AS FOLLOWS:

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~~ estuarine, or marine fisheries;

(6) whether ~~or not~~ the mining operation will have a ~~waste water~~ wastewater discharge ~~or air contaminant emission which~~ that will require a permit from the ~~division of environmental management;~~ Division of Water Resources, an air contaminant emission that will require a permit from the Division of Air Quality, or will have a stormwater discharge that will require a permit from the Division of Energy, Mineral, and Land Resources;

(7) ~~method~~methods to prevent physical hazard to any neighboring dwelling house, school, church, hospital, commercial or industrial building, or public road if the mining excavation will come within 300 feet thereof;

(8) measures ~~to be taken~~ required to ~~insure~~ ensure against landslides and acid water pollution;

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

(10) measures ~~to be taken~~ required to screen the mining operation from public ~~view.~~view;

(11) name of mine and [~~location;~~] location, which shall include a street address, latitude and longitude, or mine boundary lines;

(12) responsible officer contact information;

(13) site contact information; and

(14) statement of authority as provided in Paragraph (f) of this Rule, when necessary.

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

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

(2) intended practices ~~to be taken~~ required to protect adjacent surface resources;

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

(4) intended methods of rehabilitation of settling ponds;

(5) intended methods of restoration or establishment of stream channels and stream beds to a condition minimizing erosion, ~~siltation~~ 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~~ odious, or foul water in mined areas; [~~and~~]

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

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

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

(C) North Carolina Cooperative Extension ~~County agricultural extension chairmen~~ County Director [~~in a county listed~~] in the [~~county(s)~~] counties where the site is located or research and extension personnel headquartered at North Carolina State University in the ~~school of agriculture and life sciences~~ School of Agriculture and Life Sciences;

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

(E) North Carolina licensed Professional Engineer pursuant to [~~G.S.89C;~~] G.S. 89C;

~~(E)~~(F) Private consulting ~~foresters~~ forester referred by the ~~division of forest resources, Department of Environment, Health, and Natural Resources;~~ North Carolina Forest Service within the Department of Agriculture and Consumer Services; or

~~(F)~~(G) Others as may be approved by the ~~department;~~ Department; Provided that areas expected to be in use beyond the maximum permissible permit period, such as processing plants or stockpiles, do not require a specific revegetation plan;

(11) In lieu of the written approval required by Subparagraph (10) of this [~~Paragraph~~] Paragraph, a plan for revegetation and reforestation developed utilizing one of the following:

(A) North Carolina Erosion and Sedimentation Control Planning and Design Manual, [~~Manual;~~] including subsequent amendments and editions. The manual may be obtained free of charge at https://www.deq.nc.gov/energy-mineral-and-land-resources/erosion-and-sediment-control/esc-design-manual/erosion-sediment-control-design-manual-rev-jan-2026/open; or

(B) North Carolina Surface Mining Manual: A Guide for Permitting, Operation and Reclamation, [~~Reclamation;~~] including subsequent amendments and editions. The manual may be obtained free of charge at https://www.deq.nc.gov/documents/files/nc-surface-mining-manual/download; and

~~(11)~~(12) time schedule of reclamation that provides that reclamation activities be conducted simultaneously with mining operations whenever feasible and in any event be initiated at the earliest practicable time after completion or termination of mining on any segment and completed within two ~~years.~~ years unless a longer period is specifically permitted by the Department.

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

(1) property lines or affected area of mining operation;

(2) outline of pits;

(3) outline of stockpile areas;

(4) outline of overburden disposal areas;

(5) location of processing ~~plants~~ [~~(Processing plants~~] plants, which may be described as to location and distance from ~~mine if sufficiently far removed.);~~ the mine if not contiguous to the mine [~~property.);~~] property;

(6) location and name of streams and lakes;

(7) outline of settling ponds;

(8) location of access roads;

(9) mine permit boundaries;

(10) existing and proposed contours showing all drainage areas;

~~(9)~~(11) map ~~legend;~~legend, including:

(A) name of company,

(B) name of mine,

(C) north arrow,

(D) county,

(E) scale,

(F) date prepared,

(G) name and title of person preparing map; and

~~(10)~~(12) names of owners of record, both public and private, of all adjoining ~~land.~~ land as is specified in G.S. 74-50;

(13) any unrelated use area, that has the potential to disturb the soil surface, that does not meet the definition of mining within the permit boundaries;

(14) vicinity map showing the mining operation in relation to the general area at a minimum scale of 1:24,000;

(15) drawings showing typical sections or cross sections and layout of proposed reclamation where such drawings will assist in describing reclamation;

(16) approximate limits of future reserves not included in affected area; and

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

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

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

(3) Pursuant to G.S. 74-50, ~~Proof~~ proof satisfactory to the ~~department~~ Department that the applicant has made ~~a reasonable~~ the required effort to notify all owners of record of all adjoining land and the county, city, and town mangers, who serve as the chief administrative ~~officer~~ officers, ~~of the county or [and] municipality~~ of the local governments in which any part of the proposed mining site is located of the pending application. Proof satisfactory to the ~~department~~ Department shall include an affidavit by the applicant ~~that he has caused~~ stating that a notice of the pending application ~~to be~~ has been sent by certified or registered mail to all known adjoining owners and to the chief administrative ~~officer~~ officers of the county or municipality. Other means of notice shall be satisfactory if approved in advance by the ~~department.~~ Department.

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

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

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

(f) Permit applications shall be signed as follows:

(1) in the case of corporations, by a principal executive officer of at least the level of vice-president, or their 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~~] state, or other public entity by either a principal executive officer, ranking [~~official~~] official, or other duly authorized [~~employee.~~] employee; or

(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 listed in Subparagraphs (1) through (5) of this Paragraph.]~~

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 listed in Subparagraphs (1) through (5) of this Paragraph.

History Note: *Authority G.S. 74-63; 74-51; 74-53;* [~~*74-56*~~] *74-56;*
Eff. February 1, 1976;
Amended Eff. April 1, 1990; May 1, 1982; September 1, 1979; January 31, 1979;
Readopted Eff. August 1, 2026.

(15) drawings showing typical sections or cross sections and layout of proposed reclamation where such drawings will assist in describing reclamation;

(16) approximate limits of future reserves not included in affected area; and

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

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

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

(3) Pursuant to G.S. 74-50, ~~Proof~~ proof satisfactory to the ~~department~~ Department that the applicant has made ~~a reasonable~~ the required effort to notify all owners of record of all adjoining land and the county, city, and town mangers, who serve as the chief administrative ~~officer~~ officers, ~~of the county or [and] municipality~~ of the local governments in which any part of the proposed mining site is located of the pending application. Proof satisfactory to the ~~department~~ Department shall include an affidavit by the applicant ~~that he has caused~~ stating that a notice of the pending application ~~to be~~ has been sent by certified or registered mail to all known adjoining owners and to the chief administrative ~~officer~~ officers of the county or municipality. Other means of notice shall be satisfactory if approved in advance by the ~~department.~~ Department.

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

(5) Any application submitted to the Department for approval of mining activities pursuant to G.S. 74-50 shall include proof of ownership or the portion of valid and unexpired Memorandum Of Lease

15A NCAC 05B .0105 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

To ~~assure~~ ensure that the mining operation ~~will comply fully~~ fully complies with the requirements and objectives of the Mining Act of 1971, G.S. 74-46 through 74-68, the ~~director~~ Director may ~~approve an application or reclamation plan subject to certain conditions. Such conditions of application approval may include:~~ require that a permit or reclamation plan contain conditions including:

(1) additional erosion control measures to be installed during the mining operation; [~~operation as specified in G.S. 74-51;~~]

(2) a ~~natural~~ vegetated buffer ~~to be left~~ between any stream and the affected ~~land.~~ land when specified in State or local stream protection [~~requirements.~~] requirements;

(3) visual screening such as existing ~~natural~~ vegetation, vegetated earthen berms, and tree plantings at staggered spacing ~~spacing, etc.~~ to be installed and maintained ~~as feasible~~ between any affected land and any adjoining property containing occupied buildings or public access within view of the affected land; any screening conditions shall take into consideration the mining operation activities that are being screened and the current usage of the neighboring [~~property.~~] 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.~~] sediment;

(5) other conditions necessary to safeguard the adjacent surface resources or [~~wildlife.~~] wildlife;

(6) hydrogeological analysis to assess potential influences of mine dewatering on water supply wells and measures to mitigate potential adverse impacts.

History Note: *Authority G.S. 74-63; ~~74-51;~~ 74-51;*
Eff. February 1, 1976;
Amended Eff. May 1, 1992; November 1, 1984;
Readopted Eff. August 1, 2026.

15A NCAC 05B .0106 IS REPEAED THROUGH READOPTION AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

History Note: *Authority G.S. 74-51; 74-58; 74-63;*
Eff. February 1, 1976;
Amended Eff. November 1, 1984;
Repealed Eff. August 1, 2026.

15A NCAC 05B .0110 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05B .0110 MINING RECLAMATION REPORTS

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

(a) [~~Upon completion of reclamation of an area of land, the operator shall notify the Department and complete a release request~~] Notice of completion of reclamation of an area of affected land pursuant to G.S. 74-56 shall be made by submitting a release request form provided by the Department that includes the details found on the reclamation report as required to be filed by G.S. 74-55.

(b) If the Department receives a completed release request form on or before September 30, the Department [~~may~~] shall waive the annual fee for [~~the~~] that permit [~~year.~~] year, unless the [~~Where a~~] site is determined to not be eligible for release pursuant to G.S. 74-56 [~~the Department may revoke the waiver~~] prior to December [~~31.~~] 31 of that same year.

History Note: *Authority G.S. 74-55; 74-56; 143B-290; [~~143B-290;~~]*
Eff. March 30, 1978;
Amended Eff. November 1, 1984;
Readopted Eff. August 1, 2026.

15A NCAC 05B .0111 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05B .0111 PUBLIC HEARINGS

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

(b) At least ~~10~~ 20 days prior to the public hearing, the ~~department~~ Department shall ~~publish~~ provide notice ~~thereof~~ in a newspaper ~~of~~ or other media platform with general coverage in the ~~county~~[~~(s)~~] counties in which the proposed mine is located. ~~The department may also give notice to the public by other means.~~ In addition, the ~~department~~ 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.~~ land as specified in G.S. 74-50.

(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 for up to ten days after the ~~hearing~~ hearing after which the public comment period will be considered closed and no other public comments [~~can~~] shall be considered in the final determination of the application. ~~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 submitted. Copies of the report shall be made available to the applicant or members of the public upon request. The ~~department~~ Department shall give full consideration to all comments contained in the hearing record in making its final determination on the application.

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

History Note: *Authority G.S. 74-51; 74-63; 74-86;*
Eff. May 1, 1982;
Readopted Eff. August 1, 2026.

15A NCAC 05B .0112 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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 pursuant to 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~~] shall be required for administrative changes initiated by the Director.

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

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

~~(d) c)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~~	
	~~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~~	
	~~50 or more~~	~~1000~~	~~500~~	~~500~~	
~~QUARRY, INDUSTRIAL MINERALS, DIMENSION STONE~~	~~1 but less than 10~~	~~250~~	~~100~~	~~100~~	
	~~10 but less than 25~~	~~1000~~	~~250~~	~~500~~	
	~~25 but less than 50~~	~~1500~~	~~500~~	~~500~~	
	~~50 or more~~	~~2500~~	~~500~~	~~500~~	
~~PEAT & PHOSPHATE~~	~~1 or more~~	~~2500~~	~~500~~	~~500~~	
~~GOLD (HEAP LEACH), TITANIUM & OTHERS~~	~~1 or more~~	~~2500~~	~~500~~	~~500~~	

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

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

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

History Note: *Filed as a Temporary Rule Eff. November 1, 1990, for a Period of 180 Days to Expire on April 29, 1991;*
Authority G.S. 74-54.1; 74-63; 143B-290;
ARRC Objection Lodged November 14, 1990;
ARRC Objection Removed December 20, 1990;
Eff. January 1, 1991;
Amended Eff. December 1, 1991;
Readopted Eff. August 1, 2026.

15A NCAC 05B .0113 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 WITH CHANGES AS FOLLOWS:

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

An applicant or permittee shall submit to the Department supplemental information regarding an application for a new ~~permit [or]~~ permit, ~~modified, permit, or permit renewal~~ permit modification, or permit transfer within 180 days after the date of receipt of the Department's written ~~request(s)~~ request for such information. Upon written request of the applicant or permittee to the Director, an additional ~~reasonable~~ specified period of time not to exceed one year ~~shall~~ [~~may~~] 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; ~~74 52; 74 63; 143B 290~~ ~~Note:*
RRC Objection Eff. September 15, 1994 due to lack of statutory authority;
Eff. November 1, 1994;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d));
Readopted Eff. August 1, 2026.

15A NCAC 05B .0114 IS ADOPTED AS PUBLISHED IN 40:08 NCR 733 WITH CHANGES AS FOLLOWS:

15A NCAC 05B .0114 BLASTING

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

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

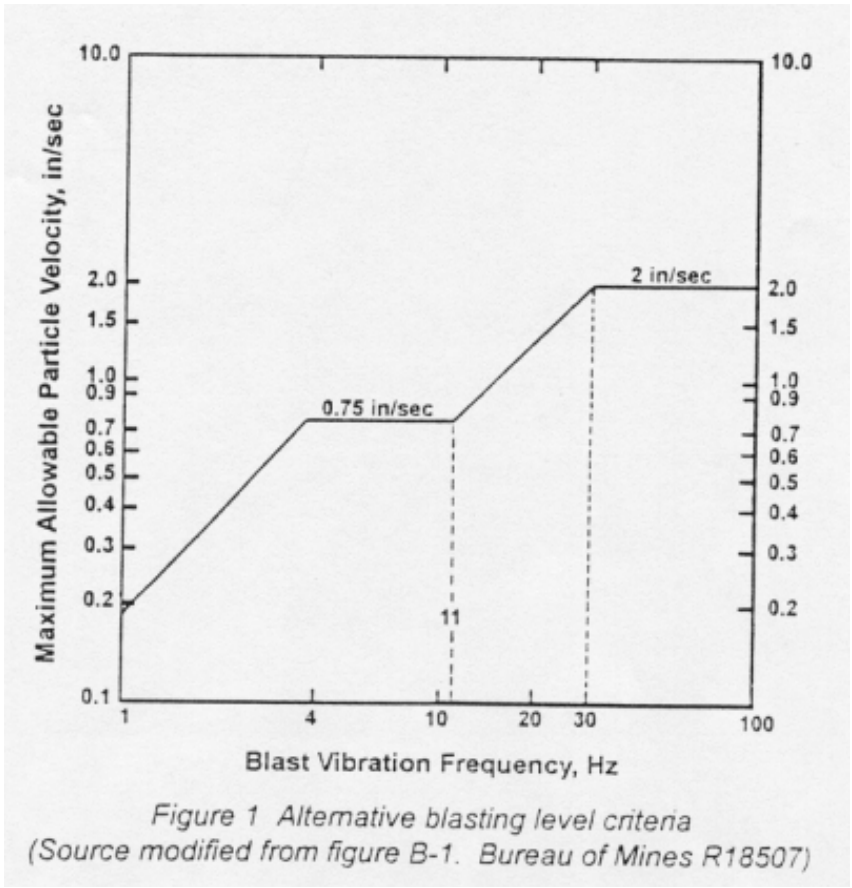


Figure 1 Alternative blasting level criteria
(Source modified from figure B-1. Bureau of Mines R18507)

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

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

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

W = Maximum charge weight of explosives per delay period of 8 milliseconds or more (pounds).

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

Ds = Scaled distance factor.

V = Peak Particle Velocity (inches per second).

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

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

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

(e) In the event of seismograph malfunction or other condition that prevents monitoring, air blast overpressure shall be calculated utilizing ~~blasting shall be conducted in accordance with~~ the following formulas:

Formula from ISEE Blasters ~~Handbook17th~~ Handbook 17th Edition ISBN:1-892396-00-9

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

$$dB = 20\ log\left(\frac{P}{2.9x10^{-9}}\right)$$

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

W = Maximum charge weight of explosives per delay period of 8 milliseconds or more (pounds).

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

dB = ~~Airblast~~ Air blast overpressure average burial (decibels).

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

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

(f) For the purposes of calculating Scale Distance, when using electronic detonators, the maximum charge weight of explosives per delay shall be calculated using actual delay of separation, with a minimum delay of 1 milliseconds. When using non-electric detonators, the maximum charge weight shall be calculated on a delay of 8 milliseconds.

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

(1) name of ~~Company~~ 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; and

(13) ~~Whether~~ whether mats or other protections were used.

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

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

(i) The operator shall provide to the Department a copy of the findings of the seismic studies conducted at the mine site by the permittee or their representative in response to an exceedance of a level allowed by ~~these blasting conditions.~~ the blasting conditions set forth in this Rule. The operator shall evaluate ~~make an effort to incorporate~~ the studies' recommendations for inclusion into the production blasting ~~program.~~ program to prevent future exceedances of the level allowed by these blasting ~~conditions.~~ conditions set forth in this Rule.

History Note: *Authority G.S. 74-51; 74-63;*
Eff. August 1, 2026.

15A NCAC 05B .0115 IS ADOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05B .0115 MINING PERMIT TRANSFERS

(a) Pursuant to G.S. 74-51(i), a permit may be transferred from one operator to another, if both operators have complied with the requirements of ~~the Act.~~ the Mining Act as set forth in Article 7, Chapter 74 of the General Statutes. The sale or lease of the operation alone ~~does not~~ shall not constitute an approved transfer of the permit. Until a permit has been transferred by the Department to the successor operator, the existing operator shall be held responsible for any activities at the site, including liability for any documented violations at the site. Liability shall remain with the existing operator until such violations have been addressed to the satisfaction of the Department and the Department has transferred the permit in its entirety to the successor operator.

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

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

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

(3) A signed statement from the successor operator identifying the existing mine name and permit number, requesting that the permit be transferred in its entirety, and accepting all responsibilities and liabilities for the site with respect to ~~the Article.~~ the Mining Act of 1971 as set forth in Article 7, Chapter 74 of the General Statutes.

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

(5) The information required in Rule .0104(a)(1) through (a)(4) and (a)(12) through (a)(14) ~~(15)~~ of this ~~Section~~ Section.

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

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

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

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

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

(f) Upon approval of the permit transfer, the Department shall send the new permit document to the successor operator. Such permit may include updated operating and reclamation conditions to ensure compliance with ~~the Article.~~ the Mining Act of 1971 as set forth in Article 7, Chapter 74 of the General Statutes.

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

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

History Note: *Authority G.S. 74-51; 74-54.1; 74-63;*
Eff. August 1, 2026.

15A NCAC 05B .0116 IS ADOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

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

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

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

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

(4) An updated or new security in the new corporate name that complies with Rule .0103 of this Section, including any associated contact information. The updated or new security shall be in the same amount as the prior security covering the reclamation obligations at the site.

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

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

History Note: *Authority G.S. 74-50; 74-51; 74-54.1; 74-63;*
Eff. August 1, 2026.

15A NCAC 05B .0117 IS ADOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05B .0117 DRAFT PERMITS

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

History Note: *Authority G.S. 74-51; 74-63;*
Eff. August 1, 2026.

15A NCAC 05F .0101 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05F .0101 PURPOSE AND SCOPE

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

History Note: *Authority G.S. 74-61; ~~74-62;~~ 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)); November 1, 1984;
Readopted Eff. August 1, 2026.

15A NCAC 05F .0103 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05F .0103 WHO MAY ASSESS

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

History Note: *Authority G.S. 74-61; ~~74-62;~~ 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Readopted Eff. August 1, 2026.

15A NCAC 05F .0105 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

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

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

History Note: *Authority G.S. 74-60; ~~74-61; 74-63; 74-64; 143-B-10;~~ 74-61; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. December 1, 1988; November 1, 1984;
Readopted Eff. August 1, 2026.

15A NCAC 05F .0106 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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~~ violation, required by G.S. 74-64(a)(1), within the time period specified in the notice, the ~~director~~ Director may assess a civil penalty for any ~~violation(s)~~ violations committed after the date of receipt of the notice of violation. The civil penalty assessment shall specify ~~with reasonable particularity~~ the ~~violation(s)~~ violations 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;
Readopted Eff. August 1, 2026.

15A NCAC 05F .0111 IS REPEAED THROUGH READOPTION AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05F .0111 REFERRAL TO ATTORNEY GENERAL

History Note: *Authority G.S. 74-61; ~~74-62;~~ 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Repealed Eff. August 1, 2026.

15A NCAC 05F .0112 IS REPEAED THROUGH READOPTION AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05F .0112 FURTHER REMEDIES

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));
Repealed Eff. August 1, 2026.

15A NCAC 05G .0103 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

15A NCAC 05G .0103 PROCEDURES FOR OBTAINING PERMITS

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

History Note: *Authority G.S. 74-77 through 74-89;*
Eff. December 1, 1983;
Readopted Eff. August 1, 2026.

15A NCAC 05G .0104 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

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

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

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

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

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

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

History Note: *Authority G.S. 74-78;* *74-79; 74-80; 74-81; 74-86;* ~~*7479; 7486;*~~
Eff. December 1, 1983;
Readopted Eff. August 1, 2026.

15A NCAC 05G .0105 IS READOPTED WITH CHANGES AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

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

The methods and procedures utilized in drilling, casing, ~~testing~~ testing, and abandonment shall be in accordance with the requirements ~~of Title 15A NCAC Subchapter 2C,~~ of 15A NCAC [~~02C~~] 02C, Section .0100, Criteria and Standards Applicable to Water Supply and Certain Other Type Wells, and is hereby incorporated by reference, including subsequent amendments and editions, and may be accessed free of charge at https://www.deq.nc.gov/water-quality/planning/csu/rules-webpage/rule-ch2-sub2c-sec0100-20091001-dwq-pln-csu/download.

History Note: *Authority G.S. 74-78; 74-86; 143B-290; ~~74-86; 143B-290;~~*
Eff. December 1, 1983;
Readopted Eff. August 1, 2026.