

Burgos, Alexander N

From: Jean Spooner <umsteadcoalition@gmail.com>
Sent: Tuesday, August 4, 2026 3:16 PM
To: Burgos, Alexander N; Miller, Christopher S
Cc: Mara Frank
Subject: [External] Mining Rules Review Comments
Attachments: Public Comments Mara Frank - Mining Rules - Object to repeal of 15A NCAC 05B 0106.pdf

You don't often get email from umsteadcoalition@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Attached are the comments Mara Frank intended to read at the July 30 RRC meeting. She was called out of town to put her father in hospice care and sent me her file. At the July 30 RRC meeting, the Chair ruled that I could submit her statement for the record. Attached.

Thanks for your understanding,

Dr. Jean Spooner, Chair, The Umstead Coalition

ps to Mara - the RRC Board members sent their condolences and were gracious to accept your comments by this follow-up email. In addition, the RRC delayed their deliberations until their next meeting on August 27.

Comments to the NC Rules Review Commission, July 30, 2026

My name is Mara Frank.

I urge you today to NOT REPEAL:

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

I bring to your attention the objection by the North Carolina Wildlife Resources Commission to repealing this Rule.

I also object to the Repeal.

The Agency's listed in the Mining Act in General Statute 74-50(b2) must be allowed to continue to review Mining Permit Applications and to specify recommended conditions to be included in the permit to meet the standards set out in the law. The agencies listed in the Mining Act are THE agencies with subject matter jurisdictions. The DEQ-Mining staff does not have the same subject matter jurisdictions as the listed review agencies.

Do NOT Repeal 15A NCAC 05B .0106 STANDARDS FOR DENYING AN APPLICATION

In fact, the Rule should be strengthened to ensure agency reviews occur when there is a major change to a pending permit application and also for Permit Modification applications.

Burgos, Alexander N

From: William Doucette <william8865@att.net>
Sent: Sunday, August 2, 2026 5:47 PM
To: Burgos, Alexander N; Miller, Christopher S
Cc: Jean Spooner
Subject: [External] Mining Rules Review Comments
Attachments: mining rules comments 20226.pdf

You don't often get email from william8865@att.net. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Attached are the comments I intended to read last Thursday at the mining rules review hearing. I felt ill and concerned about being contagious decided not to present. Jean Spooner relayed to me that my comments will be accepted if sent by e-mail.

William Doucette
william8865@att.net

William H. Doucette Jr, PhD, LG comments to NC Rules Review Common concerns changes to Mining Rules July 30 2026

These rule changes re-write the Mining Rules such that they prevent meaningful public comments on Mining Permit applications (both new and modified permit applications), gut protective buffers and allow trucking and other heavy industrial mining operations right up to edge of property line, exempt logging - a obviously necessary step for mining.

My focus: 15A NCAC 05B.0111 Public Hearings

I witnessed a mining company submit a permit application that required DEMLR to issued multiple requests for additional information (ADI) after the public hearing and for each ADI the permittee submitted new information via a submittal documents and application changes. In the case I witnessed some of the changes the company submitted in response were not requested by DEQ/DEMLR including significantly reduced buffer to a a State Park. Under the proposed rule the initial application would go to a hearing and then in 10 days all public comment would end. There would no opportunity for the public including other stake holders, land owners, and local governments or agencies to comment on the ADI information and subsequent changes to the permit application. That cannot be in the public interest

The inability of the DEQ/DEMLR mining staff to properly implement mining regulations without constant Public Involvement is demonstrated in an October 2025 NC Superior Court decision. The case involved modifications to permit conditions concerning buffers and transfer of the property to the State. Findings:

- DEMLR improperly identified and approved e-mail requested changes to a permit as minor administrative permit clerical errors in a 37 year old permit. The court found them to be “unquestionably major modifications” and improperly processed. Further:
- Personnel at DEQ/DEMLR knew or in the exercise of reasonable care should have known that the permit applicant requested changes and their manner of seeking those changes were improper under the Mining Act and DEQ/DEMLR’s own rules. *“The actions of the permit applicant represent clear, strong, and convincing evidence that the company was attempting to circumvent the correct procedure for requesting changes to their mining permit.”*
- Court found DEQ/DEMLR clearly failed to follow its own procedures and further allowed back-door dealing and evasion by the permit applicant to alter a state mining permit. The court found that if this DEQ/DEMLR permit action was allowed It would encourage companies and individuals to work outside the regulatory framework established by the Mining Act and other similar statutes and regulations. *“Such actions taken out of public view are both injurious to the citizens of North Carolina and run afoul of fair competition in the business community...Allowing any entity to flaunt the*

state's regulatory safeguards would serve neither interest, and would lay the groundwork for further such conduct in the future."

DEQ/DEMLR did not contest these finding nor the court order to reinstate the permit conditions. Had DEQ/DEMLR chosen to follow its own procedures for a major permit modification, a required public hearing and review by other agencies with jurisdictional subject matter expertise (eg, State Parks, WaterQuality, Fish and Wildlife) would likely have prevented DEQ/DEMLRs improper behavior, rejected the requested permit changes and undermined the subsequent permit application for the same mine to expand onto public property. DEQ/DEMLR did issue the permit based on this improper action. The purported minor changes requested were a substantial benefit to the mining company as they were critical to a subsequent permit modification request for expanding the mine on to public property worth many 100's of million dollars in revenue.

My concern is that the proposed public comment restrictions will 1) enable more back-door dealing and evasion by a mining permit applicant to alter a permit application post public hearing to remove requirements they do not like or add features the public would object after the proposed one-time public hearing and 2) encourage DEQ/DEMLR to improperly conduct its business without public oversight.

Burgos, Alexander N

From: Mark Stohlman <mstohlman58@gmail.com>
Sent: Thursday, July 30, 2026 12:53 PM
To: rrc.comments; Miller, Christopher S; jakeparkerrrc@gmail.com
Subject: [External] Thanks and Follow-up from July 30, 2026 Meeting

You don't often get email from mstohlman58@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear Chairman and Members of the Rules Review Commission,

Thank you for the opportunity to speak in front of the Rules Review Commission today. I appreciate the clarification that was made concerning what powers the Commission actually has.

I now understand that the Commissioners may either "Approve or Deny" a proposed rule and not "Delete" one.

To update my remarks, I'd like the Commissioners to "Deny" the Mining Commission Public Hearing rule changes (15A NCAC O5B .0111).

As written I believe these changes unduly restrict public comments as there can be many substantive changes to new or modified applications. Hopefully the Mining Commission can rewrite these rules as not to conflict with the Mining Act and other State Agency Divisions.

Thanks for your service and time,

Mark Stohlman
919-949-1403

Listing of proposed Rules that should NOT be adopted as proposed due to conflicts with the Mining Act of 1971, attempting to change the law, attempt to exceed the requirements of the law, attempting to limit the law, attempting to create new law, in conflict with other laws in the State, repeal necessary Rules, and/or against public interest.

- 15A NCAC 05A .0202 (c)(2)_Affected Land
- 15A NCAC 05A .0202 (c)(4)_Director
- 15A NCAC 05A .0202 (c)(7)_Mining Buffer
- 15A NCAC 05A .0202 (c)(7)(C)_Vegetative Buffer

- 15A NCAC 05B .0104 (d)(1) _required permit info re land ownership
- 15A NCAC 05B .0104 (d)(3)_ required permit notification re land ownership
- 15A NCAC 05B .0105 (2) _permit conditions
- 15A NCAC 05B .0105 (3)_permit conditions
- 15A NCAC 05B .0106_Standards for Denying an Application – do not repeal
- 15A NCAC 05B .0111(a)_Public Hearings
- 15A NCAC 05B .0111(c)_Public Hearings
- 15A NCAC 05B .0111(e)_Public Hearings

- 15A NCAC 05F .0112_Further remedies – do not repeal

See attached for summary

Proposed Rule	Recommended Action	G.S. that Rule violates or conflicts and therefore fails to be “Reasonably Necessary” and not necessary to serve the public interest	Exceeds Delegated Authority by attempted to create law and/or in conflict with the Mining Act
15A NCAC 05A .0202 (c)(2) DEFINITIONS (“Affected land”)	Delete added Rule as unnecessary; Or, at minimum delete “silviculture including timber harvesting” UC pg 2-3	§. 74-49(1) §. 74-49(7)(i) § 74-49(7)(ii) § 74-49(7) (a), (b), (c), (d), (e), (f), and (g) Conflicts with law and Attempts to create new law	Logging to prepare site for extraction is NOT an exception explicitly listed by the Mining Act. Also, in conflict with current DEQ-DEMLR practice.
15A NCAC 05A .0202 (c)(4) AUTHORITIES (“Director”)	Delete added Rule as unnecessary; Or, at minimum delete “or any position to which the Director has delegated their authority.” UC pg 4	§ 74-49(4) Conflicts with law and attempts to create new law	The mining act explicitly allows the Department Secretary to delegate, but does NOT allow the Division director to delegate.
15A NCAC 05A .0202 (c)(7) DEFINITIONS (“Mining Buffer”)	Delete “unexcavated” UC pg 5	§ 74-48 § 74-50 (b) (3) Adds a definition for a word not including in the Mining Act and generally not associated with a property or stream buffer.	“Unexcavated” (which allows denuding and heavy industrial uses such as logging, mining roads, trucking, rock crushing and sorting, material storage, buildings, rock conveyor belts) is not a word used in the Mining Act. “Unexcavated” is not considered a property or stream buffer by most NC State and Local laws.
15A NCAC 05A .0202 (c)(7)(C) DEFINITIONS (“Vegetative Buffer”)	Delete “unexcavated” UC pg 6	§ 74-48 § 74-50 (b) (3) This Rule would allow 1 tree or bush or blade of grass to be planted in an otherwise concrete or heavy industrial uses. Violates stated purposes of the law.	“Unexcavated” is not in the law. “Unexcavated buffer” allows total destruction of the land surface. “Unexcavated buffer” is not considered a property or stream buffer by most NC State and Local laws. Allows meaningful buffers to be removed with any modification.

Proposed Rule	Recommended Action	G.S. Conflicts	Exceeds Delegated Authority
15A NCAC 05B .0104(d)(1) Application Information (land owner)	Delete “approved in advance by the Department” Replace with “Register of Deeds” or Court records” UC pg 7-8	§ 74-50 (b1) Trying to create a “loophole” and violate the law.	The Mining Act does not allow DEQ to change or decide who the “owners of record of land.”
15A NCAC 05B .0104(d)(3) Application Information (land owner)	Delete “proof satisfactory to the Department” Delete “Other means of notice shall be satisfactory if approved in advance by the Department.” Replace with “Register of Deeds” or Court records” UC pg 7-8	§ 74-50 (b1) Trying to create a “loophole” and violate the law.	The Mining Act does not allow DEQ to change or decide who the “owners of record of land.” Land ownership is recorded in the Register of Deeds or Court Records, not by the whims of the mining operator of DEQ staff. Tax records are not official land owners
15A NCAC 05B .0105(2) CONDITIONS IN PERMIT “Natural Buffer”	Restore current Rule “(2) a natural buffer (delete proposed “vegetated”) Delete “when specified in State or local stream protection requirements” UC pg 9-10	§ 74-48 § 74-51 <i>Violates purpose of Mining Act</i> The law does not restrict buffers. Rule is attempting to create law.	NC regulated buffers (which are only on some streams) are aimed at nutrient control for fisheries and water supply. Property and stream buffers at a mining site can serve to minimize noise, visual, wildlife habitat destruction, dust, more. The Mining Act does limit buffers to those enacted for other purposes and does not limit buffers on streams without regulatory buffers. DEQ should be allowed to continue to allow meaningful property and stream buffers.
15A NCAC 05B .0105(3) CONDITIONS IN PERMIT Visual screening “Natural Buffer”	Restore current Rule “(3) visual screening such as existing vegetation” (delete proposed “vegetated”) UC pg 9-10	§ 74-48 § 74-51 <i>Violates purpose of Mining Act</i> The law does not restrict buffers. Rule is attempting to create law.	Same as above

Proposed Rule	Recommended Action	G.S. Conflicts	Exceeds Delegated Authority
15A NCAC 05B .0106 STANDARDS FOR DENYING AN APPLICATION	Rule is necessary – do not repeal Add Rule: The agencies listed in G.S. 74-50(b3) should be considered by DEQ to be the knowledge-based authorities on “significant impacts.” UC pg 11	74-50(b3) 74-51(d)	Agency evaluated impacts of a proposed mining operation are required by the Mining Act, this seems like an attempt for DEQ to ignore or minimize evaluation of required agency comments by DEQ.
15A NCAC 05B .0111(a) PUBLIC HEARINGS	Delete added words to Rule	§ 74-51 § 74-52 Attempt to create law	Law does not restrict public hearings when significant modifications are requested
15A NCAC 05B .0111(c) PUBLIC HEARINGS (limit on public comments)	Delete new words “after the hearing after which the public comment period will be considered closed and no other public comments can be considered in the final determination of the application” UC pg 12-13	§ 74-51 § 74-52 Public comments are can be critical when new information is obtained and/or applicant modifies application.	The law states one situation where a Public “Shall” occur. A Hearing Officers Report needs a deadline. BUT, when new information is obtained by DEQ from the public (e.g., citizens, government unit, legislature, agency) the “shall” in the law does NOT limit DEQ from considering” Current practice is DEQ does accept and considers public comments until Decision is made.
15A NCAC 05B .0111(e) PUBLIC HEARINGS (limit on public comments)	Delete proposed new rule Attempting to create law	§ 74-51 § 74-52	The Mining Act does not limit DEQ from accepting and considering public comments, especially after application and/or permit modifications. Current practice is DEQ does accept and considers public comments until Decision is made.
15A NCAC 05F .0112_Further remedies	Do not repeal; necessary		

The Mining Act of 1971.

§ 74-46. Title.

This Article may be known and cited as "The Mining Act of 1971." (1971, c. 545, s. 1.)

§ 74-47. Findings.

The General Assembly finds that the extraction of minerals by mining is a basic and essential activity making an important contribution to the economic well-being of North Carolina and the nation. Furthermore, it is not practical to extract minerals required by our society without disturbing the surface of the earth and producing waste materials, and the very character of certain surface mining operations precludes complete restoration of the land to its original condition. However, it is possible to conduct mining in such a way as to minimize its effects on the surrounding environment. Furthermore, proper reclamation of mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, beauty, and property rights of the citizens of the State. The General Assembly finds that the conduct of mining and reclamation of mined lands as provided by this Article will allow the mining of valuable minerals and will provide for the protection of the State's environment and for the subsequent beneficial use of the mined and reclaimed land. (1971, c. 545, s. 2.)

§ 74-48. Purposes.

The purposes of this Article are to provide:

- (1) That the usefulness, productivity, and scenic values of all lands and waters involved in mining within the State will receive the greatest practical degree of protection and restoration.
- (2) That from June 11, 1971, no mining shall be carried on in the State unless plans for such mining include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining. (1971, c. 545, s. 3.)

Deny Proposed Rule 15A NCAC 05 .0202 (c)

(2) due to conflict with law

§ 74-49. Definitions.

Wherever used or referred to in this Article, unless a different meaning clearly appears from the context:

- (1) "Affected land" means the surface area of land that is mined, the surface area of land associated with a mining activity so that soil is exposed to accelerated erosion, the surface area of land on which overburden and waste is deposited, and the surface area of land used for processing or treatment plant, stockpiles, nonpublic roads, and settling ponds.
- (1a) "Affiliate" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "affiliate" as a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
- (2) "Borrow pit" means an area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance.
- (3) "Commission" means the North Carolina Mining Commission created by G.S. 143B-290.
- (4) "Department" means the Department of Environmental Quality. Whenever in this Article the Department is assigned duties, they may be performed by the Secretary or an employee of the Department designated by the Secretary.
- (5) "Land" shall include submerged lands underlying any river, stream, lake, sound, or other body of water and shall specifically include, among others, estuarine and tidal lands.
- (6) "Minerals" means soil, clay, coal, stone, gravel, sand, phosphate, rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.
- (7) "Mining" means any of the following: (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.
Mining" does not include:

Deny Proposed Rule 15A NCAC 05 .0202 (c)(4) due to conflict with law; Secretary delegates. The law does NOT give the Director delegation authority.

Logging/Forestry/
timber harvesting is
NOT excluded from
the definition of
"Mining." Propose
Rule 15A NCAC
05 .0202 (c)(2)
violates law

- 
- a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.
 - b. Mining operations where the affected land does not exceed one acre in area.
 - c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.
 - d. Excavation or grading when conducted solely for on-site construction for purposes other than mining.
 - e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area.
 - f. Excavation or grading where all of the following apply:
 1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
 2. The affected land, including nonpublic access roads, does not exceed five acres.
 3. The excavation or grading is completed within one year.
 4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
 5. The excavation or grading is not in violation of any local ordinance.
 6. An erosion and sedimentation control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
 - g. Excavation or grading when conducted solely for activities undertaken on agricultural land that are exempt, pursuant to G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter 113A of the General Statutes.
- (8) "Neighboring" means in close proximity, in the immediate vicinity, or in actual contact.
 - (9) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, engaged in mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.
 - (10) "Overburden" means the earth, rock, and other materials that lie above the natural deposit of minerals.
 - (10a) "Parent" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "parent" as an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
 - (11) "Peak" means overburden removed from its natural position and deposited elsewhere in the shape of conical piles or projecting points.
 - (12) "Reclamation" means the reasonable rehabilitation of the affected land for useful purposes, and the protection of the natural resources of the surrounding area. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish on a continuing basis the vegetative cover, soil stability, water conditions and safety conditions appropriate to the area.
 - (13) "Reclamation plan" means the operator's written proposal as required and approved by the Department for reclamation of the affected land, which shall include but not be limited to:
 - a. Proposed practices to protect adjacent surface resources;
 - b. Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;
 - c. Manner and type of revegetation or other surface treatment of the affected areas;
 - d. Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;

- e. Method of compliance with State air and water pollution laws;
 - f. Method of rehabilitation of settling ponds;
 - g. Method of control of contaminants and disposal of mining refuse;
 - h. Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;
 - i. Maps and other supporting documents as may be reasonably required by the Department; and
 - j. A time schedule that meets the requirements of G.S. 74-53.
- (14) "Refuse" means all waste soil, rock, mineral, scrap, tailings, slimes, and other material directly connected with the mining, cleaning, and preparation of substances mined and shall include all waste materials deposited on or in the permit area from other sources.
- (15) "Ridge" means overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation.
- (16) "Spoil bank" means a deposit of excavated overburden or refuse.
- (16a) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "subsidiary" as an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
- (17) "Termination of mining" means cessation of mining operations with intent not to resume, or cessation of mining operations as a result of expiration or revocation of the permit of the operator. Whenever the Department shall have reason to believe that a mining operation has terminated, the Department shall give the operator written notice of its intention to declare the operation terminated, and the operator shall have an opportunity to appear within 30 days and present evidence that the operation is continuing; where the Department finds that the evidence is satisfactory, the Department shall not declare the mining operation terminated. (1971, c. 545, s. 4; 1973, c. 1262, ss. 33, 86; 1977, c. 771, s. 4; c. 845, s. 1; 1989, c. 727, s. 218(13); 1993 (Reg. Sess., 1994), c. 568, s. 1; 1997-443, s. 11A.119(a); 1999-82, s. 1; 2002-165, s. 2.1; 2012-143, s. 1(d); 2014-4 s. 5(c); 2015-241 s. 14.30(u); 2015-263 s. 23.)

Deny Proposed Rules 15B NCAC 05 .0104 (d)(1) and (d(3) due to conflict with G.S. 74-50 (b1)

§ 74-50. Permits - General.

(a) No operator shall engage in mining without having first obtained from the Department an operating permit that covers the affected land and that has not been terminated, revoked, suspended for the period in question, or otherwise become invalid. An operating permit may be modified from time to time to include land neighboring the affected land, in accordance with procedures set forth in G.S. 74-52. A separate permit shall be required for each mining operation that is not on land neighboring a mining operation for which the operator has a valid permit.

(b) As used in subsection (b1) of this section:

- (1) "Land adjoining" means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of, the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that is contiguous to either:
 - a. Any parcel or tract that includes the permitted area.
 - b. Any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, when combined, are contiguous to the permitted area.
- (2) "Permit boundaries" means the boundaries of a permitted area.
- (3) "Permitted area" means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(b1) At the time of an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to notify:

- (1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.
- (2) The owners of record of land adjoining that lies within 1,000 feet of the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining

permit to add land to a permitted area, with notice required for only that land to be added.

(3) The owners of record of land that meets both of the following criteria:

- a. Lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public right-of-way. For purposes of this sub-subdivision, "highway" means a highway, as defined in G.S. 20-4.01(13), that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.
- b. Lies within 1,000 feet of the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining permit to add land to a permitted area, with notice required for only that land to be added.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed new or modified mining operation that adds land to the permitted area and the opportunity to request a public hearing regarding the proposed new or modified mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

- (1) Division of Air Quality, Department of Environmental Quality.
- (2) Division of Parks and Recreation, Department of Natural and Cultural Resources.
- (3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.
- (4) Division of Water Resources, Department of Environmental Quality.
- (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality.
- (6) Wildlife Resources Commission, Department of Environmental Quality.
- (7) Office of Archives and History, Department of Natural and Cultural Resources.
- (8) United States Fish and Wildlife Service, United States Department of the Interior.
- (9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, the Division of Marine Fisheries, and the Division of Waste Management of the Department of Environmental Quality, and the Department of Transportation.

(c) No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to G.S. 74-54. If at any time the bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which the lapsed bond or security pertains shall be automatically revoked.

(d) Except as provided in subsection (d1) of this section, permits for mining operations shall be issued for the life-of-site of the operation unless revoked as otherwise provided under this Article. For purposes of this section, "life-of-site" means the period from the initial receipt of a permit from the operation until the mining operation terminates and the reclamation required under the approved reclamation plan is completed. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan.

(d1) Permits for mining operations conducted on real property that is leased from a public entity shall be issued for the life-of-lease. For purposes of this subsection, the following terms apply: (i) "life-of-lease" means the duration of the lease between the owner or operator of the mining operation and a public entity and (ii) "public entity" means the State, any State agency, State college or university, county, municipal corporation, local board of education, community college, special district, or other political subdivision of the State. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan. (1971, c. 545, s. 5; 1973, c. 1262, s. 33; 1981, c. 787, s. 1; 1993 (Reg. Sess., 1994), c. 568, s. 2; 2000-116, s. 1; 2002-159, s. 35(d); 2012-143, s. 1(f); 2013-413, s. 57(b); 2014-115, s. 17; 2015-241, s. 14.30(kk); 2017-209, s. 13(a); 2022-43, s. 8(a).)

Proposed Rule 15A NCAC 05B .0105 should be denied as the law does not restrict stream buffers to other existing stream regulations; the proposed rule violates 74-51(a)

§ 74-51. Permits - Application, granting, conditions.

(a) Any operator desiring to engage in mining shall make written application to the Department for a permit. The application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce this Article. The application shall be accompanied by a reclamation plan that meets the requirements of G.S. 74-53. No permit shall be issued until a reclamation plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation that the operator has failed to complete.

(b) Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mine is a significant public interest. **Proposed Rule 15A NCAC 05B .0111 Public Hearing conflict with law**

(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made. A public hearing shall not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.

(d) The Department may deny the permit upon finding:

- (1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation;
- (2) That the operation will have unduly adverse effects on potable groundwater supplies, wildlife, or fresh water, estuarine, or marine fisheries;
- (3) That the operation will violate standards of air quality, surface water quality, or groundwater quality that have been promulgated by the Department;
- (4) That the operation will constitute a direct and substantial physical hazard to public health and safety or to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property, excluding matters relating to use of a public road;
- (5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area;
- (6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or
- (7) That the applicant or any parent, subsidiary, or other affiliate of the applicant or parent has not been in substantial compliance with this Article, rules adopted under this Article, or other laws or rules of this State for the protection of the environment or has not corrected all violations that the applicant or any parent, subsidiary, or other affiliate of the applicant or parent may have committed under this Article or rules adopted under this Article and that resulted in:
 - a. Revocation of a permit,
 - b. Forfeiture of part or all of a bond or other security,
 - c. Conviction of a misdemeanor under G.S. 74-64,
 - d. Any other court order issued under G.S. 74-64, or
 - e. Final assessment of a civil penalty under G.S. 74-64, [or]
 - f. Failure to pay the application processing fee required under G.S. 74-54.1.

Do NOT repeal Rule 15A NCAC 05B .0106

(e) In the absence of any finding set out in subsection (d) of this section, or if adverse effects are mitigated by the applicant as determined necessary by the Department, a permit shall be granted.

(f) Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with any other reasonable and appropriate requirements and safeguards that the Department determines are necessary to assure that the operation will comply fully with the requirements and objectives of this Article. These conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds screening to be feasible and desirable. Violation of any conditions of the permit shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit.

(g) If the Department denies an application for a permit, the Department shall notify the operator in writing, stating the reasons for the denial and any modifications in the application that would make the application acceptable. The operator may thereupon modify and resubmit the application, or file an appeal as provided in G.S. 74-61.

(h) Upon approval of an application, the Department shall set the amount of the performance bond or other security that is to be required pursuant to G.S. 74-54. The operator shall have 60 days after the Department mails a notice of the required bond to the operator in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit.

(i) When one operator succeeds to the interest of another in any uncompleted mining operation by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon the operator by this Article with reference to the mining operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security. (1971, c. 545, s. 6; 1973, c. 507, s. 5; 1977, c. 771, s. 4; c. 845, s. 2; 1981, c. 787, ss. 2, 3; 1987, c. 827, c. 82; 1989, c. 727, s. 11; 1993 (Reg. Sess., 1994), c. 568, s. 3; 2000-116, s. 2; 2017-209, s. 13(b).)

§ 74-52. Permit modifications.

(a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article.

(b) Repealed by Session Laws 2017-209, s. 13(c), effective October 4, 2017.

(c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51.

(d) No modification of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan.

(e) Notwithstanding any restrictions on the collection or storage of solid waste that may be applicable pursuant to Article 9 of Chapter 130A of the General Statutes, the Department, upon agreement of a permittee, may, without need of a permit modification under this section, authorize the permittee to temporarily store storm-related debris at a mine when a state of emergency, as defined in G.S. 166A-19.3, has been declared by the Governor due to a natural disaster such as a hurricane, tornado, or flood, or due to a pending disaster, for a period not to exceed one year from the end of the state of emergency. For purposes of this subsection, the following definitions apply:

(1) The definitions set out in G.S. 130A-290.

(2) Storm-related debris. - Construction and demolition debris and yard trash that originates from designated counties in an emergency area, as defined in G.S. 166A-19.3(7). (1971, c. 545, s. 7; 1993 (Reg. Sess., 1994), c. 568, s. 4; 2017-209, s. 13(c); 2024-53, s. 4C.10.)

§ 74-53. Reclamation plan.

The operator shall submit with his application for an operating permit a proposed reclamation plan. Said plan shall include as a minimum, each of the elements specified in the definition of "reclamation plan" in G.S. 74-49, plus such other information as may be reasonably required by the Department. The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, shall to the extent feasible be conducted simultaneously with mining operations and in any event be initiated at the earliest practicable time after completion or termination of mining on any segment of the permit area. The plan shall provide that reclamation activities shall be completed within two years after completion or termination of mining on each segment of the area for which a permit is requested unless a longer period is specifically permitted by the Department.

The Department may approve, approve subject to stated modifications, or reject the plan which is proposed. The Department shall approve a reclamation plan (as submitted or as modified) only where it finds that it adequately provides for those actions necessary to achieve the purposes and requirements of this Article, and that in addition, the plan meets the following minimum standards:

- (1) The final slopes in all excavations in soil, sand, gravel, and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.
- (2) Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.
- (3) At open pit mining operations, all overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.
- (4) In no event shall any provision of this section be construed to allow small pools of water that are, or are likely to become, noxious, odious, or foul to collect or remain on the mined area. Suitable drainage ditches or conduits shall be constructed or installed to avoid such conditions. Lakes, ponds, and marsh lands shall be considered adequately reclaimed lands when approved by the Department.
- (5) The type of vegetative cover and methods of its establishment shall be specified, and in every case shall conform to accepted and recommended agronomic and reforestation restoration practices as established by the North Carolina Agricultural Experiment Station and Department of Environmental Quality. Advice and technical assistance may be obtained through the State soil and water conservation districts.

The Department shall be authorized to approve a reclamation plan despite the fact that such plan does not provide for reclamation treatment of every portion of the affected land, where the Department finds that because of special conditions such treatment would not be feasible for particular areas and that the plan takes all practical steps to minimize the extent of such areas. (1971, c. 545, s. 8; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(14); 1991, c. 342, s. 1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 74-54. Bonds.

(a) Each applicant for an operating permit, or for the modification of an existing permit shall, following the approval of the application, file and maintain in force a bond in favor of the State of North Carolina, executed by a surety approved by the Commissioner of Insurance, in the amount set forth below. The bond herein provided for must be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department and to the operator.

(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the Commission, but shall not exceed one million dollars (\$1,000,000). The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Commission.

(c) The bond shall be conditioned upon the faithful performance of the requirements set forth in this Article and of the rules adopted under this Article. Upon filing the bond with the Department, the operator shall lose all

right, title, and interest in the bond while the bond is held by the Department. Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released only upon written notification from the Department. Notification shall be given upon completion of compliance or acceptance by the Department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this section.

(d) In lieu of the surety bond required by this section, the operator may file with the Department a cash deposit, an irrevocable letter of credit, a guaranty of payment from an acceptable bank, an assignment of a savings account in an acceptable bank on an assignment form prescribed by the Department, or other security acceptable to the Department. Security shall be subject to the release provisions of G.S. 74-56.

(e) If the license to do business in North Carolina of any surety upon a bond filed pursuant to this Article should be suspended or revoked, the operator shall, within 60 days after receiving notice thereof, substitute for the surety a good and sufficient corporate surety authorized to do business in this State. Upon failure of the operator to substitute sufficient surety within the time specified, the operator's permit shall be automatically revoked. (1971, c. 545, s. 9; 1981, c. 787, s. 4; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 5; 2012-143, s. 1(d); 2013-410, s. 7(a); 2017-209, s. 13(d).)

§ 74-54.1. Permit fees.

(a) The fee schedule for the processing of permit applications, transfers, and modifications is as follows:

	0-25 acres	26+ acres
New Permit Applications	\$3,750.00	\$5,000.00
Permit Modifications	\$750.00	\$1,000.00
Permit Transfers	\$100.00	\$100.00

(a1) In addition to the fees set forth in subsection (a) of this section, permittees shall pay an annual operating fee of four hundred dollars (\$400.00) per permit per year as set forth in G.S. 74-55. The Department may charge a late fee of fifty dollars (\$50.00) per month per permit for every month or partial month that payment of the annual operating fee is delinquent.

(b) Fees collected under this section shall be credited to the General Fund and shall be applied to the costs of administering this Article.

(c) Repealed by Session Laws 2017-10, s. 4.1, effective May 4, 2017. (1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1993, c. 513, s. 3; 1993 (Reg. Sess., 1994), c. 568, s. 6; 2007-323, s. 30.2(a); 2012-143, s. 1(d); 2013-410, s. 7(b); 2015-241, s. 14.16(b); 2017-10, s. 4.1; 2017-209, s. 13(e).)

§ 74-55. Reclamation report.

(a) By September 1 of each year, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which includes all of the following:

- (1) Identify the mine, the operator and the permit number.
- (2) State acreage disturbed by mining in the last 12-month period.
- (3) State and describe amount and type of reclamation carried out in the last 12-month period.
- (4) Estimate acreage to be newly disturbed by mining in the next 12-month period.
- (5) Provide such maps as may be specifically requested by the Department.
- (6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

(b) When filing the annual report, the permittee shall pay the annual operating fee for the permit to the Department by September 1 of each year until the permit has been terminated by the Department. The Department may assess and collect a monthly penalty for each annual report or annual operating fee not filed by September 30 of each year until the annual report and annual operating fee are filed with the Department. If the required annual report and operating fee, including any late payment penalties, are not filed by December 31 of each year, the Department shall give written notice to the operator and shall then initiate permit revocation proceedings in accordance with G.S. 74-58. (1971, c. 545, s. 10; 1987, c. 827, s. 85; 2017-209, s. 13(f); 2020-74, s. 10.)

§ 74-56. Inspection and approval of reclamation; bond release or forfeiture.

(a) The Department may direct investigations as it may reasonably deem necessary to carry out its duties as prescribed by this Article, and for this purpose may enter at reasonable times upon any mining operation for the purpose of determining compliance with this Article and any rules adopted under this Article and for determining

compliance with the terms and conditions of a mining permit, but for no other purpose. No person shall refuse entry or access to any authorized representative of the Department who enters the mining operation for purposes of inspection or other official duties and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with the representative while the representative is carrying out official duties. Upon arriving at the site, the representative of the Department shall make every reasonable effort to notify the operator or the operator's agent that the representative of the Department intends to inspect the site. Upon receipt of the operator's annual report or report of completion of reclamation and at any other reasonable time the Department may elect, the Department shall cause the permit area to be inspected to determine whether the operator has complied with the reclamation plan, the requirements of this Article, any rules adopted under this Article, and the terms and conditions of the permit.

(b) The operator shall proceed with reclamation as scheduled in the approved reclamation plan. The Department shall conduct an inspection and give written notice to the operator of any deficiencies noted. The operator shall thereupon commence action within 30 days to rectify these deficiencies and shall diligently proceed until they have been corrected. The Department may extend performance periods referred to in this section and in G.S. 74-53 for delays clearly beyond the operator's control, but only in cases where the Department finds that the operator is making every reasonable effort to comply.

(c) Upon completion of reclamation of an area of affected land, the operator shall notify the Department. The Department shall make an inspection of the area, and if it finds that reclamation has been properly completed, it shall notify the operator in writing and release the operator from further obligations regarding the affected land. At the same time the Department shall release all or the appropriate portion of any performance bond or other security that the operator has posted under G.S. 74-54.

(d) If at any time the Department finds that reclamation of the permit area is not proceeding in accordance with the reclamation plan and that the operator has failed within 30 days after notice to commence corrective action, or if the Department finds that reclamation has not been properly completed in conformance with the reclamation plan within two years, or longer if authorized by the Department, after termination of mining on any segment of the permit area, the Department shall initiate forfeiture proceedings against the bond or other security filed by the operator under G.S. 74-59. In addition, failure to implement the reclamation plan shall constitute grounds for suspension or revocation of the operator's permit, as provided in G.S. 74-58. (1971, c. 545, s. 11; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 7; 1995, c. 504, s. 3.)

§ 74-57. Departmental modification of permit or reclamation plan.

If at any time it appears to the Department from its inspection of the affected land that the activities under the reclamation plan and other terms and conditions of the permit are failing to achieve the purposes and requirements of this Article, it shall give the operator written notice of that fact, of its intention to modify the reclamation plan and other terms and conditions of the permit in a stated manner, and of the operator's right to a hearing on the proposed modification at a stated time and place. The date for such hearing shall be not less than 30 nor more than 60 days after the date of the notice unless the Department and the operator shall mutually agree on another date. Following the hearing the Department shall have the right to modify the reclamation plan and other terms and conditions of the permit in the manner stated in the notice or in such other manner as it deems appropriate in view of the evidence submitted at the hearing. (1971, c. 545, s. 12.)

§ 74-58. Suspension or revocation of permit.

(a) Whenever the Department shall have reason to believe that a violation of (i) this Article, (ii) any rules adopted under this Article, or (iii) the terms and conditions of a permit, including the approved reclamation plan, has taken place, it shall serve written notice of the apparent violation upon the operator, specifying the facts constituting the apparent violation and informing the operator of the operator's right to an informal conference with the Department. The date for an informal conference shall be not less than 15 nor more than 30 days after the date of the notice, unless the Department and the operator mutually agree on another date. If the operator or the operator's representative does not appear at the informal conference, or if the Department following the informal conference finds that there has been a violation, the Department may suspend the permit until the violation is corrected or may revoke the permit where the violation appears to be willful, or where the permittee has failed to pay the fee or late payment penalties required by G.S. 74-55(b).

(b) The effective date of any suspension or revocation shall be 30 days following the date of the decision. The filing of a petition for a contested case under G.S. 74-61 shall stay the effective date until issuance of a final

decision. If the Department finds at the time of its initial decision that any delay in correcting a violation would result in imminent peril to life or danger to property or to the environment, it shall promptly initiate a proceeding for injunctive relief under G.S. 74-64 hereof and Rule 65 of the Rules of Civil Procedure. The pendency of any appeal from a suspension or revocation of a permit shall have no effect upon an action for injunctive relief.

(c) Any operator whose permit has been suspended or revoked shall be denied a new permit or reinstatement of the suspended permit to engage in mining until the operator gives evidence satisfactory to the Department of the operator's ability and intent to fully comply with the provisions of this Article and rules adopted under this Article, and the terms and conditions of the permit, including the approved reclamation plan, and that the operator has satisfactorily corrected all previous violations. (1971, c. 545, s. 13; 1973, c. 1262, s. 33; 1979, c. 252, s. 1; 1987, c. 827, s. 82A; 1993 (Reg. Sess., 1994), c. 568, s. 8; 2011-398, s. 29; 2017-209, s. 13(g).)

§ 74-59. Bond forfeiture proceedings.

Whenever the Department determines the necessity of a bond forfeiture under the provisions of G.S. 74-56, or whenever it revokes an operating permit under the provisions of G.S. 74-58, it shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed by the operator under G.S. 74-54; provided, however, that no such request shall be made for forfeiture of a bond until the surety has been given written notice of the violation and a reasonable opportunity to take corrective action. Such proceedings shall be brought in the name of the State of North Carolina. In such proceedings, the face amount of the bond or other security, less any amount released by the Department pursuant to G.S. 74-56, shall be treated as liquidated damages and subject to forfeiture. All funds collected as a result of such proceedings shall be placed in a special fund and used by the Department to carry out, to the extent possible, the reclamation measures which the operator has failed to complete. If the amount of the bond or other security filed pursuant to this section proves to be insufficient to complete the required reclamation pursuant to the approved reclamation plan, the operator shall be liable to the Department for any excess above the amount of the bond or other security which may be required to defray the cost of completing the required reclamation. (1971, c. 545, s. 14.)

§ 74-60. Notice.

Whenever in this Article written notice is required to be given by the Department, such notice shall be mailed by registered or certified mail to the permanent address of the operator set forth in his most recent application for an operating permit or for a modification of such permit. No other notice shall be required. (1971, c. 545, s. 15; 2017-209, s. 13(h).)

§ 74-61. Administrative and judicial review of decisions.

An applicant, permittee, or affected person may contest a decision of the Department to grant, deny, suspend, modify, or revoke a permit or a reclamation plan, to refuse to release part or all of a bond or other security, or to assess a civil penalty by filing a petition for a contested case under G.S. 150B-23 within 30 days after the Department makes the decision. For purposes of this section, the date of the decision to grant, deny, suspend, modify, or revoke a permit application shall be when the Department posts the decision on a publicly available website. Article 4 of Chapter 150B of the General Statutes governs judicial review of a decision of the Commission. (1971, c. 545, s. 16; 1973, c. 1262, s. 33; 1977, c. 771, s. 4; 1979, c. 252, s. 3; 1987, c. 827, s. 86; 1993 (Reg. Sess., 1994), c. 568, s. 9; 2011-398, s. 30; 2022-43, s. 8(b).)

§ 74-62. Repealed by Session Laws 1987, c. 827, s. 83.

§ 74-63. Rules.

The Commission may adopt rules necessary to administer this Article. (1971, c. 545, s. 18; 1973, c. 1262, s. 33; c. 1331, s. 3; 1987, c. 827, s. 84.)

§ 74-64. Penalties for violations.

(a) Civil Penalties.

- (1) a. A civil penalty of not more than five thousand dollars (\$5,000) may be assessed by the Department against any person who fails to secure a valid operating permit prior to engaging in mining, as required by G.S. 74-50. No civil penalty shall be assessed until the operator has been given notice of the violation pursuant to G.S. 74-60. Each day of

a continuing violation shall constitute a separate violation and a civil penalty of not more than five thousand dollars (\$5,000) per day may be assessed for each day the violation continues.

- b. Any permitted operator who violates any of the provisions of this Article, any rules adopted under this Article, or any of the terms and conditions of the mining permit shall be subject to a civil penalty of not more than five hundred dollars (\$500.00). Each day of a continuing violation shall constitute a separate violation. Prior to the assessment of any civil penalty, written notice of the violation shall be given. The notice shall describe the violation with reasonable particularity, shall specify a time period reasonably calculated to permit the violator to complete actions to correct the violation, and shall state that failure to correct the violation within that period may result in the assessment of a civil penalty.
 - c. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by the noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.
- (2) The Department shall determine the amount of the civil penalty to be assessed pursuant to G.S. 74-64(a)(1) and shall give notice to the operator of the assessment of the civil penalty pursuant to G.S. 74-60, or by any means authorized by G.S. 1A-1, Rule 4. The notice shall set forth in detail the violation or violations for which the civil penalty has been assessed. The operator may appeal the assessment of any civil penalty assessed pursuant to this section in accordance with the procedures set forth in G.S. 74-61.
 - (3) The notice of assessment shall direct the violator to pay the assessment or contest the assessment as provided in G.S. 74-61. If the violator does not pay the assessment within 30 days after receipt of the notice of assessment or within 30 days after receipt of the final agency decision, where the assessment has been contested, the Department shall request the Attorney General to institute a civil action in superior court to recover the amount of the penalty. A civil action under this section shall be filed within three years of the date the final agency decision was served on the violator.
 - (4) The clear proceeds of civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
 - (5) In addition to other remedies, the Department may request the Attorney General to institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this Article or any rules adopted under this Article, or the obstruction, hampering, or interference with an authorized representative of the Department while the representative is carrying out official duties pursuant to this Article.

(b) Criminal Penalties. - In addition to other penalties provided by this Article, any operator who engages in mining in willful violation of the provisions of this Article or of any rules promulgated hereunder or who willfully misrepresents any fact in any action taken pursuant to this Article or willfully gives false information in any application or report required by this Article shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense. (1971, c. 545, s. 19; 1979, c. 252, s. 2; 1981, c. 787, ss. 7, 8; 1987, c. 246, s. 1; c. 827, s. 85; 1989 (Reg. Sess., 1990), c. 1024, s. 16; 1993, c. 539, s. 555; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 568, s. 10; 1998-215, s. 42.)

§ 74-65. Effect on local zoning regulations.

No provision of this Article shall be construed to supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina, except insofar as a provision of said regulation or ordinance is in direct conflict with this Article. (1971, c. 545, s. 20.)

§ 74-66. Private relief against nuisance or hazard.

No provision of this Article shall be construed to restrict or impair the right of any private or public person, association, corporation, partnership, officer, or agency to bring any legal or equitable action for redress against nuisances or hazards. (1971, c. 545, s. 21.)

§ 74-67. Exemptions.

The provisions of this Article shall not apply to those activities of the Department of Transportation, nor of any person, firm, or corporation acting under contract with the Department of Transportation, on highway rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the public road systems of North Carolina; provided, that this exemption shall not become effective until the Department of Transportation shall have adopted reclamation standards applying to such activities and such standards have been approved by the Commission. The provisions of this Article shall not apply to mining on federal lands under a valid permit from the U.S. Forest Service or the U.S. Bureau of Land Management. (1971, c. 545, s. 22; 1973, c. 507, s. 5; c. 1262, s. 33; 1977, c. 464, s. 34; 2012-143, s. 1(d); 2013-410, s. 7(c).)

§ 74-68. Cooperation with other agencies; contracts and grants.

The Department, with the approval of the Governor, and in order to accomplish any of the purposes of the Department, may apply for, accept, and expend grants from the federal government and its agencies and from any foundation, corporation, association, or individual; may enter into contracts relating to such grants; and may comply with the terms, conditions, and limitations of any such grant or contract. The Department may engage in such research as may be appropriate to further its ability to accomplish its purposes under this Article, and may contract for such research to be done by others. The Department may cooperate with any federal, state, or local government or agency, of this or any other state, in mutual programs to improve the enforcement of this Article or to accomplish its purposes more successfully. (1971, c. 545, s. 23.)

§§ 74-69 through 74-74. Reserved for future codification purposes.

Burgos, Alexander N

From: Cheryl McGraw <chrrlgrrl@gmail.com>
Sent: Wednesday, July 29, 2026 10:55 AM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Regarding the proposed Mining Rules

You don't often get email from chrrlgrrl@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

I respectfully request that you consider these objections to the proposed Mining Rules especially regarding Umstead Park here in Raleigh.

Please Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public

interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

And Please consider this rule which should Not be deleted:

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you,
Cheryl McGraw
1004 Braxton Ct.
Raleigh, NC 27606

Burgos, Alexander N

From: Natalie Lew <nlew@mindspring.com>
Sent: Wednesday, July 29, 2026 11:50 AM
To: Miller, Christopher S
Cc: Ascher, Seth M; Burgos, Alexander N
Subject: [External] Verbal Public Comment for proposed Mining Rule changes
Attachments: RRC_verbal public comment_NLew_Part 1_2026 07 29.pdf

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning,

Please find attached a copy of my verbal comment for tomorrow with a portion of my summary of the text changes in the Law. I thought it would be helpful for people to be able to read while I speak. Please let me know if you have any questions about the Law text changes in the sections included here or other sections.

-Natalie

There is not one central document that includes all text changes over time for either the Mining Law or Rules. So, I pulled each iteration, created such documents, and assessed the changes over time. To my knowledge, neither current DEQ nor Mining Commission staff have done this.

I see the butterfly effect in action – small changes are adding up to create effects vastly different from the intent of the original Law.

Here are some examples:

Regarding Rule 15A 05B .0106 (Standards for Denying an Application)

Section 74-51(d) of the Mining Law lists seven criteria for denying a new or modified permit. Currently Rule 05B .0106 provides some clarifying text. The proposed Rule removes this clarifying text without adding additional text.

A Rule is needed but should be rewritten to include, at least, the concept that noise can be considered when evaluating denial criteria 74-51 (d)(5): “That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area.”

This need arises from the fact that the Department and mining companies are using confusing wording in two sections of the **30-year-old** Surface Mining Manual (~~dated Feb/1996~~) to skirt and minimize permit denial criteria outlined in the Law. Based on the outdated Manual, they claim that noise cannot be considered **at all** when evaluating denial criteria 74-51 (d)(5).

To say that the Mining Act does not address noise just because the exact word “noise” is not used is absurd. Using an outdated Guide book makes this worse.

To evaluate denial criteria 74-51 (d)(5), the first question is “What causes harm to the purposes of the *affected* publicly owned park, forest, or recreation area?” Clearly, noise causes harm when the purpose of such an entity is to escape from the sounds of modern life and to be in a place of peace and tranquility.

The next question is “Who should define what constitutes “significant” adverse effects on parks, water, or wildlife? Neither the Department nor mining companies have appropriate experience to make this definition. But G.S. 74-50 (b3) tells us who does.

This Section lists several relevant State agencies that must be notified of both new and modified permit applications. These agencies include the true Subject Matter Experts (SME) on parks, water, and wildlife and it is these agencies that have the knowledge to accurately define “unduly” or “significant” adverse effects.

Yet, in practice, the Department and mining companies have been making biased decisions about parks, water, and wildlife by relying on the 30-year-old Surface Mining Manual without obtaining guidance from the true Subject Matter Experts (SMEs).

*The rewritten Rule should simply state “**The agencies noted in 74-50 (b3) retain primary authority for determining what constitutes unduly or significant adverse effects on parks, water, or wildlife.**”*

Regarding Rule 15A 05B .0111, Public Hearings, item (a)

For 55 years, G.S. 74-52 (“Permit Modifications”) has stated that “... *terms and conditions [of the mining permit] may be modified **only** where the Department determines that the permit as modified would meet **all** requirements of **G.S. 74-50 and 74-51**,*” the two sections in the Law that focus on new permits—the “Permit, General” section and the “Permits; Application, Granting, Conditions” section.

In 1981, public hearings were added to G.S. 74-51 and to this day states that “*Upon its determination that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit.*”

Since permit modifications must meet **all** criteria of new permit applications, when “significant public interest” exists, a public hearing SHALL be conducted. The trigger for the public hearing is “significant public interest” whether such interest is on a new or modified permit and no matter what is modified.

The proposed Rule attempts to limit public hearings by including the phrase “modification that adds land to the existing permit.” This phrase is just a special case of a permit modification. While it is appropriately used in the Law Section regarding notifying adjacent land owners, its use in this particular Rule results in a confusing Rule with the effect of changing the Law by ignoring the full concepts in G.S. 74-52.

The proposed Rule must account for all provisions in G.S. 74-50, 74-51, AND 74-52 and should simply state “If the Department determines that there exists a significant public interest in an application for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application ...”

Continuing with the concept that permit modifications must meet all criteria associated with new permits, per G.S. 74-50 (b3), the Department must notify the agencies listed in this Section of not just new permits, but any permit modifications or Additional Information request responses. In practice and contrary to the Law, the Department seems to be liming agency notification and comments to new permits. The Department should either create a clarifying Rule or simply follow the Law.

>>>>>>>>>>>>>

As you will hear and read, there are additional issues with the proposed changes to the Mining Rules and many need to be rejected.

Please let me know if you have any questions regarding the text changes in the Law or Rules over time.

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

74-52. Permits - Modification, Renewal. 1971, c. 545, s. 7 <i>This paragraph later deleted because permit renewal no longer needed</i> Intent was for modifications to follow same process and criteria noted in the two previous sections of this Law: Sec 5: 74-50 Sec 6: 74-51(the sections that focus on new permits). This later becomes paragraph (c).	11/Jun/1971: Any operator engaged in mining under an operating permit may apply at any time for modification of said permit, and at any time during the two years prior to its expiration date for renewal of the permit. Such application shall be in writing upon forms furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish such other information as may be deemed necessary by the Department in order adequately to enforce the act. However, it shall not be necessary to resubmit information which has not changed since the time of a prior application, where the applicant states in writing that such information has not changed. The procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit; provided, however, that in the absence of any changes in legal requirements for issuance of a permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in subsection (g) of Section 6, or failure to submit an adequate reclamation plan in light of conditions then existing. A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in Section 8 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of Sections 5 and 6. No modification shall extend the expiration date of any permit issued under this act. In lieu of a modification or a renewal, an operator may apply for a new permit in the manner prescribed by Sections 5 and 6. No modification or renewal of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of Section 9, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan.
1993 (Reg. Sess., 1994), c. 568, s. 4 Paragraph ID's added	Sec. 4. G.S. 74-52 reads as rewritten: (a) Any operator engaged in mining under an operating permit may apply at any time for modification of said permit, and the permit. A permittee may apply for renewal of the permit at any time during the two years prior to its <u>the expiration date for renewal</u> of the permit. Such The application shall be in writing upon forms furnished by the Department and shall fully state the information called for, in for. <u>The applicant must provide the Department with any additional information necessary to satisfy application requirements.</u> The applicant is not required to resubmit information that <u>remains unchanged since the time of the prior application.</u> In addition, the applicant may be required to furnish such <u>any</u> other information as maybe

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

Same language as original law, only "(b)" was added. <i>This paragraph later deleted because permit renewal no longer needed.</i> Same language as original law other than paragraph ID "(c)" added and section ID's updated to reference GS # instead of Section #.	deemed necessary by the Department in order adequately to enforce the Article. However, it shall not be necessary to resubmit information which has not changed since the time of a prior application, where the applicant states in writing that such information has not changed. (b) The <i>procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit</i>; provided, however, that in the absence of any changes in legal requirements for issuance of a permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of conditions then existing. (c) A <i>modification</i> under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or <i>other terms and conditions of the permit</i>. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. <i>Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and 74-51.</i> No modification shall extend the expiration date of any permit issued under this Article. In lieu of a modification or a renewal, an operator may apply for a new permit in the manner prescribed by G.S. 74-50 and 74-51. (d) No modification or renewal of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan."
2017-209, s. 13(c); (b) is no longer needed because as of 2017 permits are for life of operation. However,	G.S. 74-52 reads as rewritten: 74-52. Permits—Modification, renewal. Permit modifications. (a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. A permittee may apply for renewal of the permit at any time during the two years prior to the expiration of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. The applicant is not required to resubmit information that remains unchanged since the time of the prior application. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article. (b) The procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit; provided, however, that in the absence of any changes in legal requirements for issuance of a

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

that does not mean sunset clauses are not allowed in a permit. Year = 2017. Same language as original law: all modifications must meet criteria in GS 74-50 and GS 74-51 (the two sections that focus on new permits).	permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of conditions then existing. (c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. No modification shall extend the expiration date of any permit issued under this Article. (d) No modification or renewal of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan."
2024-53, s. 4C.10 Current: 74-52. Permit modifications (1971, c. 545, s.7; 1993 (Reg. Sess., 1994), c. 568, s. 4; 2017-209, s. 13(c); 2024-53, s. 4C.10.) Year = current Same language as original law: all modifications must meet criteria in GS 74-50 and GS 74-51 (the two sections that focus on new permits).	Hurricane Hellene (a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article. (b) Repealed by Session Laws 2017-209, s. 13(c), effective October 4, 2017. (c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. (d) No modification of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan.

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

	(e) Notwithstanding any restrictions on the collection or storage of solid waste that may be applicable pursuant to Article 9 of Chapter 130A of the General Statutes, the Department, upon agreement of a permittee, may, without need of a permit modification under this section, authorize the permittee to temporarily store storm-related debris at a mine when a state of emergency, as defined in G.S. 166A-19.3, has been declared by the Governor due to a natural disaster such as a hurricane, tornado, or flood, or due to a pending disaster, for a period not to exceed one year from the end of the state of emergency. For purposes of this subsection, the following definitions apply: (1) The definitions set out in G.S. 130A-290. (2) Storm-related debris. - Construction and demolition debris and yard trash that originates from designated counties in an emergency area, as defined in G.S. 166A-19.3(7).
--	--

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

74-51. Permits; Application, Granting, Conditions. 1971, c. 545, s. 6 The focus of 74-51 is new mining applications. This is 4th paragraph and is re-written in next iteration when public hearings added in 1981. →	11/Jun/1971: Any operator desiring to engage in mining shall make written application to the Department for a permit. Such application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish such other information as may be deemed necessary by the Department in order adequately to enforce this act. The application shall be accompanied by a reclamation plan which meets the requirements of Section 8. No permit shall be issued until such plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to Section 14, the Department and its representatives and its contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation which the operator has failed to complete. The Department shall grant or deny the permit requested as expeditiously as possible but in no event later than 60 days after the application form and any supplemental information required shall have been filed with the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the State Highway Commission. The Department may deny such permit upon finding: (a) That any requirement of this act or any rule or regulation promulgated hereunder will be violated by the proposed operation; (b) That the operation will have unduly adverse effects on wildlife or fresh water, estuarine, or marine fisheries; (c) That the operation will violate standards of air quality, surface water quality, or ground water quality which have been promulgated by the Department of Water and Air Resources; (d) That the operation will constitute a substantial physical hazard to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property; (e) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area; (f) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or (g) That the operator has not corrected all violations which he may have committed under any prior permit and which resulted in (1) revocation of his permit, (2) forfeiture of part or all of his bond or other security, (3) conviction of a misdemeanor under Section 19, or (4) any other court order issued under Section 19. In the absence of any such findings, a permit shall be granted. Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and
---	--

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

	with such further reasonable and appropriate requirements and safeguards as may be deemed necessary by the Department to assure that the operation will comply fully with the requirements and objectives of this act. Such conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds such screening to be feasible and desirable. Violation of any such conditions shall be treated as a violation of this act and shall constitute a basis for suspension or revocation of the permit. Any operator wishing any modification of the terms and conditions of his permit or of the approved reclamation plan shall submit a request for modification in accordance with the provisions of Section 7. If the Department denies an application for a permit, it shall notify the operator in writing, stating the reasons for its denial and any modifications in the application which would make it acceptable. The operator may thereupon modify his application or file an appeal, as provided in Section 16, but no such appeal shall be taken more than 60 days after notice of disapproval has been mailed to him at the address shown on his application. Upon approval of an application, the Department shall set the amount of the performance bond or other security which is to be required pursuant to Section 9. The operator shall have 60 days following the mailing of such notification in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit. When one operator succeeds to the interest of another in any uncompleted mining operation, by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon him by this act with reference to such operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this act and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security.
Language added 1981, c. 787, ss. 2, 3 This paragraph existed in the previous Law but was re-written and includes reference to public hearing. Discussion of public hearing is in a new paragraph (the next paragraph).	Sec. 2. G.S. 74-51 is amended by rewriting the fourth paragraph thereof to read as follows: "Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation."

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

This is a brand-new paragraph and is the first occurrence of the public hearing language. This language does not limit public hearings to just new permits. Also, Permit Modification section 74-52 says that all permit modifications must meet all of the criteria in 74-50 and 74-51 (the two sections that focus on new permits). So public hearings on permit modifications are allowed.	Sec. 3. G.S. 74-51 is further amended by inserting a new paragraph between the fourth and fifth paragraphs of the section to read as follows: "Upon its determination that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit. Such hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. Such public hearing shall be held within 60 days of the filing of the application."
Language modified 1987, c. 827, c. 82	Sec. 82. G.S. 74-51(1) is amended by deleting the words "or regulation". NLew: For clarification, below is the wording from initial law: The Department may deny such permit upon finding: (a) That any requirement of this act or any rule or regulation promulgated hereunder will be violated by the proposed operation;
Language as per 1989, c. 727, s. 11	Sec. 11. G.S. 74-51 reads as rewritten: Any operator desiring to engage in mining shall make written application to the Department for a permit. Such application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish such other information as may be deemed necessary by the Department in order adequately to enforce this Article. The application shall be accompanied by a reclamation plan which meets the requirements of G.S. 74-53. No permit shall be issued until such plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and its contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation which the operator has failed to complete. Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

No change in this paragraph from previous iteration. →	evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation. Upon its determination that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit. Such hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. Such public hearing shall be held within 60 days of the filing of the application. The Department may deny such permit upon finding: (1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation; (2) That the operation will have unduly adverse effects on wildlife or fresh water, estuarine, or marine fisheries; (3) That the operation will violate standards of air quality, surface water quality, or groundwater quality which have been promulgated by the Department of Natural Resources and Community Development; (4) That the operation will constitute a substantial physical hazard to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property; (5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area; (6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or (7) That the operator has not corrected all violations which he may have committed under any prior permit and which resulted in, a. Revocation of his permit, b. Forfeiture of part or all of his bond or other security, c. Conviction of a misdemeanor under G.S. 74-64, or d. Any other court order issued under G.S. 74-64. In the absence of any such findings, a permit shall be granted. Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with such further reasonable and appropriate requirements and safeguards as may be deemed necessary by the Department to assure that the operation will comply fully with the requirements and objectives of this Article. Such conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds such screening to be feasible and desirable. Violation of any such conditions shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit. Any operator wishing any modification of the terms and conditions of his permit or of the approved reclamation plan shall submit a request for modification in accordance with the provisions of G.S. 74-52.
---	--

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

	If the Department denies an application for a permit, it shall notify the operator in writing, stating the reasons for its denial and any modifications in the application which would make it acceptable. The operator may thereupon modify his application or file an appeal, as provided in G.S. 74-61, but no such appeal shall be taken more than 60 days after notice of disapproval has been mailed to him at the address shown on his application. Upon approval of an application, the Department shall set the amount of the performance bond or other security which is to be required pursuant to G.S. 74-54. The operator shall have 60 days following the mailing of such notification in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit. When one operator succeeds to the interest of another in any uncompleted mining operation, by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon him by this Article with reference to such operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security."
Language as per 1993 (Reg. Sess., 1994), c. 568, s. 3 Paragraph ID's added	(a) Any operator desiring to engage in mining shall make written application to the Department for a permit. Such <u>The</u> application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish such <u>any</u> other information as may be deemed necessary by the Department in order adequately to enforce this Article. The application shall be accompanied by a reclamation plan which that meets the requirements of G.S. 74-53. No permit shall be issued until such <u>a</u> reclamation plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and its contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation which that the operator has failed to complete. (b) Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation.

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

The use of the phrase about adding land is not needed here. Adding land is a special case of a permit modification and was relevant to the section about notifying adjacent land owners. Using this phrase here does not change the fact that all other permit modifications still need to meet all of the criteria of a new permit as listed in 74-50 and 74-51. Public hearings for permit modifications shall be held when significant public interest exists.

(c) Upon its determination If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit, ~~permit or for permit modifications that add owners of record of lands adjoining the permit boundaries.~~ Such The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. Such The public hearing shall be held within 60 days of the filing of the application, end of the 30-day period within which any requests for the public hearing shall be made.

(d) The Department may deny ~~such the~~ permit upon finding:

(1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation;

(2) That the operation will have unduly adverse effects on potable groundwater supplies, ~~wildlife~~ wildlife, or fresh water, estuarine, or marine fisheries;

(3) That the operation will violate standards of air quality, surface water quality, or groundwater quality ~~which that~~ have been promulgated by the Department;

(4) That the operation will constitute a direct and substantial physical hazard to public health and safety or to a neighboring dwellinghouse, school, church, hospital, commercial or industrial building, public road or other public ~~property;~~ property, excluding matters relating to use of a public road;

(5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area;

(6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or

(7) That the ~~operator~~ applicant or any parent, subsidiary, or other affiliate of the applicant or parent has not been in substantial compliance with this Article, rules adopted under this Article, or other laws or rules of this State for the protection of the environment or has not corrected all violations ~~which he that~~ the applicant or any parent, subsidiary, or other affiliate of the applicant or parent may have committed under ~~any prior permit this Article or rules adopted under this Article and which that~~ resulted in, in:

a. Revocation of ~~his a~~ permit,

b. Forfeiture of part or all of ~~his a~~ bond or other security,

c. Conviction of a misdemeanor under G.S. 74-64, ~~or~~

d. Any other court order issued under ~~G.S. 74-64.~~ G.S. 74-64, or

e. Final assessment of a civil penalty under G.S. 74-64.

(e) In the absence of any ~~such findings,~~ finding set out in subsection (d) of this section, or if adverse effects are mitigated by the applicant as determined necessary by the Department, a permit shall be granted.

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

	(f) Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with such further <u>any other</u> reasonable and appropriate requirements and safeguards as may be deemed necessary by that the <u>determines are necessary</u> to assure that the operation will comply fully with the requirements and objectives of this Article. Such <u>These</u> conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds such screening to be feasible and desirable. Violation of any such <u>conditions of the permit</u> shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit. Any operator wishing any modification of the terms and conditions of his permit or of the approved reclamation plan shall submit a request for modification in accordance with the provisions of G.S. 74-52. (g) If the Department denies an application for a permit, it the <u>Department</u> shall notify the operator in writing, stating the reasons for its <u>the</u> denial and any modifications in the application which that <u>would make it the application</u> acceptable. The operator may thereupon modify his application and resubmit the application, or file an appeal, <u>appeal</u> as provided in G.S. 74-61, but no such appeal shall be taken more than 60 days after notice of disapproval has been mailed to him at the address shown on his application. G.S. 74-61. (h) Upon approval of an application, the Department shall set the amount of the performance bond or other security which that <u>is to be required</u> pursuant to G.S.74-54. The operator shall have 60 days following the mailing of such notification after the Department mails a notice of the required bond to the operator <u>in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit.</u> (i) When one operator succeeds to the interest of another in any uncompleted mining operation, operation <u>operation</u> by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon him the operator <u>him</u> by this Article with reference to such the mining <u>the mining</u> operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security."
Language modified 2000-116, s. 2 The use of the phrase about adding land is not needed here. Adding land is a special case of a permit modification and	Section 2. G.S. 74-51(c) reads as rewritten: "(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or for permit modifications that add owners of record of lands adjoining the permit boundaries. for a modification of a mining permit to add land to the permitted area, as defined in G.S.74-50(b). The hearing

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

was relevant to the section about notifying adjacent land owners. Using this phrase here does not change the fact that all other permit modifications still need to meet all of the criteria of a new permit as listed in 74-50 and 74-51. Public hearings for permit modifications shall be held when significant public interest exists.	shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made."
Language modified 2017-209, s. 13(b) No language change since previous iteration other than adding the last sentence. See earlier comments.	(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made. <u>A public hearing shall not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.</u>
<u>Current: 74-51.</u> <u>Permits -</u> <u>Application,</u> <u>granting,</u> <u>conditions.</u> (1971, c. 545, s. 6; 1973, c. 507, s. 5; 1977, c. 771, s. 4; c. 845, s. 2; 1981, c. 787, ss. 2, 3; 1987, c. 827, c. 82; 1989, c. 727, s. 11; 1993 (Reg. Sess., 1994), c. 568, s. 3; 2000-116, s. 2; 2017-209, s. 13(b).)	(a) Any operator desiring to engage in mining shall make written application to the Department for a permit. The application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce this Article. The application shall be accompanied by a reclamation plan that meets the requirements of G.S. 74-53. No permit shall be issued until a reclamation plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation that the operator has failed to complete. (b) Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

No language change
since previous
iteration. See
earlier comments.

hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation.

(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made. A public hearing shall not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.

(d) The Department may deny the permit upon finding:

- (1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation;
- (2) That the operation will have unduly adverse effects on potable groundwater supplies, wildlife, or fresh water, estuarine, or marine fisheries;
- (3) That the operation will violate standards of air quality, surface water quality, or groundwater quality that have been promulgated by the Department;
- (4) That the operation will constitute a direct and substantial physical hazard to public health and safety or to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property, excluding matters relating to use of a public road;
- (5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area;
- (6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or
- (7) That the applicant or any parent, subsidiary, or other affiliate of the applicant or parent has not been in substantial compliance with this Article, rules adopted under this Article, or other laws or rules of this State for the protection of the environment or has not corrected all violations that the applicant or any parent, subsidiary, or other affiliate of the applicant or parent may have committed under this Article or rules adopted under this Article and that resulted in:
 - a. Revocation of a permit,
 - b. Forfeiture of part or all of a bond or other security,

Mining Act, Section 74-51. Permits; Application, Granting, Conditions /
Iterations from inception to current

Historically speaking, the focus of 74-51 is new mining applications.

	c. Conviction of a misdemeanor under G.S. 74-64, d. Any other court order issued under G.S. 74-64, or e. Final assessment of a civil penalty under G.S. 74-64, [or] f. Failure to pay the application processing fee required under G.S. 74-54.1. (e) In the absence of any finding set out in subsection (d) of this section, or if adverse effects are mitigated by the applicant as determined necessary by the Department, a permit shall be granted. (f) Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with any other reasonable and appropriate requirements and safeguards that the Department determines are necessary to assure that the operation will comply fully with the requirements and objectives of this Article. These conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds screening to be feasible and desirable. Violation of any conditions of the permit shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit. (g) If the Department denies an application for a permit, the Department shall notify the operator in writing, stating the reasons for the denial and any modifications in the application that would make the application acceptable. The operator may thereupon modify and resubmit the application, or file an appeal as provided in G.S. 74-61. (h) Upon approval of an application, the Department shall set the amount of the performance bond or other security that is to be required pursuant to G.S. 74-54. The operator shall have 60 days after the Department mails a notice of the required bond to the operator in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit. (i) When one operator succeeds to the interest of another in any uncompleted mining operation by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon the operator by this Article with reference to the mining operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security.
--	--

Burgos, Alexander N

From: Robert Perkins <porico@gmail.com>
Sent: Tuesday, July 28, 2026 12:13 PM
To: Everett, Jennifer; rrc.comments; Miller, Christopher S
Subject: [External] You did not Include my comments submitted on 21 July-- Proposed Mining Rules Reduce Oversight and Endanger the Environment!

You don't often get email from porico@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hello,

I submitted these comments for review prior to the deadline. They are not in the public comments .pdf published on the website. <https://www.oah.nc.gov/news/events/rrc-meeting-agenda-july-2026>
Please update the public comments to include my comments.

Sincerely
Robert Perkins

On Tue, Jul 21, 2026 at 2:21 PM Robert Perkins <porico@gmail.com> wrote:

Hello,

As a citizen of NC, I strongly object to the proposed changes to the Mining Rules. These changes only benefit multi-billion dollar corporations or the incredibly wealthy. **Sam Bratton has a tremendous conflict of interest, he will personally benefit financially from these changes.** These changes affect ongoing active Wake Stone litigation.

Especially regarding **"15A NCAC 05B .0111(a) Public Hearings - added text / added restriction "for a modification that adds land to an existing permit."--** Vulcan Materials and Sam Bratton are in active litigation regarding the "adding of land" to the Umstead RDU Quarry.

These rule changes are all designed to reduce oversight, or remove environmental protections.
Please note that the proposed rule changes are not posted on the NC Mining Commission webpage and the meeting minutes from 7 July are not posted. They are acting with impunity.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. The proposed rules are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

Remove environmental protection: 15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

Reduce oversight: 15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

Remove environmental protection: 15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

Reduce oversight: 15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

Remove environmental protection: 15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

Reduce oversight: 15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

Reduce oversight: 15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

Reduce oversight: 15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Sincerely,
Robert Perkins
201 Portsmouth Pl
Chapel Hill, NC 27516

Burgos, Alexander N

From: Glenda Jeffries <gmj13005@yahoo.com>
Sent: Friday, July 24, 2026 12:03 PM
To: rrc.comments
Subject: [External] Rules submitted by Mining Commission

Follow Up Flag: Follow up
Flag Status: Completed

You don't often get email from gmj13005@yahoo.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To Whom It M ay Concern:

I am emailing yo ask that you reject the Rules recently submitted by the Mining Commission. I am a resident of Wake County, in Raleigh North Carolina.

Sincerely,
Glenda Jeffries
13005 Hanford Court
Raleigh, NC 27614

Burgos, Alexander N

From: Jean Spooner <umsteadcoalition@gmail.com>
Sent: Thursday, July 23, 2026 4:57 PM
To: rrc.comments; Miller, Christopher S
Cc: Everett, Jennifer
Subject: [External] Comments - Proposed Mining Rules 15A NCAC 05
Attachments: UC Public Comments Proposed Mining Rules-July 23, 2026.pdf

You don't often get email from umsteadcoalition@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Please accept these comments on behalf of the Umstead Coalition, the Friends Group supporting William B. Umstead State Park and its surrounding open space.

--

Thanks for Supporting William B. Umstead State Park!

Dr. Jean Spooner, Chair
The Umstead Coalition
919-602-0049



The Umstead Coalition

P.O. Box 10654
Raleigh, NC 27605-0654
(919) 852-2268

<http://umsteadcoalition.org>

<Facebook.com/umsteadcoalition>

<Meetup.com/umsteadcoalition>

MEMORANDUM

July 23, 2026

To: Chair Jake Parker, Vice Chair William (Paul) Powell, Vice Chair Bill Nelson, and Commissioners Jeanette Doran, Wyatt T. Dixon III, Wayne Ronald Boyes III, John S Hahn, Jeffery T Hyde, Randy O Overton,

Christopher Mill, OAH Staff attorney and DEQ Rules Coordinator

rrc.comments@oah.nc.gov

christopher.miller@oah.nc.gov

Jennifer.everett@deq.nc.gov

From: Dr. Jean Spooner, Chair
The Umstead Coalition
919-852-2268 919-602-0049

Subject: **Public Comment on Proposed Mining Rules**

Attachments:

- A. Proposed Rules, annotated for conflicts with the Mining Act of 1971
- B. Mining Act of 1971 (G.S. 74-46 through 74-68), annotated for conflicts with proposed Rules Public Hearing
- C. Public Hearing Comment – North Carolina Wildlife Resources Commission

Please accept these comments on behalf of the Umstead Coalition, the Friends Group supporting William B. Umstead State Park and its surrounding open space.

The proposed changes to the Mining Rules that weaken buffers, restrict public comments, and exclude impacts from logging should be rejected and they violate the Mining Act of 1971.

The proposed Rule changes are attempting to CHANGE THE LAW, which should not be allowed (G.S 150B 21.9).

The Mining Rules are the “Rules” used to administer the Mining Program. They are supposed to be consistent with the Law passed by the Legislators – not an attempt to make new law or be more lenient for the mining companies. The NC Mining Act is already one of the weakest in the national, the proposed Rule changes weaken it further.

The proposed Mining Rules are inconsistent with the Mining Act by preventing meaningful public comments on Mining Permit applications, gut protective buffers, allow trucking and other heavy industrial mining operations right up to edge of property line, and exempt logging as a destructive part of a mining operation. The Umstead Coalition submits our suggestions with the intent to honor the Purposes of the 1971 Mining Act with (G.S.74-48) *“to provide (1) That the usefulness, productivity, and scenic values of all lands and waters involved in mining within the State will receive the greatest practical degree of protection and restoration. (2) ... no mining shall be carried out Unless plans for such mining include reasonable provisions for protections of the surrounding environment and for reclamation of the area of land affected by mining.”*

The Umstead Coalition recommends the draft rules as proposed NOT be approved, rather we recommend to amend the proposed Rule changes as follows:

Specifically, The Umstead Coalition strongly recommends the following draft rules be changed as follows:

15A NCAC 05A .0202 AUTHORITIES AND DEFINITIONS

Proposed new Rule (c)(2) should be deleted due to conflict with G.S. 74-49(1) and G.S. 74-49(7). The proposed new Rule (c)(4) should not be adopted due to conflict with G.S. 74-49(4). The proposed changes to Rule (c)(7) should not be adopted due to conflict with G.S. 74-50(b)(3). The proposed Rules exceed delegated authority by trying to create new law and do not serve public interest.

The proposed new Rule:

15A NCAC 05A .0202

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

The proposed Rule is attempted to exclude from mining an exclusion not granted by the NC Legislature.

This proposed Rule change conflicts with the Mining Act of 1971 G.A. 74-49 (1), G.S.74-49(7)(i), and G.S.74-49(7)(ii) which state:

G.S. 74-49 Definitions. (1) "Affected land" means the surface area of land that is mined, the surface area of land associated with a mining activity so that soil is exposed to accelerated erosion, the surface area of land on which overburden and waste is deposited, and the surface area of land used for processing or treatment plant, stockpiles, nonpublic roads, and settling ponds.

G.S. 74-49 Definitions. (7) Mining" means any of the following: (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. "Mining" does not include: ... (listing of exceptions to mining are listed in G.S. 74-49 Definitions (7)(a) through 7(g))

Note: the law lists exceptions to mining (G.S. 74-49 Definitions (7)(a) through 7(g) - timber harvesting/forestry/logging is NOT an exception listed in the law.

The Mining Act of 1971 (the law) in G.S. 74-49 defines affected land and mining. The proposed Rule is attempting to change the definition as given in the law and add exclusions beyond what the law explicitly lists.

Furthermore, logging IS an *“activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location (G.S. 74-49(7(ii))),* therefore, the proposed Rule violates the law.

The proposed Rule is trying to exclude timber harvesting/logging. The law (G.S. 74-49(7)) lists various exclusions and NONE of the listed exclusions are timber harvesting/logging. The proposed rule is attempting to create law not authorized by the legislature, thereby exceeding its authority.

Furthermore, the current procedures by DEQ IS to treat timber harvesting/logging on a mining site as mining as logging is in preparation for the extraction or removal of materials.

This proposed rule is attempting to CHANGE the law by adding exclusions for logging, even though logging is not listed as the explicate exclusions listed in Mining Act and conflicts with current processes of DEQ.

The law is clear, this Rule is not needed; its only purpose appears to be an attempt to create law – the Rule must be deleted.

Dire consequences of proposed new Rule: A mining site is destroyed by deforestation and Mining Company claims the logging “not affected land or mining.” The mining company could argue that the adverse impact on the adjacent landowners of the logging not be considered in the “adverse impacts” of the mining operation. Increased noise, dust, visual impacts to adjacent land owners due to the logging phase of a mining operation could be wrongly ignored as part of the legitimate “adverse impacts.” This Rule could change the current procedures within DEQ that current DO consider logging on a mining site to be part of the mining operations.

The proposed new Rule change fails to serve public interest. The proposed new rule goes against current practices of the agency. The proposed new Rule tried to create law by adding exceptions not allowed by the Mining Act of 1971.

=====

The proposed new Rule:

15A NCAC 05A .0202

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

Delete the Rule because the law is clear and the Rule exceeds the law. At minimum, the "or any position to which the Director has delegated their authority" must be deleted because the proposed Rule is in conflict with G.S.74-49(4) which explicitly states ONLY the Department Secretary can delegate.

This proposed Rule change conflicts with the Mining Act of 1971 G.S. 74-49 (4) which states:

74-49 (4) "Department" means the Department of Environmental Quality. Whenever in this Article the Department is assigned duties, they may be performed by the Secretary or an employee of the Department designated by the Secretary.

Dire Consequences of proposed change: Delegating to a "maverick" employee is dangerous. Mining Permits and their modifications have severe and often permanent adverse impacts on adjacent landowners and public lands. This proposed Rule change would open up all sorts of potential abuse (and hidden bribes). This proposed Rule change is inconsistent with the Mining Act of 1971.

Nowhere in the law does the Director have the authority to delegate. In fact, the law is specific that the Delegation authority lies with and only with the **Secretary of the Department. This proposed rule is attempting to CHANGE THE LAW, which should not be allowed.**

=====

The proposed new Rule:

15A NCAC 05A .0202 (c)(7)

"Mining Buffer" means an unexcavated, undisturbed, or vegetative area managed to protect adjacent land owners or areas of special concern.

Delete the proposed new Rule or at least delete the addition of "unexcavated" to the definition of "Mining Buffer"

"Unexcavated buffers" are NOT words that exist in the Mining Act of 1971 – this is a made-up set of words that basically allow a mining site to be devoid of meaningful buffers. Using "unexcavated" as an adjective to "buffer" is essentially stripping most of the value of a "buffer."

Unexcavated allows deforestation, roads (noisy, dusty trucking), berms, sediment basins – these are NOT what the public thinks of as "buffers." There are no other regulations (zoning, riparian stream protections, forestry, etc) that allow buffers to be essentially part of the industrial site activities. "Unexcavated" in NO WAY can be thought of as "protecting adjacent landowners or areas of special concerns".

There is no such thing as an "Unexcavated buffers" in the Mining Act. This proposed change is inconsistent with the Mining Act of 1971:

*G.S. 74-50 (b) (3). "Permitted area" means affected land and all other land used for or designated as **buffers** or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.*

This proposed rule is attempting to CHANGE THE LAW, which should not be allowed.

Dire Consequences of proposed change: The public believes a buffer not DOES NOT allow mining activities – an unexcavated buffer allows almost all surface mining operations. This is NOT consistent with protective buffers (usually vegetative or undisturbed) typically used for buffering heavy industrial sites from adjacent and nearby land owners. Potentially worse yet, a Mining Permit approved with "undisturbed" or "vegetative buffers" or similar buffer types – could be later changed on a 'whim' of the mining operator destroying the buffer that was approved and expected by the public – effectively removing a previously committed protective buffer. **All the more damaging given the proposed Rules also attempt to severely limit any public notice or comment when such a destruction of a promised protective buffer is converted to "unexcavated."**

The proposed new Rule:

15A NCAC 05A .0202

(c)(7)(C) "Vegetative Buffer" means an unexcavated buffer that may be managed through landscaping or additional plantings.

Delete the addition of "unexcavated" to the definition of "Vegetative Buffer"

"Unexcavated" should not be an adjective to "Buffer" and many "unexcavated" areas are NOT even vegetated. This is not only inconsistent with the mining action, but not consistent with any other protective buffers for streams, zoning protections, etc.

To repeat: There is no such thing as an "Unexcavated buffers" in the Mining Act. This proposed change is inconsistent with the Mining Act of 1971:

*G.S. 74-50 (b) (3). "Permitted area" means affected land and all other land used for or designated as **buffers** or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.*

This proposed rule is attempting to CHANGE THE LAW, which should not be allowed. Basically, the proposed change is attempted to allow gutting of any meaningful protective buffer.

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

(d) (1) and (d)(3) delete the proposed addition of “approved in advance by the Department” and “proof satisfactory to the Department” and replace “Register of Deeds” for “tax records.” The Department is not the authority on land ownership. The Rule violates § 74-50. (b1).

The proposed Rules:

15A NCAC 05B .0104

(d)(1) The names and 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. ~~and approved by the department [Department.]~~ The proposed mining site means all land to be included within the proposed permitted area;

(d)(3) Pursuant to G.S. 74-50, proof satisfactory to the 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 managers, who serve as the chief administrative 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 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 officers of the county or municipality. Other means of notice shall be satisfactory if approved in advance by the. Department.

This proposed Rule addition violates with the Mining Act of 1971 and attempts to delegate authority not allowed by the Mining Act:

§ 74-50 (b1) At the time of an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to notify:

- (1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.*
- (2) The **owners of record of land** adjoining that lies within 1,000 feet of the permit boundaries.*

The proposed Rule is attempting to violate the law. The while tax records sometimes are an indication, the recorded DEED at the county Register of Deeds or County’s Clerks office is the official legal document that proves the owner of record. – they are NOT, no way, somehow “approved by Department employees.” Additional land ownership records could include court records.

This proposed rule is attempting to CHANGE THE LAW, which should not be allowed. In fact, in this case it also violates other NC legislative actions.

Dire consequences: DEQ does NOT have expertise or authority in determining the legal landowners – violations of the law can occur.

We can provide a recent example. The Raleigh-Durham Airport re-combined PINS into a larger PIN. The Wake County tax records failed to note the full land ownership still retained for the tracts. The Deeds in Wake County Register of Deeds clearly state that the Cities of Raleigh and Durham and the Counties of Durham are the deeded owners of most subtracts as was confirmed by a Wake County Superior Court Judge order. In addition, another set of NC legislative actions, HB 476 (1939) and its amendments, refer to the four government owners of the RDUAA as the *“owning municipalities.”* The Deed and court records clearly confirm the land owners of the four local governments; the law (HB476) clearly confirms the land owners as the four local governments. However, a quick glance at the tax record (in this case, RDU Airport is tax exempt) might lead DEQ to assume all the land owners were notified, when, in fact, the mining company failed to follow the law and failed to notify the adjacent land owners of three out of the four local governments; The Cities of Raleigh and Durham and the County of Durham were not notified as required by § 74-50 (b1) .

This proposed Rule can result in abuse by a mining company and/or DEQ staff to avoid the required notifications of land owners as required by the Mining Act of 1971.

DEQ must follow the law, not what some employee of DEQ or a mining company approves or desires.
=====

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

The proposed Rules:

15A NCAC 05B .0105

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

(3) visual screening such as existing natural vegetation, vegetated earthen berms, and tree plantings at staggered spacing, 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.

The existing Rules should be maintained and the revised rules denied.

The removal of “natural” vegetation appears to unnecessarily weaken the Rules.

The biggest problem with the proposed rule is the proposed addition of “land when specified in State or local stream protection requirements.” There is NOTHING in the Mining Act that restricts the width or character of stream buffers. Similarly, there is nothing in the Mining Act that restricts stream buffers to those that may (or may not) exist on streams.

Please refer to page 2 (Stream Buffers) of the Public Hearing Comments submitted by the North Carolina Wildlife Resources Commission that requests (attached):

*The proposal changes to 05B .0105 modify the requirement for a natural buffer along streams to “a vegetated buffer to be left between any stream and the affected land when specified in State or local stream protection requirements.” Many streams are not subject to State or local stream protection requirements, and this proposal would eliminate a buffer requirement for these streams. This change not only impacts the ecological integrity of the streams on a mined area, but it can impact downstream waters, as stream function is highly dependent on the state of its headwater streams. **NCWRC requests that NCDEMLR modify this proposal to continue to protect natural riparian buffers for all affected streams.***

*In addition, the proposed definition of a “vegetated buffer” in 05B .0202—an unexcavated buffer that may be managed through landscaping or additional plantings—would allow an existing forested buffer to be cut and replaced with grass and/or non-native vegetation that does not provide the same functions as a native riparian buffer described above. **We request that the language be modified, requiring a natural, undisturbed buffer so that the buffer’s ecological functions be maintained.***

Furthermore, the Director must NOT be restricted. The Mining Act of 1971 does just the opposite – it allows the Department (Director) to require any information deemed necessary ...

This proposed rule is attempting to CHANGE THE LAW, which should not be allowed.

The proposed Rule is an attempt to unduly restrict DEQ-staff from adequate protection of adjacent lands.

There is nothing in the law that suggests stream buffers must be restricted.

The proposed RESTRICTION on stream buffers is inconsistent with G.S. 74-51:

§ 74-51. Permits - Application, granting, conditions.

*(a) Any operator desiring to engage in mining shall make written application to the Department for a permit. The application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, **the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce this Article.***

Dire consequences: Protective buffers along the streams serve many purposes including water quality, water quantity, noise, visual, wildlife corridors, aquatic habitat, and dust protection. Riparian buffers that are mandated by local or State protection requirements usually do not take into account most of these protective aspects for a mining site. Case in point: the Neuse Buffer Rules are primarily for nitrogen and aquatic life, but were not implemented to protect adjacent landowners from a mining site.

Furthermore, many streams in NC do not have other regulatory stream buffer protections, but protective buffers from mining operations may be appropriate. And, we all know, in the current anti-regulatory political environment, the sparse protections now required are under threat and could change. Stream buffers for a mining permit SHOULD NOT BE LIMITED by whatever the whim of the current (other) regulatory protections – but, instead based upon the protections applicable for the mining site and its adjacent and nearby neighbors. Similarly, if the stream laws change to be less protective – that should NOT trigger same reduction in protections that the adjacent and nearby landowners expected for the mining operation.

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

This Rule should not be repealed. This Rule was deemed “Necessary” by the RRC in a previous meeting.

The NC Wildlife Resources Commission Public Hearing comments raised concerns that removal of this Rule (see pages 2 of their letter, attached):

“With the removal of 15A NCAC 05B .106 from the rules, NCWRC has questions on how the denial of projects will be prioritized according to GS 74-51(d)(2) allowing for the conservation of public trust resources, including NCWRC’s role in minimizing a mine’s impacts to state wildlife resources. For example, an in-river mine could be proposed in an ecologically important river reach that supports state-listed mussels and amphibians. NCWRC’s recommendations to deny the mine or move it away from this reach may have no regulatory backing due to this change. If federally listed species is found within a project reach, permitting may result in the take of endangered species. Due to these potential scenarios, NCWRC requests that instream mining permits include NCWRC coordination within a scoping process to ensure potential impacts to wildlife are considered and minimized. ”

15A NCAC 05B .0111 PUBLIC HEARINGS

Public Comments from citizens, organizations and agencies should be restricted from consideration. Public Hearings are required by the Mining Act (Shall), but Public and Agency Comments are not restricted to be considered, especially when significant changes are made to the mining permit application after a Public Hearing concludes. There are NO restrictions for the DEQ to quit considering comments from citizens, organizations, and agencies. The proposed rule changes is attempted to go beyond the law and change the law. It also conflicts with current DEQ procedures for all permit considerations.

The proposed Rule:

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, or for a modification that adds land to the existing 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~~ 90 days of from the filing of the application and before the Department makes its final decision regarding the application.

(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 after which the public comment period will be considered closed and no other public comments can be considered in the final determination of the application. ~~within a period of time he deems appropriate which shall not exceed ten days.~~

This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

In the law, the word "**shall**" generally imposes a mandatory duty or obligation to perform an action. However, it **does not automatically prohibit** other actions unless the surrounding legal text explicitly states that the mandated action is the *only* permissible way to proceed.

Dire Consequences: A mining company first submits for approval in a large permitted area, but only a portion as "affected area." This Rule change would essentially prohibits public comments regarding the non "affected areas" such as "future reserves" on the Application. Then, when the inevitable Permit Modification application comes in and adds "affected lands" - a Public Hearing is not considered as an option. However, the law does not LIMIT Public hearings (or public comments) to just the first application and therefore eliminating any meaningful public comments when more land within the permitted area is changed to "affected" which may cause considerable "adverse effects."

This is consistent with the Mining Act of 1971.

§ 74-52. Permit modifications. (c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of

the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51.

The proposed changes to (c) and the addition of (e) are inconsistent with the entire Mining Act of 1971 as well as current practice in which DEQ considers all comments until the permit is issued.

Dire consequences of proposed changes: A mining permit is incomplete, DEQ asks for more information (e.g., Additional Information or ADI) which is indicative of an incomplete mining application, additional information is added or changed for the mining application. For example, decrease or change in the protective buffers or site plan map, etc. NOT allowing public and agency comment on these changes to the mining application will yield potential abuse by the mining operator – e.g., think of the advantages of “gaming” the system by submitting an incomplete mining application, only to decrease the public protections after the public and agencies would be no longer allowed to have their comments considered.

15A NCAC 05F .0112 FURTHER REMEDIES

Do not delete. The director SHOULD be able to pursue remedies to ensure a mining operation complies with the law.

1 15A NCAC 05A .0202 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

2
3 **15A NCAC 05A .0202 ~~DELEGATION~~ AUTHORITIES AND DEFINITIONS**

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

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

13 (b) The Director, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality,
14 Department of Environment, Health, and Natural Resources shall have the following powers and duties necessary to
15 administer with regard to the administration of the Control of Exploration for Uranium in North Carolina Act of ~~1983-~~
16 1983, including:

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

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

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

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

Deny Rule,
violates
G.S.74-49(1)
and G.S.
74-49(7)

33 "Contaminants" shall be defined as set forth in 42 USC 9601(33) "Pollutants or Contaminants",
34 which is hereby incorporated by reference, including any amendments or subsequent editions.
35 Copies may be accessed at <https://www.govinfo.gov/content/pkg/USCODE-2023->
36 title42/html/USCODE-2023-title42-chap103-subchapI-sec9601.htm at no charge.

Deny Proposed Rule 15A NCAC 05 .0202 (c)(4) due to conflict with G.S. 74-49(4) which gives only the Secretary delegated authority. The law does NOT give the Director delegation authority.

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

(5) "Division" means the Division of Energy, Mineral, and Land Resources.

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

(7) "Mining Buffer" means an unexcavated, undisturbed, or vegetative area managed to protect adjacent land owners or areas of special concern.

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

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

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

(8) "Non-public roads" means any private road that is not maintained by the State or had maintenance requirements delegated to a municipality. Temporary access roads utilized for exploratory purposes shall not be considered non-public roads when they comply with any requirements for approvals pursuant to G.S. 113A, Article 4.

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

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

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

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

Eff. February 1, 1976;

Amended Eff. January 31, 1979; September 3, 1976;

Readopted Eff. August 1, 1982;

Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1(f)); April 1, 1990; December 1, 1983;

Readopted Eff. August 1, 2026.

Delete "unexcavated", conflicts with G.S. 74-50(b)(3). Adding "unexcavated" is an attempt to change law

1 15A NCAC 05B .0104 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 AS WITH CHANGES FOLLOWS:

2
3 **15A NCAC 05B .0104 INFORMATION REQUIRED IN PERMIT APPLICATION**

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

- 7 (1) materials to be mined;
- 8 (2) method of mining;
- 9 (3) expected depth of mine;
- 10 (4) size of the mine, including:
 - 11 (A) acreage for tailings ponds,
 - 12 (B) acreage for stockpiles,
 - 13 (C) acreage for waste piles,
 - 14 (D) acreage for processing plants,
 - 15 (E) acreage for mine excavation,
 - 16 (F) acreage for annual disturbance;
- 17 (5) anticipated effect on wildlife, freshwater, estuarine or marine fisheries;
- 18 (6) ~~whether or not the mining operation will have a waste water wastewater discharge or air contaminant~~
19 ~~emission which that~~ that will require a permit from the division of environmental management; Division
20 of Water Resources, an air contaminant emission that will require a permit from the Division of Air
21 Quality, or will have a stormwater discharge that will require a permit from the Division of Energy,
22 Mineral, and Land Resources;
- 23 (7) ~~method~~ methods to prevent physical hazard to any neighboring dwelling house, school, church,
24 hospital, commercial or industrial building, or public road if the mining excavation will come within
25 300 feet thereof;
- 26 (8) ~~measures to be taken required~~ to insure ensure against landslides and acid water pollution;
- 27 (9) ~~measures to be taken required~~ to minimize siltation of streams, lakes, or adjacent properties during
28 the mining operation;
- 29 (10) ~~measures to be taken required~~ to screen the mining operation from public view-view;
- 30 (11) name of mine and location;
- 31 (12) responsible officer contact information;
- 32 (13) site contact information; and
- 33 (14) statement of authority as provided in Paragraph (f) of this Rule, when necessary.

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

- 35 (1) intended plan for overall mine reclamation, subsequent land use and the ~~general~~ methods to be used
36 in reclaiming the affected land;
- 37 (2) intended practices ~~to be taken required~~ to protect adjacent surface resources;

- (3) intended methods to prevent or eliminate conditions hazardous to animal or fish life in or adjacent to the affected areas;
- (4) intended methods of rehabilitation of settling ponds;
- (5) intended methods of restoration or establishment of stream channels and stream beds to a condition minimizing erosion, siltation and other pollution;
- (6) intended measures to stabilize slopes;
- (7) intended measures to provide for safety to persons and adjoining property in excavation in rock;
- (8) intended measures of disposal of mining refuse and control of contaminants;
- (9) provisions to prevent collection of noxious, odious or foul water in mined areas; and
- (10) plan for revegetation and reforestation or other surface treatment of the affected areas which plan ~~shall must~~ be approved in writing by one of the following prior to submission of the application:
- (A) Authorized ~~representatives~~ representative of the local soil and water conservation district having jurisdiction over lands in question;
- (B) Authorized ~~representatives~~ representative of the ~~division of forest resources, Department of Environment, Health, and Natural Resources;~~ North Carolina Forest Service within the Department of Agriculture and Consumer Services;
- (C) North Carolina Cooperative Extension County agricultural extension chairmen County Director [in a county listed] in the county(s) where the site is located or research and extension personnel headquartered at North Carolina State University in the school of agriculture and life sciences School of Agriculture and Life Sciences;
- (D) North Carolina licensed ~~landscape architects;~~ Landscape Architect pursuant to G.S. 89A;
- (E) North Carolina licensed Professional Engineer pursuant to G.S.89C;
- ~~(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 a plan for revegetation and reforestation developed utilizing one of the following:
- (A) North Carolina Erosion and Sedimentation Control Planning and Design Manual; or
- (B) North Carolina Surface Mining Manual: A Guide for Permitting, Operation and Reclamation; 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.

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

- 5 (1) property lines or affected area of mining operation;
- 6 (2) outline of pits;
- 7 (3) outline of stockpile areas;
- 8 (4) outline of overburden disposal areas;
- 9 (5) location of processing plants (Processing plants may be described as to location and distance from
10 ~~mine if sufficiently far removed.~~; the mine if not contiguous to the mine property.);
- 11 (6) location and name of streams and lakes;
- 12 (7) outline of settling ponds;
- 13 (8) location of access roads;
- 14 (9) mine permit boundaries;
- 15 (10) existing and proposed contours showing all drainage areas;

16 ~~(9)(11)~~ map legend; legend, including:

- 17 (A) name of company,
- 18 (B) name of mine,
- 19 (C) north arrow,
- 20 (D) county,
- 21 (E) scale,
- 22 (F) date prepared,
- 23 (G) name and title of person preparing map; and

24 ~~(10)(12)~~ names of owners of record, both public and private, of all adjoining ~~land~~ land as is specified in G.S.
25 74-50.

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

28 (14) Vicinity map showing the mining operation in relation to the general area at a minimum scale of
29 1:24,000.

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

32 (16) Approximate limits of future reserves not included in affected area.

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

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

Violates G.S. 75-50(b1), the Department is no a land ownership authority and should not be able to decide the land owners; legal documents such as Register of Deeds or Court records must be used with tax records are shown to be incomplete. Delete "approved by Department and "satisfactory to the Department..."

1 If recla

2 during each year of the permit.

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

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

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

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

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

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

27 (5) Any application submitted to the Department for approval of mining activities pursuant to G.S. 74-
28 50 shall include proof of ownership or the portion of valid and unexpired Memorandum Of Lease
29 or option from the property owner allowing mining activities for all lands to be included in the
30 permitted area as defined in G.S. 74-50(b)(3).

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

35 (f) Permit applications shall be signed as follows:

36 (1) in the case of corporations, by a principal executive officer of at least the level of vice-president, or
37 their authorized representative;

1 15A NCAC 05B .0105 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

2
3 **15A NCAC 05B .0105 CONDITIONS WHICH MAY BE INCLUDED IN PERMIT**

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

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

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

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

17 (4) erosion control measures to be taken during the construction and operation of all haul roads or access
18 roads to minimize offsite damage from ~~sediment;~~ sediment.

19 (5) other conditions necessary to safeguard the adjacent surface resources or wildlife.

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

22
23 *History Note: Authority G.S. 74-63; 74---51;*
24 *Eff. February 1, 1976;*
25 *Amended Eff. May 1, 1992; November 1, 1984;*
26 *Readopted Eff. August 1, 2026.*
27

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Mining Commission

RULE CITATION: 15A NCAC 05B .0106 (REPEAL)

DEADLINE FOR RECEIPT: July 20, 2026

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

History Note, Authority: Please fix the dashes used in the statutory citations.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Christopher S. Miller
Commission Counsel
Date submitted to agency: July 09, 2026

1 15A NCAC 05B .0106 IS REPEAED THROUGH READOPTION AS PUBLISHED IN 40:08 NCR 733 AS
2 FOLLOWS:

3
4 **15A NCAC 05B .0106 STANDARDS FOR DENYING AN APPLICATION**

5
6 *History Note: Authority G.S. 74-51; 74--58; 74---63;*
7 *Eff. February 1, 1976;*
8 *Amended Eff. November 1, 1984;*
9 *Repealed Eff. August 1, 2026.*
10



Do not repeal. The RRC Commission agreed with previous Public Comments that this Rule is Necessary

1 15A NCAC 05B .0111 IS READOPTED AS PUBLISHED IN 40:08 NCR 733 AS FOLLOWS:

2
3 **15A NCAC 05B .0111 PUBLIC HEARINGS**

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

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

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

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

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

28
29 *History Note:* Authority G.S. 74-51; 74-63; 74-86;
30 Eff. May 1, 1982;
31 Readopted Eff. August 1, 2026.
32

Delete restriction of public and agency
comments, violates G.S. 74-51 and 74-52

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Mining Commission

RULE CITATION: 15A NCAC 05F .0112 (Repeal)

DEADLINE FOR RECEIPT: July 20, 2026

PLEASE NOTE: *This request may extend to several pages. Please* **PLEASE NOTE:** *the end of the document.*

Do not delete Rule,
the Director should
be able to pursue
remedies to ensure
a mining operation
complies with the
law

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Form 0400: The form for this rule appears to be missing your signature in box 11. Please update and resubmit the Form to me.

History Note, Authority: For consistency, you should also strike out 74-62 here (since that statute has been repealed).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Christopher S. Miller
Commission Counsel
Date submitted to agency: July 09, 2026

Article 7.

The Mining Act of 1971.

§ 74-46. Title.

This Article may be known and cited as "The Mining Act of 1971." (1971, c. 545, s. 1.)

§ 74-47. Findings.

The General Assembly finds that the extraction of minerals by mining is a basic and essential activity making an important contribution to the economic well-being of North Carolina and the nation. Furthermore, it is not practical to extract minerals required by our society without disturbing the surface of the earth and producing waste materials, and the very character of certain surface mining operations precludes complete restoration of the land to its original condition. However, it is possible to conduct mining in such a way as to minimize its effects on the surrounding environment. Furthermore, proper reclamation of mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, beauty, and property rights of the citizens of the State. The General Assembly finds that the conduct of mining and reclamation of mined lands as provided by this Article will allow the mining of valuable minerals and will provide for the protection of the State's environment and for the subsequent beneficial use of the mined and reclaimed land. (1971, c. 545, s. 2.)

§ 74-48. Purposes.

The purposes of this Article are to provide:

- (1) That the usefulness, productivity, and scenic values of all lands and waters involved in mining within the State will receive the greatest practical degree of protection and restoration.
- (2) That from June 11, 1971, no mining shall be carried on in the State unless plans for such mining include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining. (1971, c. 545, s. 3.)

Deny Proposed Rule 15A NCAC 05 .0202 (c)

(2) due to conflict with law

§ 74-49. Definitions.

Wherever used or referred to in this Article, unless a different meaning clearly appears from the context:

- (1) "Affected land" means the surface area of land that is mined, the surface area of land associated with a mining activity so that soil is exposed to accelerated erosion, the surface area of land on which overburden and waste is deposited, and the surface area of land used for processing or treatment plant, stockpiles, nonpublic roads, and settling ponds.
- (1a) "Affiliate" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "affiliate" as a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
- (2) "Borrow pit" means an area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance.
- (3) "Commission" means the North Carolina Mining Commission created by G.S. 143B-290.
- (4) "Department" means the Department of Environmental Quality. Whenever in this Article the Department is assigned duties, they may be performed by the Secretary or an employee of the Department designated by the Secretary.
- (5) "Land" shall include submerged lands underlying any river, stream, lake, sound, or other body of water and shall specifically include, among others, estuarine and tidal lands.
- (6) "Minerals" means soil, clay, coal, stone, gravel, sand, phosphate, rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.
- (7) "Mining" means any of the following: (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.
Mining" does not include:

Deny Proposed Rule 15A NCAC 05 .0202 (c)(4) due to conflict with law; Secretary delegates. The law does NOT give the Director delegation authority.

- 
- a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.
 - b. Mining operations where the affected land does not exceed one acre in area.
 - c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.
 - d. Excavation or grading when conducted solely for on-site construction for purposes other than mining.
 - e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area.
 - f. Excavation or grading where all of the following apply:
 - 1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
 - 2. The affected land, including nonpublic access roads, does not exceed five acres.
 - 3. The excavation or grading is completed within one year.
 - 4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
 - 5. The excavation or grading is not in violation of any local ordinance.
 - 6. An erosion and sedimentation control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
 - g. Excavation or grading when conducted solely for activities undertaken on agricultural land that are exempt, pursuant to G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter 113A of the General Statutes.

Logging/Forestry/
timber harvesting is
NOT excluded from
the definition of
"Mining." Propose
Rule 15A NCAC
05 .0202 (c)(2)
violates law

- (8) "Neighboring" means in close proximity, in the immediate vicinity, or in actual contact.
- (9) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, engaged in mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.
- (10) "Overburden" means the earth, rock, and other materials that lie above the natural deposit of minerals.
- (10a) "Parent" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "parent" as an affiliate that directly, or indirectly through one or more intermediaries, controls another person.
- (11) "Peak" means overburden removed from its natural position and deposited elsewhere in the shape of conical piles or projecting points.
- (12) "Reclamation" means the reasonable rehabilitation of the affected land for useful purposes, and the protection of the natural resources of the surrounding area. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish on a continuing basis the vegetative cover, soil stability, water conditions and safety conditions appropriate to the area.
- (13) "Reclamation plan" means the operator's written proposal as required and approved by the Department for reclamation of the affected land, which shall include but not be limited to:
 - a. Proposed practices to protect adjacent surface resources;
 - b. Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;
 - c. Manner and type of revegetation or other surface treatment of the affected areas;
 - d. Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;

- e. Method of compliance with State air and water pollution laws;
 - f. Method of rehabilitation of settling ponds;
 - g. Method of control of contaminants and disposal of mining refuse;
 - h. Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;
 - i. Maps and other supporting documents as may be reasonably required by the Department; and
 - j. A time schedule that meets the requirements of G.S. 74-53.
- (14) "Refuse" means all waste soil, rock, mineral, scrap, tailings, slimes, and other material directly connected with the mining, cleaning, and preparation of substances mined and shall include all waste materials deposited on or in the permit area from other sources.
- (15) "Ridge" means overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation.
- (16) "Spoil bank" means a deposit of excavated overburden or refuse.
- (16a) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "subsidiary" as an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.
- (17) "Termination of mining" means cessation of mining operations with intent not to resume, or cessation of mining operations as a result of expiration or revocation of the permit of the operator. Whenever the Department shall have reason to believe that a mining operation has terminated, the Department shall give the operator written notice of its intention to declare the operation terminated, and the operator shall have an opportunity to appear within 30 days and present evidence that the operation is continuing; where the Department finds that the evidence is satisfactory, the Department shall not declare the mining operation terminated. (1971, c. 545, s. 4; 1973, c. 1262, ss. 33, 86; 1977, c. 771, s. 4; c. 845, s. 1; 1989, c. 727, s. 218(13); 1993 (Reg. Sess., 1994), c. 568, s. 1; 1997-443, s. 11A.119(a); 1999-82, s. 1; 2002-165, s. 2.1; 2012-143, s. 1(d); 2014-4 s. 5(c); 2015-241 s. 14 30(n); 2015-263 s. 23.)

Deny Proposed Rules 15B NCAC 05 .0104 (d)(1) and (d(3) due to conflict with G.S. 74-50 (b1)

§ 74-50. Permits - General.

(a) No operator shall engage in mining without having first obtained from the Department an operating permit that covers the affected land and that has not been terminated, revoked, suspended for the period in question, or otherwise become invalid. An operating permit may be modified from time to time to include land neighboring the affected land, in accordance with procedures set forth in G.S. 74-52. A separate permit shall be required for each mining operation that is not on land neighboring a mining operation for which the operator has a valid permit.

(b) As used in subsection (b1) of this section:

- (1) "Land adjoining" means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of, the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that is contiguous to either:
 - a. Any parcel or tract that includes the permitted area.
 - b. Any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, when combined, are contiguous to the permitted area.
- (2) "Permit boundaries" means the boundaries of a permitted area.
- (3) "Permitted area" means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(b1) At the time of an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to notify:

- (1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.
- (2) The owners of record of land adjoining that lies within 1,000 feet of the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining

permit to add land to a permitted area, with notice required for only that land to be added.

(3) The owners of record of land that meets both of the following criteria:

- a. Lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public right-of-way. For purposes of this sub-subdivision, "highway" means a highway, as defined in G.S. 20-4.01(13), that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.
- b. Lies within 1,000 feet of the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining permit to add land to a permitted area, with notice required for only that land to be added.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed new or modified mining operation that adds land to the permitted area and the opportunity to request a public hearing regarding the proposed new or modified mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

- (1) Division of Air Quality, Department of Environmental Quality.
- (2) Division of Parks and Recreation, Department of Natural and Cultural Resources.
- (3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.
- (4) Division of Water Resources, Department of Environmental Quality.
- (5) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality.
- (6) Wildlife Resources Commission, Department of Environmental Quality.
- (7) Office of Archives and History, Department of Natural and Cultural Resources.
- (8) United States Fish and Wildlife Service, United States Department of the Interior.
- (9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, the Division of Marine Fisheries, and the Division of Waste Management of the Department of Environmental Quality, and the Department of Transportation.

(c) No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to G.S. 74-54. If at any time the bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which the lapsed bond or security pertains shall be automatically revoked.

(d) Except as provided in subsection (d1) of this section, permits for mining operations shall be issued for the life-of-site of the operation unless revoked as otherwise provided under this Article. For purposes of this section, "life-of-site" means the period from the initial receipt of a permit from the operation until the mining operation terminates and the reclamation required under the approved reclamation plan is completed. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan.

(d1) Permits for mining operations conducted on real property that is leased from a public entity shall be issued for the life-of-lease. For purposes of this subsection, the following terms apply: (i) "life-of-lease" means the duration of the lease between the owner or operator of the mining operation and a public entity and (ii) "public entity" means the State, any State agency, State college or university, county, municipal corporation, local board of education, community college, special district, or other political subdivision of the State. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan. (1971, c. 545, s. 5; 1973, c. 1262, s. 33; 1981, c. 787, s. 1; 1993 (Reg. Sess., 1994), c. 568, s. 2; 2000-116, s. 1; 2002-159, s. 35(d); 2012-143, s. 1(f); 2013-413, s. 57(b); 2014-115, s. 17; 2015-241, s. 14.30(kk); 2017-209, s. 13(a); 2022-43, s. 8(a).)

Proposed Rule 15A NCAC 05B .0105 should be denied as the law does not restrict stream buffers to other existing stream regulations; the proposed rule violates 74-51(a)

§ 74-51. Permits - Application, granting, conditions.

(a) Any operator desiring to engage in mining shall make written application to the Department for a permit. The application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce this Article. The application shall be accompanied by a reclamation plan that meets the requirements of G.S. 74-53. No permit shall be issued until a reclamation plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation that the operator has failed to complete.

(b) Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the n
Board of Transportation.

Proposed Rule 15A NCAC 05B .0111 Public Hearing conflict with law

(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made. A public hearing shall not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.

(d) The Department may deny the permit upon finding:

- (1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation;
- (2) That the operation will have unduly adverse effects on potable groundwater supplies, wildlife, or fresh water, estuarine, or marine fisheries;
- (3) That the operation will violate standards of air quality, surface water quality, or groundwater quality that have been promulgated by the Department;
- (4) That the operation will constitute a direct and substantial physical hazard to public health and safety or to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property, excluding matters relating to use of a public road;
- (5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area;
- (6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or
- (7) That the applicant or any parent, subsidiary, or other affiliate of the applicant or parent has not been in substantial compliance with this Article, rules adopted under this Article, or other laws or rules of this State for the protection of the environment or has not corrected all violations that the applicant or any parent, subsidiary, or other affiliate of the applicant or parent may have committed under this Article or rules adopted under this Article and that resulted in:
 - a. Revocation of a permit,
 - b. Forfeiture of part or all of a bond or other security,
 - c. Conviction of a misdemeanor under G.S. 74-64,
 - d. Any other court order issued under G.S. 74-64, or
 - e. Final assessment of a civil penalty under G.S. 74-64, [or]
 - f. Failure to pay the application processing fee required under G.S. 74-54.1.

Do NOT repeal Rule 15A NCAC 05B .0106

(e) In the absence of any finding set out in subsection (d) of this section, or if adverse effects are mitigated by the applicant as determined necessary by the Department, a permit shall be granted.

(f) Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with any other reasonable and appropriate requirements and safeguards that the Department determines are necessary to assure that the operation will comply fully with the requirements and objectives of this Article. These conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds screening to be feasible and desirable. Violation of any conditions of the permit shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit.

(g) If the Department denies an application for a permit, the Department shall notify the operator in writing, stating the reasons for the denial and any modifications in the application that would make the application acceptable. The operator may thereupon modify and resubmit the application, or file an appeal as provided in G.S. 74-61.

(h) Upon approval of an application, the Department shall set the amount of the performance bond or other security that is to be required pursuant to G.S. 74-54. The operator shall have 60 days after the Department mails a notice of the required bond to the operator in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit.

(i) When one operator succeeds to the interest of another in any uncompleted mining operation by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon the operator by this Article with reference to the mining operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security. (1971, c. 545, s. 6; 1973, c. 507, s. 5; 1977, c. 771, s. 4; c. 845, s. 2; 1981, c. 787, ss. 2, 3; 1987, c. 827, c. 82; 1989, c. 727, s. 11; 1993 (Reg. Sess., 1994), c. 568, s. 3; 2000-116, s. 2; 2017-209, s. 13(b).)

§ 74-52. Permit modifications.

(a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article.

(b) Repealed by Session Laws 2017-209, s. 13(c), effective October 4, 2017.

(c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51.

(d) No modification of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan.

(e) Notwithstanding any restrictions on the collection or storage of solid waste that may be applicable pursuant to Article 9 of Chapter 130A of the General Statutes, the Department, upon agreement of a permittee, may, without need of a permit modification under this section, authorize the permittee to temporarily store storm-related debris at a mine when a state of emergency, as defined in G.S. 166A-19.3, has been declared by the Governor due to a natural disaster such as a hurricane, tornado, or flood, or due to a pending disaster, for a period not to exceed one year from the end of the state of emergency. For purposes of this subsection, the following definitions apply:

(1) The definitions set out in G.S. 130A-290.

(2) Storm-related debris. - Construction and demolition debris and yard trash that originates from designated counties in an emergency area, as defined in G.S. 166A-19.3(7). (1971, c. 545, s. 7; 1993 (Reg. Sess., 1994), c. 568, s. 4; 2017-209, s. 13(c); 2024-53, s. 4C.10.)

§ 74-53. Reclamation plan.

The operator shall submit with his application for an operating permit a proposed reclamation plan. Said plan shall include as a minimum, each of the elements specified in the definition of "reclamation plan" in G.S. 74-49, plus such other information as may be reasonably required by the Department. The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, shall to the extent feasible be conducted simultaneously with mining operations and in any event be initiated at the earliest practicable time after completion or termination of mining on any segment of the permit area. The plan shall provide that reclamation activities shall be completed within two years after completion or termination of mining on each segment of the area for which a permit is requested unless a longer period is specifically permitted by the Department.

The Department may approve, approve subject to stated modifications, or reject the plan which is proposed. The Department shall approve a reclamation plan (as submitted or as modified) only where it finds that it adequately provides for those actions necessary to achieve the purposes and requirements of this Article, and that in addition, the plan meets the following minimum standards:

- (1) The final slopes in all excavations in soil, sand, gravel, and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.
- (2) Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.
- (3) At open pit mining operations, all overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.
- (4) In no event shall any provision of this section be construed to allow small pools of water that are, or are likely to become, noxious, odious, or foul to collect or remain on the mined area. Suitable drainage ditches or conduits shall be constructed or installed to avoid such conditions. Lakes, ponds, and marsh lands shall be considered adequately reclaimed lands when approved by the Department.
- (5) The type of vegetative cover and methods of its establishment shall be specified, and in every case shall conform to accepted and recommended agronomic and reforestation restoration practices as established by the North Carolina Agricultural Experiment Station and Department of Environmental Quality. Advice and technical assistance may be obtained through the State soil and water conservation districts.

The Department shall be authorized to approve a reclamation plan despite the fact that such plan does not provide for reclamation treatment of every portion of the affected land, where the Department finds that because of special conditions such treatment would not be feasible for particular areas and that the plan takes all practical steps to minimize the extent of such areas. (1971, c. 545, s. 8; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(14); 1991, c. 342, s. 1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 74-54. Bonds.

(a) Each applicant for an operating permit, or for the modification of an existing permit shall, following the approval of the application, file and maintain in force a bond in favor of the State of North Carolina, executed by a surety approved by the Commissioner of Insurance, in the amount set forth below. The bond herein provided for must be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department and to the operator.

(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the Commission, but shall not exceed one million dollars (\$1,000,000). The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Commission.

(c) The bond shall be conditioned upon the faithful performance of the requirements set forth in this Article and of the rules adopted under this Article. Upon filing the bond with the Department, the operator shall lose all

right, title, and interest in the bond while the bond is held by the Department. Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released only upon written notification from the Department. Notification shall be given upon completion of compliance or acceptance by the Department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this section.

(d) In lieu of the surety bond required by this section, the operator may file with the Department a cash deposit, an irrevocable letter of credit, a guaranty of payment from an acceptable bank, an assignment of a savings account in an acceptable bank on an assignment form prescribed by the Department, or other security acceptable to the Department. Security shall be subject to the release provisions of G.S. 74-56.

(e) If the license to do business in North Carolina of any surety upon a bond filed pursuant to this Article should be suspended or revoked, the operator shall, within 60 days after receiving notice thereof, substitute for the surety a good and sufficient corporate surety authorized to do business in this State. Upon failure of the operator to substitute sufficient surety within the time specified, the operator's permit shall be automatically revoked. (1971, c. 545, s. 9; 1981, c. 787, s. 4; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 5; 2012-143, s. 1(d); 2013-410, s. 7(a); 2017-209, s. 13(d).)

§ 74-54.1. Permit fees.

(a) The fee schedule for the processing of permit applications, transfers, and modifications is as follows:

0-25 acres 26+ acres

New Permit Applications \$3,750.00 \$5,000.00

Permit Modifications \$750.00 \$1,000.00

Permit Transfers \$100.00 \$100.00

(a1) In addition to the fees set forth in subsection (a) of this section, permittees shall pay an annual operating fee of four hundred dollars (\$400.00) per permit per year as set forth in G.S. 74-55. The Department may charge a late fee of fifty dollars (\$50.00) per month per permit for every month or partial month that payment of the annual operating fee is delinquent.

(b) Fees collected under this section shall be credited to the General Fund and shall be applied to the costs of administering this Article.

(c) Repealed by Session Laws 2017-10, s. 4.1, effective May 4, 2017. (1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1993, c. 513, s. 3; 1993 (Reg. Sess., 1994), c. 568, s. 6; 2007-323, s. 30.2(a); 2012-143, s. 1(d); 2013-410, s. 7(b); 2015-241, s. 14.16(b); 2017-10, s. 4.1; 2017-209, s. 13(e).)

§ 74-55. Reclamation report.

(a) By September 1 of each year, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which includes all of the following:

- (1) Identify the mine, the operator and the permit number.
- (2) State acreage disturbed by mining in the last 12-month period.
- (3) State and describe amount and type of reclamation carried out in the last 12-month period.
- (4) Estimate acreage to be newly disturbed by mining in the next 12-month period.
- (5) Provide such maps as may be specifically requested by the Department.
- (6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

(b) When filing the annual report, the permittee shall pay the annual operating fee for the permit to the Department by September 1 of each year until the permit has been terminated by the Department. The Department may assess and collect a monthly penalty for each annual report or annual operating fee not filed by September 30 of each year until the annual report and annual operating fee are filed with the Department. If the required annual report and operating fee, including any late payment penalties, are not filed by December 31 of each year, the Department shall give written notice to the operator and shall then initiate permit revocation proceedings in accordance with G.S. 74-58. (1971, c. 545, s. 10; 1987, c. 827, s. 85; 2017-209, s. 13(f); 2020-74, s. 10.)

§ 74-56. Inspection and approval of reclamation; bond release or forfeiture.

(a) The Department may direct investigations as it may reasonably deem necessary to carry out its duties as prescribed by this Article, and for this purpose may enter at reasonable times upon any mining operation for the purpose of determining compliance with this Article and any rules adopted under this Article and for determining

compliance with the terms and conditions of a mining permit, but for no other purpose. No person shall refuse entry or access to any authorized representative of the Department who enters the mining operation for purposes of inspection or other official duties and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with the representative while the representative is carrying out official duties. Upon arriving at the site, the representative of the Department shall make every reasonable effort to notify the operator or the operator's agent that the representative of the Department intends to inspect the site. Upon receipt of the operator's annual report or report of completion of reclamation and at any other reasonable time the Department may elect, the Department shall cause the permit area to be inspected to determine whether the operator has complied with the reclamation plan, the requirements of this Article, any rules adopted under this Article, and the terms and conditions of the permit.

(b) The operator shall proceed with reclamation as scheduled in the approved reclamation plan. The Department shall conduct an inspection and give written notice to the operator of any deficiencies noted. The operator shall thereupon commence action within 30 days to rectify these deficiencies and shall diligently proceed until they have been corrected. The Department may extend performance periods referred to in this section and in G.S. 74-53 for delays clearly beyond the operator's control, but only in cases where the Department finds that the operator is making every reasonable effort to comply.

(c) Upon completion of reclamation of an area of affected land, the operator shall notify the Department. The Department shall make an inspection of the area, and if it finds that reclamation has been properly completed, it shall notify the operator in writing and release the operator from further obligations regarding the affected land. At the same time the Department shall release all or the appropriate portion of any performance bond or other security that the operator has posted under G.S. 74-54.

(d) If at any time the Department finds that reclamation of the permit area is not proceeding in accordance with the reclamation plan and that the operator has failed within 30 days after notice to commence corrective action, or if the Department finds that reclamation has not been properly completed in conformance with the reclamation plan within two years, or longer if authorized by the Department, after termination of mining on any segment of the permit area, the Department shall initiate forfeiture proceedings against the bond or other security filed by the operator under G.S. 74-59. In addition, failure to implement the reclamation plan shall constitute grounds for suspension or revocation of the operator's permit, as provided in G.S. 74-58. (1971, c. 545, s. 11; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 7; 1995, c. 504, s. 3.)

§ 74-57. Departmental modification of permit or reclamation plan.

If at any time it appears to the Department from its inspection of the affected land that the activities under the reclamation plan and other terms and conditions of the permit are failing to achieve the purposes and requirements of this Article, it shall give the operator written notice of that fact, of its intention to modify the reclamation plan and other terms and conditions of the permit in a stated manner, and of the operator's right to a hearing on the proposed modification at a stated time and place. The date for such hearing shall be not less than 30 nor more than 60 days after the date of the notice unless the Department and the operator shall mutually agree on another date. Following the hearing the Department shall have the right to modify the reclamation plan and other terms and conditions of the permit in the manner stated in the notice or in such other manner as it deems appropriate in view of the evidence submitted at the hearing. (1971, c. 545, s. 12.)

§ 74-58. Suspension or revocation of permit.

(a) Whenever the Department shall have reason to believe that a violation of (i) this Article, (ii) any rules adopted under this Article, or (iii) the terms and conditions of a permit, including the approved reclamation plan, has taken place, it shall serve written notice of the apparent violation upon the operator, specifying the facts constituting the apparent violation and informing the operator of the operator's right to an informal conference with the Department. The date for an informal conference shall be not less than 15 nor more than 30 days after the date of the notice, unless the Department and the operator mutually agree on another date. If the operator or the operator's representative does not appear at the informal conference, or if the Department following the informal conference finds that there has been a violation, the Department may suspend the permit until the violation is corrected or may revoke the permit where the violation appears to be willful, or where the permittee has failed to pay the fee or late payment penalties required by G.S. 74-55(b).

(b) The effective date of any suspension or revocation shall be 30 days following the date of the decision. The filing of a petition for a contested case under G.S. 74-61 shall stay the effective date until issuance of a final

decision. If the Department finds at the time of its initial decision that any delay in correcting a violation would result in imminent peril to life or danger to property or to the environment, it shall promptly initiate a proceeding for injunctive relief under G.S. 74-64 hereof and Rule 65 of the Rules of Civil Procedure. The pendency of any appeal from a suspension or revocation of a permit shall have no effect upon an action for injunctive relief.

(c) Any operator whose permit has been suspended or revoked shall be denied a new permit or reinstatement of the suspended permit to engage in mining until the operator gives evidence satisfactory to the Department of the operator's ability and intent to fully comply with the provisions of this Article and rules adopted under this Article, and the terms and conditions of the permit, including the approved reclamation plan, and that the operator has satisfactorily corrected all previous violations. (1971, c. 545, s. 13; 1973, c. 1262, s. 33; 1979, c. 252, s. 1; 1987, c. 827, s. 82A; 1993 (Reg. Sess., 1994), c. 568, s. 8; 2011-398, s. 29; 2017-209, s. 13(g).)

§ 74-59. Bond forfeiture proceedings.

Whenever the Department determines the necessity of a bond forfeiture under the provisions of G.S. 74-56, or whenever it revokes an operating permit under the provisions of G.S. 74-58, it shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed by the operator under G.S. 74-54; provided, however, that no such request shall be made for forfeiture of a bond until the surety has been given written notice of the violation and a reasonable opportunity to take corrective action. Such proceedings shall be brought in the name of the State of North Carolina. In such proceedings, the face amount of the bond or other security, less any amount released by the Department pursuant to G.S. 74-56, shall be treated as liquidated damages and subject to forfeiture. All funds collected as a result of such proceedings shall be placed in a special fund and used by the Department to carry out, to the extent possible, the reclamation measures which the operator has failed to complete. If the amount of the bond or other security filed pursuant to this section proves to be insufficient to complete the required reclamation pursuant to the approved reclamation plan, the operator shall be liable to the Department for any excess above the amount of the bond or other security which may be required to defray the cost of completing the required reclamation. (1971, c. 545, s. 14.)

§ 74-60. Notice.

Whenever in this Article written notice is required to be given by the Department, such notice shall be mailed by registered or certified mail to the permanent address of the operator set forth in his most recent application for an operating permit or for a modification of such permit. No other notice shall be required. (1971, c. 545, s. 15; 2017-209, s. 13(h).)

§ 74-61. Administrative and judicial review of decisions.

An applicant, permittee, or affected person may contest a decision of the Department to grant, deny, suspend, modify, or revoke a permit or a reclamation plan, to refuse to release part or all of a bond or other security, or to assess a civil penalty by filing a petition for a contested case under G.S. 150B-23 within 30 days after the Department makes the decision. For purposes of this section, the date of the decision to grant, deny, suspend, modify, or revoke a permit application shall be when the Department posts the decision on a publicly available website. Article 4 of Chapter 150B of the General Statutes governs judicial review of a decision of the Commission. (1971, c. 545, s. 16; 1973, c. 1262, s. 33; 1977, c. 771, s. 4; 1979, c. 252, s. 3; 1987, c. 827, s. 86; 1993 (Reg. Sess., 1994), c. 568, s. 9; 2011-398, s. 30; 2022-43, s. 8(b).)

§ 74-62. Repealed by Session Laws 1987, c. 827, s. 83.

§ 74-63. Rules.

The Commission may adopt rules necessary to administer this Article. (1971, c. 545, s. 18; 1973, c. 1262, s. 33; c. 1331, s. 3; 1987, c. 827, s. 84.)

§ 74-64. Penalties for violations.

(a) Civil Penalties.

- (1) a. A civil penalty of not more than five thousand dollars (\$5,000) may be assessed by the Department against any person who fails to secure a valid operating permit prior to engaging in mining, as required by G.S. 74-50. No civil penalty shall be assessed until the operator has been given notice of the violation pursuant to G.S. 74-60. Each day of

a continuing violation shall constitute a separate violation and a civil penalty of not more than five thousand dollars (\$5,000) per day may be assessed for each day the violation continues.

- b. Any permitted operator who violates any of the provisions of this Article, any rules adopted under this Article, or any of the terms and conditions of the mining permit shall be subject to a civil penalty of not more than five hundred dollars (\$500.00). Each day of a continuing violation shall constitute a separate violation. Prior to the assessment of any civil penalty, written notice of the violation shall be given. The notice shall describe the violation with reasonable particularity, shall specify a time period reasonably calculated to permit the violator to complete actions to correct the violation, and shall state that failure to correct the violation within that period may result in the assessment of a civil penalty.
 - c. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by the noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.
- (2) The Department shall determine the amount of the civil penalty to be assessed pursuant to G.S. 74-64(a)(1) and shall give notice to the operator of the assessment of the civil penalty pursuant to G.S. 74-60, or by any means authorized by G.S. 1A-1, Rule 4. The notice shall set forth in detail the violation or violations for which the civil penalty has been assessed. The operator may appeal the assessment of any civil penalty assessed pursuant to this section in accordance with the procedures set forth in G.S. 74-61.
 - (3) The notice of assessment shall direct the violator to pay the assessment or contest the assessment as provided in G.S. 74-61. If the violator does not pay the assessment within 30 days after receipt of the notice of assessment or within 30 days after receipt of the final agency decision, where the assessment has been contested, the Department shall request the Attorney General to institute a civil action in superior court to recover the amount of the penalty. A civil action under this section shall be filed within three years of the date the final agency decision was served on the violator.
 - (4) The clear proceeds of civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
 - (5) In addition to other remedies, the Department may request the Attorney General to institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this Article or any rules adopted under this Article, or the obstruction, hampering, or interference with an authorized representative of the Department while the representative is carrying out official duties pursuant to this Article.

(b) Criminal Penalties. - In addition to other penalties provided by this Article, any operator who engages in mining in willful violation of the provisions of this Article or of any rules promulgated hereunder or who willfully misrepresents any fact in any action taken pursuant to this Article or willfully gives false information in any application or report required by this Article shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense. (1971, c. 545, s. 19; 1979, c. 252, s. 2; 1981, c. 787, ss. 7, 8; 1987, c. 246, s. 1; c. 827, s. 85; 1989 (Reg. Sess., 1990), c. 1024, s. 16; 1993, c. 539, s. 555; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 568, s. 10; 1998-215, s. 42.)

§ 74-65. Effect on local zoning regulations.

No provision of this Article shall be construed to supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina, except insofar as a provision of said regulation or ordinance is in direct conflict with this Article. (1971, c. 545, s. 20.)

§ 74-66. Private relief against nuisance or hazard.

No provision of this Article shall be construed to restrict or impair the right of any private or public person, association, corporation, partnership, officer, or agency to bring any legal or equitable action for redress against nuisances or hazards. (1971, c. 545, s. 21.)

§ 74-67. Exemptions.

The provisions of this Article shall not apply to those activities of the Department of Transportation, nor of any person, firm, or corporation acting under contract with the Department of Transportation, on highway rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the public road systems of North Carolina; provided, that this exemption shall not become effective until the Department of Transportation shall have adopted reclamation standards applying to such activities and such standards have been approved by the Commission. The provisions of this Article shall not apply to mining on federal lands under a valid permit from the U.S. Forest Service or the U.S. Bureau of Land Management. (1971, c. 545, s. 22; 1973, c. 507, s. 5; c. 1262, s. 33; 1977, c. 464, s. 34; 2012-143, s. 1(d); 2013-410, s. 7(c).)

§ 74-68. Cooperation with other agencies; contracts and grants.

The Department, with the approval of the Governor, and in order to accomplish any of the purposes of the Department, may apply for, accept, and expend grants from the federal government and its agencies and from any foundation, corporation, association, or individual; may enter into contracts relating to such grants; and may comply with the terms, conditions, and limitations of any such grant or contract. The Department may engage in such research as may be appropriate to further its ability to accomplish its purposes under this Article, and may contract for such research to be done by others. The Department may cooperate with any federal, state, or local government or agency, of this or any other state, in mutual programs to improve the enforcement of this Article or to accomplish its purposes more successfully. (1971, c. 545, s. 23.)

§§ 74-69 through 74-74. Reserved for future codification purposes.



⬠ North Carolina Wildlife Resources Commission ⬠

M. Kyle Briggs, Executive Director

December 15, 2025

Dwain Veach
NC Mining Commission
1612 Mail Service Center
Raleigh, NC 27699-1611

SUBJECT: Proposed revisions to Mining Act Rules 15A NCAC Chapter 05

Dear Mr. Veach:

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) have reviewed the proposal from the NC Division of Energy, Mineral and Land Resources (NCDEMLR) to revise the Mining Act (Act) Rules. The NCWRC is charged by statute with management, regulation, protection and conservation of wildlife resources and inland fisheries in North Carolina (General Statute 113-132). The NCWRC's mission includes conserving North Carolina's wildlife resources and their habitats, which include wetlands and streams.

NCDEMLR has proposed rule changes to the NC Mining Act Rules to satisfy the rule review process required by Title 15A, Chapter 05 of the North Carolina Administrative Code. According to the public notice for this action, the proposed changes are also designed to update references and terminology and to revise requirements in line with current practices and technological advancements. Within the notice, NCDEMLR acknowledges that mineral extraction will involve ground disturbance and create waste materials and complete restoration of all sites to their original condition is unachievable. However, NCDEMLR also noted that the Act references the intent to conduct mining in a way "to minimize its effects on the surrounding environment through planning and restoration" and "to provide a framework to provide for the protection of the environment."

NCWRC reviews mine permit applications and provides recommendations to minimize impacts to wildlife and their habitats. Mines can directly impact terrestrial wildlife by removing habitats like native vegetation, soils, and rock, as well as eliminating aquatic habitat by filling in or dredging streams and wetlands and changing water chemistry due to a project's discharge. The NC Wildlife Action Plan (Plan) provides reference and scale to these impacts and notes mining activities as a threat to wildlife species and habitats. The Plan serves as a resource in determining the scale of sensitivity of a species to habitat changes based on their protection status. The Plan tracks trends of federal and state listed species as well as Species of Conservation Need (SGCN) with references in the Threats Chapter (Chapter 5) to which activities are of greatest concern. For example, Table 5.5-1 highlights species at risk of impacts from energy production and mining. Several years ago, NCWRC coordinated with NCDEMLR staff on methods to screen mining

projects for highly sensitive species to instream mining activities which were applied for 15A NCAC 05B .0106. With this language removal, NCWRC requests the opportunity to meet with NCDEMLR staff to discuss and review current practices in relation to minimizing impacts to wildlife resources per G.S. 74-51 (2) and (3) to improve our coordination and sharing of information. This coordination would allow us an opportunity to provide clarity on impacts to wildlife resources that we have the greatest concern for.

NCWRC appreciates the details included in the Regulatory Impact Analysis for the Mining Rules which are in support of rules for the Mining Act. The current rules which are proposed for removal have a direct reference to the NCWRC in 15A NCAC 05B .0106. We offer the following input on the proposed changes to the Mining Act Rules:

Stream Buffers

Riparian buffers are essential for the protection of water quality and aquatic habitats, providing ecologically important functions, including pollutant reduction and runoff filtration, channel stability, stream temperature moderation, in-stream habitat, flood attenuation, hydrologic exchange between surface and groundwater, and terrestrial habitat. NCWRC's [2002 Guidance Memorandum to Address and Mitigate Secondary and Cumulative Impacts to Aquatic and Terrestrial Wildlife Resources and Water Quality](#) provides references and more detailed information on the importance of riparian buffers to wildlife resources. Currently, new mining applications typically propose a 50-ft buffer along streams which provides minimal protection for these streams from the mined area.

The proposal changes to 05B .0105 modify the requirement for a natural buffer along streams to “a vegetated buffer to be left between any stream and the affected land when specified in State or local stream protection requirements.” Many streams are not subject to State or local stream protection requirements, and this proposal would eliminate a buffer requirement for these streams. This change not only impacts the ecological integrity of the streams on a mined area, but it can impact downstream waters, as stream function is highly dependent on the state of its headwater streams. **NCWRC requests that NCDEMLR modify this proposal to continue to protect natural riparian buffers for all affected streams.**

In addition, the proposed definition of a “vegetated buffer” in 05B .0202—an unexcavated buffer that may be managed through landscaping or additional plantings—would allow an existing forested buffer to be cut and replaced with grass and/or non-native vegetation that does not provide the same functions as a native riparian buffer described above. **We request that the language be modified, requiring a natural, undisturbed buffer so that the buffer’s ecological functions be maintained.**

Wildlife and Fisheries Protection

We request the NCAC language clarify under which circumstances a permit would be denied related to GS 74-51 (d) (2) to provide clarity on how NCWRC can assist in coordinating. NCWRC supports project denials if they have “unduly adverse effects” on wildlife as noted in GS 74-51 (d) (2), but better defined and clarified in the rule. With the removal of 15A NCAC 05B .106 from the rules, NCWRC has questions on how the denial of projects will be prioritized according to GS 74-51 (d) (2) allowing for the conservation of public trust resources, including NCWRC’s role in minimizing a mine’s impacts to state wildlife resources. For example, an in-river mine could be proposed in an ecologically important river reach that supports state-listed mussels and amphibians. NCWRC’s recommendations to deny the mine or move it away from this reach may have no regulatory backing due to this change. If federally listed species is found within a project reach, permitting may result in the take of endangered species. Due to these potential scenarios, NCWRC requests that instream mining permits include NCWRC coordination within a scoping process to ensure potential impacts to wildlife are considered and minimized.

Information Required in Permit Application

NCDEMLR notes there are 722 permitted sites that these rule changes would apply to and an average of 25 new permits each year with 64% being sand and gravel sites. In order to help NCWRC with the scoping step of proposed mining projects, we request additional information be added to application for instream mining, including the 12-digit Hydrologic Unit Code (HUC) and a Natural Heritage inventory report. As long as the application already includes GPS coordinates for the project site, this information should be easily accessible and at no additional expense. This information would assist NCWRC in determining the scale of “unduly adverse effects” for the proposed project as specified in General Statute.

Thank you for the opportunity to review and comment on the proposed regulation change. Please contact me at (919) 218-1023 or shannon.deaton@ncwildlife.gov if I can assist further.

Sincerely,



Shannon L. Deaton, P.E., Chief
Division of Habitat Conservation

DRAFT

Burgos, Alexander N

From: Mark Senior <mr2senior@gmail.com>
Sent: Thursday, July 23, 2026 4:52 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] comments regarding the proposed Rules as submitted by the Mining Commission.

You don't often get email from mr2senior@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

I would request that the NC Rules and Review Commission reject the following proposed amendments to the Mining Rules as they appear to be in conflict with the Mining Act of 1971. In some cases, they appear to create law beyond the Mining Act of 1971, and/or seem to be not in the public interest.

Here are the specific proposed rules I suggest be rejected:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). While logging operations purely for silviculture may be exempted in some cases, logging to prepare a mining site for extraction should be considered part of the mining operation and not be exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). Allowing a “buffer” to be cleared or significantly modified defeats the purpose of a buffer. There are many mining activities other than excavation that do not involve excavation but would defeat the purpose of establishing a buffer. No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds, title searches, court records, as confirmed by real estate attorneys or other qualified individuals, not Department staff. Abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. If buffers are allowed to be cleared and revegetated, their function is essentially destroyed during the period it takes for mature vegetation to be reestablished. Stream (riparian) buffers currently regulated through other state programs are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists significant public interest. There are cases where a mining permit modification may not involve additional land but can have major impacts on the public and surrounding areas and should be subject to a public hearing. These may include changes in traffic patterns due to haul road modifications, the reduction of buffer widths, moving excavation closer to adjacent properties, etc.. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. In the public interest, there is no reason why the Director should not be allowed all opportunities to enforce the Mining Act.

Thank you for considering my recommendations

Mark T. Senior

405 Kinsey Street

Raleigh NC 27603

Burgos, Alexander N

From: Margrith Verghese <margrithverghese@gmail.com>
Sent: Thursday, July 23, 2026 4:52 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] NCGGC Mining Act of 1971

You don't often get email from margrithverghese@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should only be determined by the Register of Deeds and title searches or court records Abuse can occur if the department allows “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Submit Mining Rule Comments

Burgos, Alexander N

From: Margrith Verghese <margrithverghese@gmail.com>
Sent: Thursday, July 23, 2026 4:42 PM
To: rrc.comments; Jennifer.everett@deq.nc.go
Subject: [External] Fwd: NCRRC Mining Act review o1971

You don't often get email from margrithverghese@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

----- Forwarded message -----

From: Margrith Verghese <margrithverghese@gmail.com>
Date: Thu, Jul 23, 2026 at 4:37 PM
Subject: NCRRC Mining Act review o1971
To: <rrc.comments@oah.nc.gov>
Cc: <Jennifer.everett@deq.nc.gov>

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction clearly is a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act allows ONLY the DEQ Secretary to delegate authority (usually to the Director).to prevent abuses and undo influence peddling. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records. The department does not have authority to use “other source of information” to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, ALL permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

[Submit Mining Rule Comments](#)

Burgos, Alexander N

From: Margrith Verghese <margrithverghese@gmail.com>
Sent: Thursday, July 23, 2026 4:37 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] NCRRC Mining Act review o1971

You don't often get email from margrithverghese@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction clearly is a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act allows ONLY the DEQ Secretary to delegate authority (usually to the Director).to prevent abuses and undo influence peddling. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records. The department does not have authority to use “other source of information” to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, ALL permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

[Submit Mining Rule Comments](#)

Burgos, Alexander N

From: Andrew Glaze <aeglaze@gmail.com>
Sent: Thursday, July 23, 2026 9:27 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Review of Proposed Rule Changes

You don't often get email from aeglaze@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear Members of the Rules Review Commission,

Pursuant to your obligations under G.S. 150B-21.9, I am writing to formally request that the NC Rules Review Commission reject the proposed Mining Rules detailed below. These proposals conflict with the Mining Act of 1971, attempt to exceed the statutory authority specified in the Act, and run counter to the public interest.

Please reject or modify the following proposed rules as indicated:

- 15A NCAC 05A .0202 (c)(2) – Definitions: Delete the new proposed rule that exempts logging from mining. This rule directly conflicts with G.S. 74-49, as DEQ has historically considered logging to prepare a site for extraction as a mining operation, which is not exempted by the Mining Act.
- 15A NCAC 05A .0202 (c)(4) – Authorities: Delete the new proposed rule allowing the Director of Mining to delegate authority. The Mining Act explicitly limits delegation authority to the DEQ Secretary.
- 15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition: Remove the word "unexcavated" from the proposed rule. The Mining Act (G.S. 74-50 (b)(3)) does not permit land destroyed by logging, roads, processing plants, crushers, or trucking to be classified as a "buffer."
- 15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information: Delete the provision allowing the Department to determine land ownership through "other sources of information." Land ownership determinations should rely on the Register of Deeds, title searches, or court records. This modification violates G.S. 74-50 (b1).
- 15A NCAC 05B .0105(2) and (3) – Permit Conditions: Reject the change from "natural buffer" to "vegetated buffer," and reject the limitation of stream buffers to only those required by state or local rules. Stream buffers should remain natural and undisturbed to protect against habitat fragmentation, noise, dust, and water quality issues.
- 15A NCAC 05B .0111(a) – Public Hearings: Reject the restrictive text "for a modification that adds land to an existing permit." Under G.S. 74-51 and G.S. 74-52, all permit modifications—not just those adding land—are subject to public hearings when significant public interest exists. The rule should state: "If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application..."
- 15A NCAC 05B .0111(c) – Public Comments related to Public Hearings: Reject the restrictive clause "and no other public comments can be considered in the final determination of an application." This restriction violates the Mining Act and contradicts current DEQ practice, which accepts public comments until a final decision is reached.
- 15A NCAC 05F .0112 – Further Remedies: Do not delete this rule. The Director must maintain the

ability to enforce the Mining Act.

Thank you for your time and consideration of these critical matters.

Best regards,

Andrew Glaze

Burgos, Alexander N

Subject: FW: [External] Proposed Mining Rules revisions - public comment
Attachments: RRC_public comment on proposed Mining Rules_2026 07 21_NLew_with addendum_signed.pdf

From: Natalie Lew <nlew@mindspring.com>
Sent: Tuesday, July 21, 2026 4:56 PM
To: rrc.comments <rrc.comments@oah.nc.gov>; Everett, Jennifer <jennifer.everett@deq.nc.gov>
Subject: [External] Proposed Mining Rules revisions - public comment

You don't often get email from nlew@mindspring.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon,

Please find attached my public comment regarding the proposed Mining Rules revisions. Can you please acknowledge receipt? In addition to forwarding the attachment to the Rules Review Commission, please forward this information regarding my background.

To whomever is reviewing my public comment, I thank you for taking the time to review it in detail. If you have any questions or if you would like additional information, please let me know. While I am not an attorney, I am a document researcher by trade with 30 years of experience reviewing data, complicated protocols, standard operating processes, working instructions, rules and regulations, laws and guidances, and historical versions of these types of documents. I also have experience with historical deed research, genealogy research, and more. I have experience with public record requests from the local to national level; reviewing documents at secure locations, including national archives; reviewing documents at our State Archives and State Library; reviewing documents at special collection libraries; reviewing historical documents at agencies like DEQ, State Parks, Wake County Planning, etc. No matter the topic of research, one of my primary roles is to compile, organize, consolidate and explain information found in multiple locations, including assembling the story line and assessing the consistency of data and concepts between documents as well as writing reports to document and explain issues found and follow-up actions needed.

-Natalie

Natalie Lew
Sr. Clinical Research Associate (CRA)
Email: nlew@mindspring.com
Cell: 919-812-6446

Learn from the mistakes of others. You can't live long enough to make them all yourself.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Public Comment regarding the Proposed Mining Rule Changes
NLew, 21Jul2026

There is a phenomenon known as the "butterfly effect" which refers to the concept where small changes in initial conditions can lead to vastly different outcomes over time.

There is a childhood game called the whisper game where the first child in a long line of children whispers a word or short phrase into the next child's ear and this phrase gets passed down the line of children to the end. The resulting word or phrase is usually vastly different than what it started out as.

These concepts are reflected in the fact that a tiny change or addition of a word or short phrase in one part of a law or rule can produce disproportionate changes to both the same part of the law or rule AND in other parts of the same law or rule, to the point of being contrary to the original intent of the law or rule.

As you know, there is not one central document that includes all of the text and text changes over time for the Mining Law or Mining Rules. So, I pulled each iteration and have assessed the changes over time in these documents. Neither current DEQ staff nor Mining Commission staff have pulled or considered historical versions of the Law or Rules.

What I see is the whisper game and the butterfly effect in action – seemingly small changes are adding up to the point where some of the proposed Rule changes, in addition to being unclear, are inconsistent with the Law and they violate the intent of the Law.

It is critical for agencies to consider the cumulative effect of all rules adopted, including the historical rules, related to the specific purpose for which the rule is proposed. So, in reviewing the proposed mining rules, I ask you to 1) remember the original intent of both the mining law and mining rules; 2) think 50 years in the future, knowing that additional changes to the rules will be made on top of changes made today; and 3) consider the consequences of today's rule changes in a time when you are not here to provide clarification.

Why did I mention 50 years? Well, when planning, most of us think in terms of years or maybe decades. However, mining companies are very different as their operations last for half-centuries to centuries. So, the mining industry strategizes on a century-scale level. They have the gift of time in that they can implement big changes they want to see in 50-100 years by making multiple small changes that nobody notices. By the time the desired real change is reached, the original players are gone and the initial setting is forgotten.

My comment today focuses on proposed rules regarding public hearings, public and agency comments, a few definitions, and Standards for Denying an Application. But I believe there are issues with other aspects of the proposed rules.

15A NCAC 05B .0111, Public Hearings, item (a) – concept of public hearing for permit modifications:

Since inception of the Mining Law in 1971, there is nothing in the Mining Law that precludes public hearings for permit modifications.

Since inception, Section 74-52 (“Permit Modifications”) has stated that “... *terms and conditions [of the mining permit] may be modified only where the Department determines that the permit as modified would **meet all requirements of G.S. 74-50 and 74-51.***” That simply means all permit modifications must meet the criteria in both the “Permit, General” section (74-50) and the “Permits; Application, Granting, Conditions” section (74-51). This language remains the same to this day; that is 55 years! [In the initial 1971 Mining Law, there were no paragraph ID’s. Paragraph ID’s were inserted in about 1993. In today’s Law, this language resides in paragraph 74-52 (c).]

In 1981, public hearings were added to GS 74-51 (“Permits; Application, Granting, Conditions”) and to this day states that “*Upon its determination that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit.*” This language remains the same to this day; that is 45 years! [In the 1981 version of the Mining Law, there were no paragraph ID’s. Paragraph ID’s were inserted in about 1993. In today’s Law, this language resides in paragraph 74-51 (c).]

Thus, since Permit Modifications (GS 74-52) must meet all criteria for new permit applications (GS 74-50 and 74-51), when “significant public interest” exists a public hearing SHALL be conducted.

The proposed Mining Rule ignores the language and intent in the Law under GS 74-52 regarding Permit Modifications. The proposed Rule includes the phrase “modification that adds land to the existing permit”; this phrase is, in and of itself, just one type of permit modification. While this phrase is copied from another part of the Law, its use in this Rule results in an unclear and ambiguous Rule with the effect of changing the actual Law by ignoring the full concepts laid out in GS 74-52 (Permit Modifications).

The proposed Rule must account for all provisions in 74-50, 74-51, AND 74-52 of the Law and should simply state “If the Department determines that there exists a significant public interest in an application for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application ...” This wording clearly accounts for all provisions in 74-50, 74-51, AND 74-52 of the Law.

Side note: A basic explanation regarding the phrase “modification that adds land to the existing permit” is that it is simply a very special case of a permit modification; this phrase is set apart from other types of permit modifications because it is the only situation where there are new neighbors. The use of this phrase in specific sections of the Law in no way limits the fact that all

permit modifications (74-52) still have to meet all criteria of 74-50 and 74-51. However, mining companies are taking the phrase out of context and trying to create limitations. If need be, given the research I have done on the historical documents, I can provide further information and explanation regarding the phrase “modification that adds land to the existing permit” and regarding the particular section from which it was pulled.

15A NCAC 05B .0111, Public Hearings, items (c) and (e) – concept of Public Comments:

Before assessing this proposed Mining Rule, it is critical to acknowledge and understand the mining permit approval process. It is not a one and done situation. There is not simply one permit application and then it is done. *Whether or not there is a public hearing*, there is a critical sequence that follows the initial application. Subsequent to the initial application, the Department can ask for Additional Information (ADI) from the mining operator and the mining operator must respond. Subsequent to these inquiries and responses, changes to the mining application can occur, some of which can be extremely significant and different from what was presented on the initial application. *Each ADI response is like a mini application or pre-approval permit modification. As such, these permit application changes must receive the same scrutiny under GS 74-50, GS 74-51, and GS 74-52 and nothing in the Law prohibits such.*

The current Mining Law accomplishes this in part by NOT restricting submission of public comments to public hearings or restricting the Department from considering public comments either before or after a public hearing. The Law allows for public comments before or after a public hearing. Of note, it is the number of public comments received that determines if a public hearing is to occur. Where is the Rule to ensure that comments received prior to a public hearing get the consideration they deserve?

Since 1981 (45 years ago), GS 74-51 (c) has simply stated that a “[public] hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing.” The Law provides guidance that all public comments submitted at the public hearing shall be given consideration; in other words, the Department cannot ignore comments given at the public hearing. *But the Law in no way restricts public comments from being submitted or considered outside of the public hearings (e.g. before or after a public hearing).*

Thus, the proposed Rule text which adds the phrase “ ... and no other public comments can be considered in the final determination of the application,” goes above and beyond the Law and essentially changes the Law.

Take for example the Wake Stone Triangle Quarry. After the public hearing, I found several critical documents in the Department of Justice (DOJ) and State Park files that DEQ did not have in their files (one of which said that the intent of the initial Triangle Quarry Permit was to prevent another

Public Comment regarding the Proposed Mining Rule Changes
NLew, 21Jul2026

mine from being put next to Umstead State Park). By closing public comments after the public hearing, you are telling the public that critical DOJ and State Park documents are not important just because they were found by a citizen researcher. Similarly, when reviewing documents at DEQ, I found additional documents actually in DEQ files that DEQ did not consider in their evaluation of Wake Stone's Triangle Quarry Permit Modifications. The proposed Rule changes would again eliminate this finding because it was found by a citizen after the public hearing. The proposed text changes eliminate the consideration of facts which is, in and of itself, unethical.

While it is understandable to close public comments associated with the public hearing so that the hearing report can be completed, it is contrary to the Law to totally eliminate additional public comments after a public hearing and to put into the Rules that facts found after the public hearing cannot be submitted or considered at any time in the permit approval process (be it for a new or modified permit).

Since this Rule is titled "Public Hearings," the Rule is limited to Public Hearings and not public comments in general. The Public Hearing Rule should simply state "The hearing officer may allow additional written comments to be submitted for up to x days after the hearing after which the public comment period *associated with the public hearing* will be considered closed."

Furthermore, the Law does not require that the public hearing be held after the initial application; it only requires that the public hearing be held "before the Department makes its final decision regarding the application" and "within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made." Thus, the public hearing can be held during or after the ADI process. Just like mining operators can request an extension to an ADI response, the public hearing timeline can be pushed out after ADI responses if necessary. This would allow for the mining permit application to be in a final state before a public hearing instead of being in a draft state.

Given that ADI responses are like permit modifications, the only way in which public comments could be fully closed after a public hearing is if the public hearing occurred after all ADIs are closed and there are absolutely no changes allowed in the mining permit application after the public hearing. As such, the Rule could then simply read "If the Department determines that there exists a significant public interest in an application for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application which shall be held x days from the filing of the application OR THE FINAL ADI RESPONSE, WHICHEVER IS LATER, and before the Department makes its final decision regarding the application."

To make the mining permit approval process more flexible (e.g., not requiring the public hearing to be after the ADI process is fully completed), public comments must be accepted and considered anytime throughout the permit process. Again, the current Law does not prohibit the submission or consideration of general public comments.

Public Comment regarding the Proposed Mining Rule Changes
NLew, 21Jul2026

Following similar thought processes, the proposed new rule (e) goes above and beyond the Law and essentially changes the Law. Given the Law does not prohibit the submission or consideration of general public comments, the Rule is not needed. If the Rule is to be kept, the Rule should simply state "In the event there is not a public hearing, public comments will be accepted and considered."

Lastly while agency comments are addressed in 74-50 (b3), when it comes to public hearings, agency comments should be included as one type of public comment.

Regarding 74-50 (b3), given that an ADI response is essentially a permit application modification, the Department should submit ADI responses to the agencies noted in (b3) and allow each agency to comment on each ADI response. To limit agencies to only commenting on the initial application is contrary to the intent of the Law. The Department should create a rule regarding agency comments; otherwise, agency comments should be accepted at any time, especially if/when new information becomes available.

15A NCAC 05A .0202, Authorities and Definitions – proposed new definitions:

The proposed Mining Rules create some brand-new definitions for use only within the Rules that create ambiguity in meaning and delegation, are unnecessary, and actually allow for the Department and mining companies to circumvent the Law which is the same as changing the Law. For now, I will comment on definition (c)(2) "affected land" and (c)(7) "Mining Buffer" and (c)(1) "Administrative Change" and (c)(4) "Director."

(c)(2) "Affected Land"

The Proposed Mining Rule only definition of "affected land" in Rule (c)(2) calls out Law in 74-49(1) but ignores Law in 74-49(7).

74-49 (1) states: "Affected land" means the surface area of land that is mined, the surface area of land associated with a mining activity so that soil is exposed to accelerated erosion, the surface area of land on which overburden and waste is deposited, and the surface area of land used for processing or treatment plant, stockpiles, nonpublic roads, and settling ponds.

74-49(7) states "Mining" means any of the following: (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; ...

The definitions in 74-49 do not exclude agriculture or silviculture or timber harvesting. It is obvious that the only way to mine an area is to clear-cut the trees! So, taking trees down, whether

it be done under the guise of silviculture or timber harvesting, is part of mining. As it should be, deforesting for purposes of mining, whether the land is for a current mine or for a mine decades in the future, has always been considered a mining activity.

The proposed brand-new definition of “affected land” attempts to circumvent the established definitions. The proposed definition in (c)(2) is excluding actions (e.g., silviculture, timber harvesting) that the current Law does not exclude. In other words, the new proposed definition is overstepping current Law. This is just land conversion without saying what the conversion use is!

Proposed Definition: “Affected land,” as defined in GS 74-49(1) shall not include an unrelated use that does not meet the definition of mining that occurs within the permit boundaries, including activities pertaining to agriculture and silviculture including timber harvesting....

This brand-new definition allows a mining company to circumvent 74-49(7) and clear cut the entire site, including all future reserve areas, by simply claiming it is just timbering even though the intent in the long run is to create a mine. This new definition also harms neighboring properties not just by the mining operators ability to clear cut an entire site immediately under the guise of simply timber harvesting, the said mass timber harvesting will change the character of the neighboring areas making further mining and industrial operations easier to permit. For example, clear cutting a large area allows for noise intrusion. After a few years, the mining company could claim that adding more land to the mining permit area should be permitted because the noise is already intruding.

This new definition should be rejected.

(c)(7) “Mining Buffer”

The proposed Mining Rules suggest a brand-new definition for “Mining Buffer.” The current Law has definitions for “Buffer,” but there is not a definition for “Mining Buffer.” The proposed new definition within the Rules for “Mining Buffer” attempts to put contradictory “Buffer” definitions into one definition and this creates confusion.

Proposed: “Mining Buffer” means an unexcavated, undisturbed, or vegetative area managed to protect adjacent land owners or areas of special concern. (A) “Unexcavated” means no mine excavation shall occur. Unexcavated buffers may be used for roadways, berms and erosion and sedimentation control or stabilization. Excavation may be allowed for sediment basins or erosion and sedimentation control when shown on the mine map. (B) “Undisturbed” means no disturbance shall occur. (C) “Vegetative Buffer” means an unexcavated buffer that may be managed through landscaping or additional plantings.

Public Comment regarding the Proposed Mining Rule Changes
NLew, 21Jul2026

Comment: Per an internet search, a buffer is an area on a property that is left undeveloped, not covered by buildings, pavement, or other structures, and is intended to serve as a protective area between an industrial site and neighboring properties by providing screening and separation; buffers typically consist of natural vegetation, such as trees and shrubs, which should remain undisturbed. The goal of a buffer is such that the character of the neighboring properties is NOT drastically changed, that there is a transition area from the industrial site to the neighboring property.

Comment: BUFFERS (for mining sites) MUST REMAIN AS UNDISTURBED OR VEGETATIVE [as long as vegetative is clarified] AND NOT UNEXCAVATED. Undisturbed buffers offer protection to neighboring properties (e.g., visual, noise, dust, etc.). An “unexcavated” buffer offers zero protection as it allows for the removal of all trees and for the area to be used for roadways and the like, resulting in a drastic change in character of the area. *“Unexcavated” buffers essentially eliminate all buffers and allows mining operations or related activities to be pushed into the buffer.*

Comment: “Vegetative Buffer” needs to be eliminated or more clearly defined. What is landscaping? If landscaping simply means putting down mulch, then this essentially allows for the destruction of the buffer. If the vegetation is sparse or disturbed, additional plantings must be added to maintain the buffer’s effectiveness (as per the definition/goals of buffers stated earlier). Essentially, a “vegetative buffer” should result in the same effectiveness as the “undisturbed” buffer.

This new definition should be rejected.

(c)(1) “Administrative Change”

Proposed: “Administrative Change” means any change initiated by the Department or requested by the applicant to correct errors including, grammatical errors, typographical errors, and map inaccuracies, that do not substantively change the permit.

Comment: The term “substantial change” must be defined and it must be defined in a manner that protects the State, local governments, and public, e.g., a substantial change includes, but is not limited to, changes to anticipated life of the mining operation, changes to the type of buffer (e.g., undisturbed to unexcavated), any change affecting the Reclamation Plan (as that is not supposed to change at all), any change that is not consistent with the initial intent of the original permit, etc. Substantial changes to a permit must only be done via the permit modification process.

Comment: “Typographical errors” needs to be defined. Per an internet search “... a typographical error (typo) refers to a mistake in typed or printed text, such as a misspelled word or incorrect character.” Changing an entire word is NOT a typographical error (e.g., changing the word

“sooner” to the word “later.” In the case of the Wake Stone Triangle Quarry permit, in 2018, after 35+ years, Wake Stone claimed that they found a typographical error in the original 1981 mining permit. They claimed that the word “sooner” was a typographical error and that it was supposed to have been the word “later.” To support their claims, Wake Stone presented incomplete and biased information to the State. Without researching thoroughly, the State changed this one word. This one-word so-called administrative change resulted in a massive change - the permit went from limiting the operation to 50-years (in order to protect the neighboring State Park) to having an unlimited time frame. Of note, documents found at the NC DOJ confirm that the people involved with issuing the permit in 1981 intended to both limit the operation of the Triangle Quarry and to prevent a new mine pit on the Odd Fellows tract. As stated in the permit cover letter, the intent of the permit was to protect Umstead State Park. Protecting Umstead State Park includes protecting the land that was on the critical acquisition list at that time – the Odd Fellows tract. What Wake Stone considered as a “typographical error” was not an inconsequential change; it produced a substantial change!

Comment: “Map inaccuracies” needs to be defined. There needs to be proof of why something on a map is considered inaccurate as someone could subtly change a permit requirement by adding or changing a word, by moving a line, changing a dimension, etc. For example, changing the labeling on the map of a buffer from undisturbed to unexcavated without reasons is not a “map inaccuracy”; it is a significant change in the character of the buffer. In addition, changing a boundary from top of bank of a creek to centerline of a creek adds land to the permit area. This is not an inconsequential change! Wake Stone made such a change in their Triangle Quarry mining permit.

It is good to define “administrative change”; but the proposed new definition needs to be clarified.

(c)(4) “Director”

Since inception of the Mining Rules in 1976, the Rules have stated the Director shall have the following powers and duties:

- 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
- 5) The institution of all criminal and civil actions

These 5 specific powers and duties are important, high-level duties and have grave consequences if not done and assessed appropriately. Thus, the Director is the only person who can do these specific duties.

The proposed Rules state: "Director" means the Director of the Division of Energy, Mineral and Land Resources of the Department of Environmental Quality, or *any position to which the Director has delegated their authority*.

This rule change allows for anyone in DEQ to perform the 5 high-level duties specified above. While other tasks and duties can be delegated. The 5 high-level duties specified above must be limited to the Director given the consequences if done or evaluated appropriately. The Director position is a high-level position of great responsibility for a reason and critical duties and powers must not be delegated.

This new definition should be rejected.

15B NCAC 05B .0106, Standards for Denying an Application

The proposed Rules remove some clarifying text. This text needs to be kept.

In addition, a Rule needs to be created to state that noise can be considered when evaluating denial criteria 74-51 (d)(5): "That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest, or recreation area." The purpose of many of these entities, especially State Parks like Umstead State Park, is to escape from the sights and sounds of modern life. This means escaping from things like noise and concrete walls in the middle of the forest.

The need for keeping the deleted text and adding additional text regarding noise, arises from the fact that the Department and mining companies are using confusing wording in the 30-year-old Surface Mining Manual (dated Feb/1996) to skirt and minimize permit denial criteria. The Feb/1996 version of the Surface Mining Manual is the Department's first and only edition. The preface of the Surface Mining Manual states that "It is intended to be used only as a guide for those involved in the mine permitting process. ***It should not be interpreted to substitute or supplant established departmental policies, rules, or state statutes.***" However, mining companies and the Department are using the confusing wording in this outdated Manual to supplant, rules and state statutes.

<https://www.deq.nc.gov/energy-mineral-and-land-resources/nc-surface-mining-manual/open>

In Chapter 3 (Applications for New Mining Permits), under "Public Hearings, Hearing Purpose" there is a "Note" on page 3-7 that says "Comments must be relevant to the seven criteria listed in G.S. 74-51 of The Mining Act of 1971. The Mining Act does not address truck traffic, ***noise***, property values, or aesthetics."

In Chapter 8 (Public Input), under “Public Hearings” on page 8-4, it says “Comments submitted at the public hearing must be related to the seven criteria outlined in G.S. 74-51. (See Chapter 3 - Application for New Mining Permits for a list of these criteria). Local governments address issues such as: Hours of operation, **Noise**, Truck traffic, Property values, Other zoning issues.”

Mining companies are using the combination of these two statements in the 1996 Surface Mining Manual to argue that noise cannot be considered ***at all*** when evaluating if a proposed mining operation meets denial criteria 74-51 (d)(5) – harm to the purposes of a publicly owned park, forest, or recreation area.

To say that the Mining Act does not and cannot address noise just because the exact word “noise” is not used is untruthful and unethical. Using an outdated Guide book makes this worse. Clearly, noise does harm “the purposes of a publicly owned park, forest, or recreation area” when the purpose of such an entity is to escape from the sights and sounds of modern life – when the purposes of a park is for tranquility, peace, and the like.

As an example, Wake Stone used this argument with respect to both continuing their current Triangle Quarry which is directly adjacent to Umstead State Park and with arguing for a new pit on a tract of land that has been on the Umstead State Park critical acquisition list since the early 1970’s.

The Department should not be allowed to define what constitutes “unduly” or “significant” adverse effects as the Department is not an authority on what constitutes harmful effects on things like parks, water, wildlife, etc. In addition, the Department is in a position to create a definition biased towards mining companies. Such definitions must be created by the Subject Matter Experts – by the agencies noted in 74-50 (b3).

As such, at minimum, the current text in this Rule should be kept and additional text must be added to clarify that noise can be considered when evaluating denial criteria 74-51 (d)(5).

Better yet, the Rule should simply state “The agencies noted in 74-50 (b3) retain primary authority for determining what constitutes unduly or significant adverse effects.”

Addendum:

Example of analysis of historical changes

Mining Act, Section 74-52 (Permit Modifications):
Iterations from inception to current

Upon request, similar assessments can be provided
for Sections 74-50 and 74-51.

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

74-52. Permits - Modification, Renewal. 1971, c. 545, s. 7 <i>This paragraph later deleted because permit renewal no longer needed</i> Intent was for modifications to follow same process and criteria noted in the two previous sections of this Law: Sec 5: 74-50 Sec 6: 74-51 – This later becomes paragraph (c).	11/Jun/1971: Any operator engaged in mining under an operating permit may apply at any time for modification of said permit, and at any time during the two years prior to its expiration date for renewal of the permit. Such application shall be in writing upon forms furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish such other information as may be deemed necessary by the Department in order adequately to enforce the act. However, it shall not be necessary to resubmit information which has not changed since the time of a prior application, where the applicant states in writing that such information has not changed. The procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit; provided, however, that in the absence of any changes in legal requirements for issuance of a permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in subsection (g) of Section 6, or failure to submit an adequate reclamation plan in light of conditions then existing. A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in Section 8 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of Sections 5 and 6. No modification shall extend the expiration date of any permit issued under this act. In lieu of a modification or a renewal, an operator may apply for a new permit in the manner prescribed by Sections 5 and 6. No modification or renewal of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of Section 9, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan.
1993 (Reg. Sess., 1994), c. 568, s. 4 Paragraph ID's added	Sec. 4. G.S. 74-52 reads as rewritten: (a) Any operator engaged in mining under an operating permit may apply at any time for modification of said permit, and the permit. A permittee may <u>apply for renewal of the permit at any time during the two years prior to its the expiration date for renewal of the permit.</u> Such The application shall be in writing upon forms furnished by the Department and shall fully state the information called for, in for. <u>The applicant must provide the Department with any additional information necessary to satisfy application requirements. The applicant is not required to resubmit information that remains unchanged since the time of the prior application.</u> In addition, the applicant may be required to furnish such <u>any</u> other information as maybe

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

Same language as original law, only "(b)" was added. <i>This paragraph later deleted because permit renewal no longer needed.</i> Same language as original law other than paragraph ID "(c)" added and section ID's updated to reference GS # instead of Section #.	deemed necessary by the Department in order adequately to enforce the Article. However, it shall not be necessary to resubmit information which has not changed since the time of a prior application, where the applicant states in writing that such information has not changed. (b) The <i>procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit</i>; provided, however, that in the absence of any changes in legal requirements for issuance of a permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of conditions then existing. (c) A <i>modification</i> under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or <i>other terms and conditions of the permit</i>. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. <i>Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and 74-51.</i> No modification shall extend the expiration date of any permit issued under this Article. In lieu of a modification or a renewal, an operator may apply for a new permit in the manner prescribed by G.S. 74-50 and 74-51. (d) No modification or renewal of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan."
2017-209, s. 13(c); (b) is no longer needed because as of 2017 permits are for life of operation. However,	G.S. 74-52 reads as rewritten: 74-52. Permits—Modification, renewal. Permit modifications. (a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. A permittee may apply for renewal of the permit at any time during the two years prior to the expiration of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. The applicant is not required to resubmit information that remains unchanged since the time of the prior application. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article. (b) The procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit; provided, however, that in the absence of any changes in legal requirements for issuance of a

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

that does not mean sunset clauses are not allowed in a permit. Year = 2017. Same language as original law: all modifications must meet criteria in GS 74-50 and GS 74-51.	permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of conditions then existing. (c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. No modification shall extend the expiration date of any permit issued under this Article. (d) No modification or renewal of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan."
2024-53, s. 4C.10 Current: 74-52. Permit modifications (1971, c. 545, s.7; 1993 (Reg. Sess., 1994), c. 568, s. 4; 2017-209, s. 13(c); 2024-53, s. 4C.10.) Year = current Same language as original law: all modifications must meet criteria in GS 74-50 and GS 74-51.	Hurricane Hellene (a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article. (b) Repealed by Session Laws 2017-209, s. 13(c), effective October 4, 2017. (c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. (d) No modification of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan.

Mining Act, Section 74-52 (Permit Modifications): Iterations from inception to current
Historically speaking, the focus of 74-52 is permit modifications, including that all permit modifications must meet the criteria of new permit applications noted in 74-50 and 74-51

	(e) Notwithstanding any restrictions on the collection or storage of solid waste that may be applicable pursuant to Article 9 of Chapter 130A of the General Statutes, the Department, upon agreement of a permittee, may, without need of a permit modification under this section, authorize the permittee to temporarily store storm-related debris at a mine when a state of emergency, as defined in G.S. 166A-19.3, has been declared by the Governor due to a natural disaster such as a hurricane, tornado, or flood, or due to a pending disaster, for a period not to exceed one year from the end of the state of emergency. For purposes of this subsection, the following definitions apply: (1) The definitions set out in G.S. 130A-290. (2) Storm-related debris. - Construction and demolition debris and yard trash that originates from designated counties in an emergency area, as defined in G.S. 166A-19.3(7).
--	--

Burgos, Alexander N

Subject: FW: [External] comments in opposition to the rules changes that the mining commission is considering re: the Umstead Mining permits

From: Rachael Wooten <rachaelwootenauthor@gmail.com>

Sent: Wednesday, July 22, 2026 9:44 PM

To: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; rrc.comments <rrc.comments@oah.nc.gov>

Subject: [External] comments in opposition to the rules changes that the mining commission is considering re: the Umstead Mining permits

You don't often get email from rachaelwootenauthor@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear Mr. Burgos,

Please forgive me for not being able to understand the proper format and place to submit my profound objections to the following rules changes. I finally decided to copy all of my objections, which you probably have received from others as well. I want to assure you that these truly reflect my feelings about these proposed changes.

Thank you for considering the following objections!!

Rachael H. Wooten, Ph.D.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated”from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

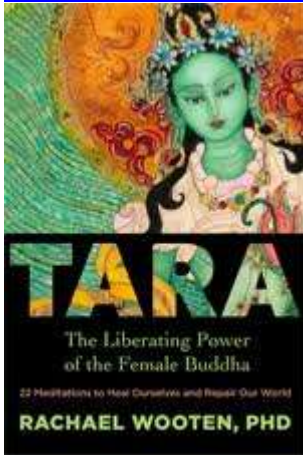
Rachael Wooten

Diplomate Jungian Analyst

Author of *Tara: The Liberating Power of the Female Buddha*

Sounds True, April 2020.

rachaelwootenauthor.com



Burgos, Alexander N

From: Sean Fernandes <sfernandes@alumni.unc.edu>
Sent: Thursday, July 23, 2026 9:34 AM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Objection to proposed mining rules

You don't often get email from sfernandes@alumni.unc.edu. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

I am writing to object to and request the Commission reject the following proposed mining rules pursuant to NCGS 150B-21.9.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: Libby Slight <libbyslight@gmail.com>
Sent: Thursday, July 23, 2026 9:35 AM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining Rules Comments to Rules Review Commission

You don't often get email from libbyslight@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear NC Mining Rules and Review Commission,

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for your attention to this very important matter.

Best Regards,

Elizabeth Slight

Wake County Resident for Almost 40 Years

Burgos, Alexander N

From: Louise Scott-Cole <louisescottcole@gmail.com>
Sent: Thursday, July 23, 2026 9:08 AM
To: rrc.comments; Everett, Jennifer
Subject: [External] Reject the proposed mining rules

You don't often get email from louisescottcole@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning,

As a North Carolina resident, I care deeply about protecting our state's natural lands for current and future generations. Once these lands are damaged, they cannot easily be restored. For these reasons, I am deeply concerned about the proposed changes to our state's Mining Rules. Several are not in the public interest and conflict with the North Carolina Mining Act of 1971. I respectfully ask the North Carolina Rules Review Commission to carefully review these proposed rules and reject those that do not comply with G.S. 150B-21.9.

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. Logging performed to prepare a site for mineral extraction has long been considered part of a mining operation and is not exempt under G.S. 74-49 of the Mining Act.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act authorizes only the DEQ Secretary to delegate authority. This proposed change exceeds what the law allows and could lead to unintended abuses.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - DELETE “unexcavated” from proposed rule. Areas that may later be cleared for logging, roads, processing facilities, or other mining-related activities should not qualify as protective buffers. This conflicts with G.S. 74-50(b)(3).

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - REJECT language allowing the Department to determine land ownership using “other sources of information.” Property ownership should be established through official records such as deeds, title searches, or court records, as required by G.S. 74-50(b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Natural stream buffers provide critical protection for water quality, wildlife habitat, noise reduction, dust control, and nearby communities. Weakening these protections is not in the public interest.

15A NCAC 05B .0111(a) Public Hearings - REJECT the added restriction limiting hearings only “for a modification that adds land to an existing permit.” The Mining Act requires that modified permits be subject to the same public hearing requirements as new permits whenever there is significant public interest.

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added restriction “and no other public comments can be considered in the final determination of an application.” Citizens should continue to have the opportunity to provide relevant information until a final decision is made, especially if new information becomes available or an application changes. This restriction is inconsistent with current practice and the intent of the Mining Act.

15A NCAC 05F .0112 – Further Remedies - SUSTAIN this Rule. The Director should continue to have the authority to enforce the Mining Act and protect the public interest.

Thank you for considering my comments.

Sincerely,

Louise Scott-Cole
Raleigh, North Carolina

Burgos, Alexander N

From: Matt Harris <mattharris89@gmail.com>
Sent: Thursday, July 23, 2026 9:05 AM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] RRC Mining Rules Public Comment

You don't often get email from mattharris89@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear NC Rules Review Commission,

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated” from this proposed rule.**

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: stephanie kordick <daveythecat@gmail.com>
Sent: Thursday, July 23, 2026 8:00 AM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Comment on proposed changes to 15A NCAC 05A, 05B, and 05F

You don't often get email from daveythecat@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To whom it may concern, please consider the following.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: Kim Andersen <kimberlymandersen@gmail.com>
Sent: Thursday, July 23, 2026 7:25 AM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Mining rules

You don't often get email from kimberlymandersen@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear NC Rules and Review Commission:

Please carefully consider the following ideas in light of the purpose our public lands were set aside to serve. Umstead State Park in particular is a shining example of why state parks are crucial to the health of the people who make up our society. It is an oasis of nature and wilderness serenity in North Carolina second most populated urban area. Allowing any mining activity or the blighting or compromising of any part of this state park or any other is a gross violation of public trust if not a blatant violation of existing law. The quarrying currently underway off Hwy 40 at the entrance to Umstead already compromises the park with grinding noise and disrupts the wildlife in that entire section of the park. That said, I realize the existing atrocities are there until the area presently being mined ceases to yield adequate returns on shareholder investment. What does not need to happen is more mining activity at that site. So...

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers,

trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for your consideration.

Sincerely,

Kim Andersen
417 Frank Street
Raleigh, NC 27604
kimberlymandersen@gmail.com
919-720-8122

Burgos, Alexander N

From: Carrie Dow-Smith <carriedownsmith@gmail.com>
Sent: Thursday, July 23, 2026 6:00 AM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining rule concerns

You don't often get email from carriedownsmith@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thanks so much,

Carrie Dow-Smith

Burgos, Alexander N

From: Rudy Zalesak <rzalesak@gmail.com>
Sent: Thursday, July 23, 2026 5:10 AM
To: rrc.comments; Everett, Jennifer
Subject: [External] Reject change in this rule

You don't often get email from rzalesak@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.”

There is no reason to restrict public comments : new information that affects public purposes is a reasonable consideration. Government activities are representative of the public; the Government represents all the citizens, the public is not just another private body. This rules change also violates the law.

This seems like a very specific rules change to keep the public out. What legitimate reason is there for this rules change?

Sincerely,
Rudy Zalesak
Cary, NC

Burgos, Alexander N

From: K Pitser <kpitser@gmail.com>
Sent: Wednesday, July 22, 2026 11:17 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] NC Rules Review Commission evaluation of proposed Mining Rules sent over from the NC Mining Commission

You don't often get email from kpitser@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

North Carolina has been my state of residence mostly since 1973. I've always had pride in the way this state has been developed with responsible parties considering what is in the best public interest. As the state becomes more populous, it is imperative to increase align construction and development activities with the public interest. If not, our state becomes even more divided which is contrary to the North Carolina values that I grew up with. Please consider these comments in your review.

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule. Furthermore, logging has a long but immediate affect on the land use and value to the public.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers

serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for consideration of these comments. These are tendered in what I believe are in the best interest to our North Carolina state lands, our public welfare and preserve a just and democratic regulatory structure.

Sincerely,
Kenneth N. Pitser

Burgos, Alexander N

From: Marcee Silver <marcee.silver@gmail.com>
Sent: Wednesday, July 22, 2026 10:59 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Delete proposed rules

You don't often get email from marcee.silver@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear Commissioners,

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule
This new rule could create potential abuses not allowed by the Mining Act.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated”
There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)).

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership.

Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements.

This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.”

The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for thoughtfully considering these responses.

Marcee Silver

Sent from my iPhone

Burgos, Alexander N

From: Leigh Anne Chabreck <chabrecks@gmail.com>
Sent: Wednesday, July 22, 2026 10:43 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining Rules Comments to Rules Review Commission

You don't often get email from chabrecks@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act

ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202

(c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow **“unexcavated”** (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3)

– Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream

buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with

current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: John Briggs <johnbriggs876@gmail.com>
Sent: Wednesday, July 22, 2026 10:34 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining Rules - Public comment

You don't often get email from johnbriggs876@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi RRC -

This is not some AI tool, but a real person making comment.;-)

I realize there should always be a balance - even in today's overly polarized world. With that said, I'm increasingly concerned about short-sighted or quasi reckless policies. Let's think about the next generation.

Please see my request below. Remember, even the environment, quality of life, and just overall balance need advocates as well.

Regards - John Briggs, Morrisville, NC

The NC Rules and Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government

or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: Kyle K <kershasky@gmail.com>
Sent: Wednesday, July 22, 2026 10:08 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Mining Rules request to reject

You don't often get email from kershasky@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hello.

I heard The NC Rules Review Commission will be evaluating the proposed Mining Rules sent over from the NC Mining Commission.

I would like to request that the NC Rules and Review Commission reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S. 74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for considering.

.....
Kyle Kershasky
773-960-5060 mobile

Burgos, Alexander N

From: Nick Hatley <nhatley@proton.me>
Sent: Wednesday, July 22, 2026 10:02 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Mining Rules Public Comments

You don't often get email from nhatley@proton.me. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The rule changes below are a necessity as they will help Protect & Preserve our Forests

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

Burgos, Alexander N

From: Andrea Polik <andrea.polik@gmail.com>
Sent: Wednesday, July 22, 2026 9:48 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining Rules Comments

You don't often get email from andrea.polik@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear All / NC Rules Review Commission,

I believe that several of the proposed rules are against public interest, facilitate potential abuses not allowed by the Mining Act of 1971 (the law), and/or in direct conflict with the law. These Rules should be rejected by the NC Rules Review Commission (per General Statutes G.S. 150B-21.9).

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be

approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Sincerely,

Andrea Polik

Cary, NC

--

Andrea Polik

Burgos, Alexander N

From: Andrea Polik <andrea.polik@gmail.com>
Sent: Wednesday, July 22, 2026 9:43 PM
To: rrc.comments
Cc: jennifer.everett@deq.nc.com
Subject: [External] Mining Rules Comments

You don't often get email from andrea.polik@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear All / NC Rules Review Commission,

I believe that several of the proposed rules are against public interest, facilitate potential abuses not allowed by the Mining Act of 1971 (the law), and/or in direct conflict with the law. These Rules should be rejected by the NC Rules Review Commission (per General Statutes G.S. 150B-21.9).

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be

approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Sincerely,

Andrea Polik

Cary, NC

--

Burgos, Alexander N

From: Andrea Polik <andrea.polik@gmail.com>
Sent: Wednesday, July 22, 2026 9:35 PM
To: rrc.comments
Cc: jennifer.everett@deg.nc.gov
Subject: [External] Mining Rules Comments

You don't often get email from andrea.polik@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear All / NC Rules Review Commission,

I believe that several of the proposed rules are against public interest, facilitate potential abuses not allowed by the Mining Act of 1971 (the law), and/or in direct conflict with the law. These Rules should be rejected by the NC Rules Review Commission (per General Statutes G.S. 150B-21.9).

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be

approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Sincerely,

Andrea Polik

Cary, NC

--

Andrea Polik

Burgos, Alexander N

From: Heather Disney <hdisney06@gmail.com>
Sent: Wednesday, July 22, 2026 9:35 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Reject Proposed Rules as Submitted by NC Mining Commission

You don't often get email from hdisney06@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To Whom It May Concern,

The NC Rules and Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

- **15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining.** This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**
- **15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority.** The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**
- **15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated”** from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated” from this proposed rule.**
- **15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership.** Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).
- **15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer”** and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect

against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

● **15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction** “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

● **15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction** “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

● **15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule.** The Direction should be able to enforce the Mining Act.

Thank you for your time and consideration.

Sincerely,

Heather Disney
5401 Calverton Dr.
Raleigh, NC 27613

Burgos, Alexander N

From: Chris Anson <ansonica3@gmail.com>
Sent: Wednesday, July 22, 2026 9:31 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Mining commission rule changes

Importance: High

You don't often get email from ansonica3@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Colleagues:

I write to express my great concern about the following proposed mining rules sent to you by the mining commission. I believe these rules are not in the best interest of the public and will cause serious negative repercussions, especially concerning mining operations adjacent to Umstead State Park.

Thank you for considering my concerns.

Dr. Chris Anson
Cary, NC

5A NCAC 05A .0202(c)(2) – Definitions

Reject the proposed rule exempting logging from mining regulation. This proposed rule conflicts with G.S. 74-49 (Mining Act of 1971). Logging conducted to prepare a site for mineral extraction has historically been considered part of a mining operation by the Department of Environmental Quality (DEQ) and is not exempt under the Mining Act. This proposed exemption is inconsistent with statute and should be deleted.

15A NCAC 05A .0202(c)(4) – Authorities

Reject the proposed rule allowing the Director of Mining to delegate authority. The Mining Act authorizes only the Secretary of the Department of Environmental Quality to delegate authority, typically to the Director. This proposed rule would authorize a level of delegation not permitted by the Mining Act and could create opportunities for administrative abuse. The proposed rule should be deleted.

15A NCAC 05A .0202(c)(7)(C) – Buffer Definition

Delete the term "unexcavated" from the proposed buffer definition. Including "unexcavated" land within the definition of a buffer would allow areas disturbed by logging, roads, processing facilities, crushers, truck traffic, and other mining-related activities to be counted as buffers, even though they no longer function as such. The Mining Act provides no authority for disturbed land to qualify as a buffer and

this proposal conflicts with G.S. 74-50(b)(3). No state or local government would reasonably classify a disturbed land surface as a buffer. The term "unexcavated" should therefore be removed.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information

Reject the proposed changes allowing the Department to determine land ownership using "other sources of information." Land ownership should be established through the Register of Deeds, title searches, or court records. Allowing Department staff to rely on unspecified alternative sources creates the potential for errors or abuse by individuals who are not qualified to make legal ownership determinations. This proposed change is inconsistent with G.S. 74-50(b1) of the Mining Act and should be rejected.

15A NCAC 05B .0105(2) and (3) – Permit Conditions

Reject replacing "natural buffer" with "vegetated buffer" and reject limiting stream buffers only to those required by state or local regulations. Stream buffers should remain natural, undisturbed buffers rather than areas that may be disturbed and later revegetated. Natural buffers provide important protections against habitat fragmentation, noise, dust, visual impacts, and degradation of water quality. Existing stream buffer regulations serve purposes different from those of the Mining Act, and many North Carolina streams are not protected by other buffer requirements. This proposal would reduce protections and effectively create new law authorizing stream buffer destruction without statutory authority. The proposed changes should be rejected.

15A NCAC 05B .0111(a) – Public Hearings

Reject the added limitation restricting public hearings to permit modifications that add land to an existing permit. G.S. 74-51 requires public hearings for new mining permits when significant public interest exists. G.S. 74-52 requires permit modifications to comply with G.S. 74-51. Accordingly, all permit modifications—not only those that add land—should be subject to a public hearing when significant public interest exists. The rule should instead state:

"If the Department determines that there exists significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application."

15A NCAC 05B .0111(c) – Public Comments Related to Public Hearings

Reject the proposed language stating that "no other public comments can be considered in the final determination of an application." This restriction is inconsistent with the Mining Act and current DEQ practice, which allows public comments to be submitted and considered until a final permit decision is made. While comments submitted as part of a public hearing may have a deadline to facilitate preparation of the hearing report, the Mining Act does not limit public input solely to the hearing process. Additional comments are particularly important when new information becomes available or significant changes are made to an application. This proposal would improperly restrict public participation and attempts to create limitations not authorized by statute. The proposed language should be rejected.

15A NCAC 05F .0112 – Further Remedies

Do not delete this rule. The Director should retain the authority to pursue additional remedies necessary to enforce the Mining Act. Removing this rule would unnecessarily limit the Department's enforcement authority and weaken implementation of the Act.

Burgos, Alexander N

From: Boston Terrier <bostonterrierterror@gmail.com>
Sent: Wednesday, July 22, 2026 9:18 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] mining rule comments

You don't often get email from bostonterrierterror@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good evening,
I'm a Cary resident - thank you for taking our comments! See below

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: Pam A <pamgator@gmail.com>
Sent: Wednesday, July 22, 2026 9:01 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Mining Rules Regarding Umstead State Park and The Quarry

You don't often get email from pamgator@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

As a longtime resident of Wake county, I am hoping you will preserve what is special about this area, especially Umstead State Park. Please review and consider the implications of the following proposed rules.

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local

requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Regards,
Pamela Alterman
Cary, NC
919-605-7043

Sent from my iPad

Burgos, Alexander N

From: Laura Jeffreys Wood <laurawood10@ymail.com>
Sent: Wednesday, July 22, 2026 8:36 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] REJECT the proposed Mining Rules

You don't often get email from laurawood10@ymail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good evening,

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Sincerely,
Laura Wood
Wake County resident for over 25 years

Burgos, Alexander N

From: koko gordon <kokogatehouse@gmail.com>
Sent: Wednesday, July 22, 2026 8:31 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining rules- public comments

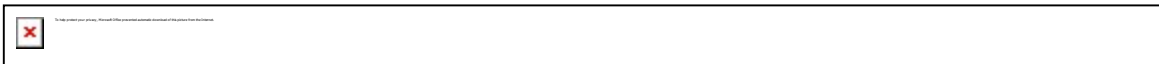
You don't often get email from kokogatehouse@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Mining Rules - Public Comments Due July 23



*Dedicated to preserving the natural integrity of
William B. Umstead State Park and the
surrounding open space*



The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to

be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are

allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

KELLY HAUGHEY <khoey187@gmail.com>

Hello,

I am a resident of Cary, NC and request that you please consider the following:

The NC Rules and Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the

Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for your time and consideration,

You don't often get email from bradf790@gmail.com. Learn why this is important

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or

Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: Robin Stern <usability100@gmail.com>
Sent: Wednesday, July 22, 2026 8:08 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] REJECT proposed Rules as submitted by the Mining Commission

You don't often get email from usability100@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear NC R&R Commission,

I live within 5 miles of Umstead Park and I fully support and trust the Umstead Coalition and their stance on things related to preserving Umstead Park. Please head their call; see the attached below.

Thanks for your attention,

Robin Stern

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. The proposed rules are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and

more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Burgos, Alexander N

From: Chip McClelland <chip@mcclellands.org>
Sent: Wednesday, July 22, 2026 7:45 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Request for the NC Rules and Review Commission

You don't often get email from chip@mcclellands.org. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

I enjoy the outdoors and have spent many hours hiking and biking in Umstead Park. Natural resources are under constant pressure in Raleigh due to constant development pressures. Where we do have both recreational and industrial uses near one another, it is important that strict rules are followed to ensure the industrial activities do not impact the surrounding natural space. I believe that the proposed rules listed below violate good practice and stewardship of the land. Please consider this appeal to reject them. The Mining Commission did not listen to the public's interest, I hope your committee will.

The NC Rules and Review Commission should reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S. 74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should

state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you,

Chip

--

Chip McClelland
chip@mcclellands.org

+1 919-624-5562

Burgos, Alexander N

From: Nancy Halberstadt <nhalberstadt@att.net>
Sent: Wednesday, July 22, 2026 7:38 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Please REJECT selected mining rules

You don't often get email from nhalberstadt@att.net. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

I am writing as a concerned NC resident who has been able to enjoy the beauty and recreational resources of Umstead State Park for decades. It is truly one of the treasures of central NC and needs to be protected for generations to come. Aside from human enjoyment, the park hosts critical habitat for countless wildlife and flora, and we have such little protected land left. It would be tremendously short-sighted and greedy and immoral to allow this area to be harmed by mining.

Below are my objections, with technical verbiage borrowed from other interested parties. But the sentiment is mine and I truly hope you consider how strongly I am requesting that you consider these points.

Thank you!

Nancy Halberstadt

Raleigh

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to

the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Burgos, Alexander N

From: Janyne Kizer <jmkizer@gmail.com>
Sent: Wednesday, July 22, 2026 7:38 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining Rules comments

You don't often get email from jmkizer@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Janyne

Burgos, Alexander N

From: Mike Stellpflug <mike.stellpflug@gmail.com>
Sent: Wednesday, July 22, 2026 7:37 PM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] need help with insane mining rules!

You don't often get email from mike.stellpflug@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

As I'm sure you're aware, the proposed mining rule changes are ~entirely at odds with the interests of North Carolina citizens. I understand that it would be easier to let the Mining Commission steamroll the Mining Act, but convenience is roughly the ONLY upside to the amendments, unless you count the Vulcan C-suite in Alabama. On the other hand, the downsides of repealing common sense constraints and oversight would be massively damaging to our environment. If anything, our laws should BETTER protect our precious shared resources and fully account for the negative externalities of these operations.

Thank you for your consideration!

-Mike Stellpflug

Here is what I propose specifically:

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and

more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Burgos, Alexander N

From: Adam Leman <adam.leman@gmail.com>
Sent: Wednesday, July 22, 2026 7:37 PM
To: rrc.comments
Subject: [External] Reject Proposed Rules as Submitted by the Mining Commision

You don't often get email from adam.leman@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To whom it may concern,

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Sincerely,

Dr. Adam Leman

Chapel Hill, NC

Burgos, Alexander N

From: Waseca3 <waseca3@gmail.com>
Sent: Wednesday, July 22, 2026 7:34 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] reject proposed rules submitted by the mining company

You don't often get email from waseca3@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi -

I am writing to request the following for each proposed rule.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be

approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Many thanks,
Kelly Evenson
Pittsboro, NC

Burgos, Alexander N

From: Travis Zarins <travis.zarins@gmail.com>
Sent: Wednesday, July 22, 2026 6:52 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Objection to Proposed Mining Rules — 15A NCAC 05A/05B/05F

You don't often get email from travis.zarins@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To the NC Rules Review Commission,

As a citizen of Wake County, North Carolina, I strongly object to the proposed changes to the Mining Rules. The NC Rules Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. The proposed rules are in conflict with the Mining Act of 1971, are against public interest, and attempt to create law beyond what is specified in the Mining Act of 1971. These changes are designed to reduce oversight and remove environmental protections, and they primarily benefit large corporations and wealthy private interests rather than the public.

I also want to flag a serious conflict of interest: Mining Commission member Sam Bratton stands to personally benefit from these rule changes. These proposed changes affect ongoing, active litigation involving Wake Stone, and specifically the proposed change to 15A NCAC 05B .0111(a) directly affects active litigation between Vulcan Materials/Wake Stone/Sam Bratton regarding the addition of land to the Umstead RDU Quarry. A Commission member or process that stands to personally benefit from a rule change it is shepherding through should not be permitted to proceed, and these changes in particular should be rejected on that basis alone.

I further note that the proposed rule changes are not currently posted on the NC Mining Commission's website, and the meeting minutes from the July 7 meeting have also not been posted. This lack of transparency is unacceptable for a public rulemaking process and suggests the Commission is acting with impunity.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete "unexcavated" from proposed rule to allow

"unexcavated" (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a "buffer." There is no allowance for such land destruction to be classified as a "buffer" in the Mining Act and goes against the Mining Act (G.S. 74-50 (b)(3)). No other local government or state government would consider a destroyed land surface a "buffer." Remove "Unexcavated" from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allows "other source of information" to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S. 74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from "natural buffer" to "vegetated buffer" and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual impacts as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction "for a modification that adds land to an existing permit." G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state "If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application..."

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction "and no other public comments can be considered in the final determination of an application." This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - Do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Thank you for your consideration.

Christopher Travis Zarins
Raleigh, NC

Burgos, Alexander N

From: Aparna Ghosh Kachoria <aparnaghosh41@gmail.com>
Sent: Wednesday, July 22, 2026 4:30 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Reject Proposed Rules from Mining Commission

You don't often get email from aparnaghosh41@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hello,

I am concerned that several of the proposed rules are against public interest, facilitate potential abuses not allowed by the Mining Act of 1971 (the law), and/or in direct conflict with the law. Based on what I've read, I feel that these Rules should be rejected by the NC Rules Review Commission (per General Statutes G.S. 150B-21.9).

Please consider rejecting the following:

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act.

15A NCAC 05A .0202 (c)(4) – Authorities - to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Thank you for your consideration,
Aparna (Durham County resident)

Burgos, Alexander N

From: Marco Meulink <meulinks@nc.rr.com>
Sent: Wednesday, July 22, 2026 4:12 PM
To: rrc.comments
Cc: Jennifer@deq.nc.gov
Subject: [External] Please reject the proposed mining rules as submitted by the Mining Commission

You don't often get email from meulinks@nc.rr.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Dear NC Rules and Review Commission,

Please reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, are against public interest, facilitate potential abuses not allowed by the Mining Act of 1971 (the law), and/or in direct conflict with the law.

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Thanks for your attention to this important matter,

Marco Meulink

Burgos, Alexander N

From: Tina Morrison <tinamorrison14@gmail.com>
Sent: Wednesday, July 22, 2026 1:19 PM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] Rejection of the proposed mining rules

You don't often get email from tinamorrison14@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Greetings representatives,

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

I ask you to reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated”from proposed rule to allow **“unexcavated”** (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court

records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

With much appreciation,

Tina Morrison

Burgos, Alexander N

From: fretlessjim@nc.rr.com
Sent: Wednesday, July 22, 2026 12:04 PM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] Public Comments on Mining Rules

You don't often get email from fretlessjim@nc.rr.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local

requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Burgos, Alexander N

From: Catherine Morrison <catherine.morrison5@gmail.com>
Sent: Thursday, July 23, 2026 4:20 PM
To: rrc.comments; Everett, Jennifer
Subject: [External] Mining Rules MATTER!

You don't often get email from catherine.morrison5@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

To Whom It May Concern,

I am VERY upset that you could consider allowing the following mining rules, and beg you to reject them. We CARE about our environment, and particularly the area surrounding Umstead Park.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of

information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Many thanks for your rejection of these mining rules,

Margaret Catherine Morrison

Burgos, Alexander N

From: Chuck Sirc <chucksirc@gmail.com>
Sent: Wednesday, July 22, 2026 12:34 PM
To: rrc.comments
Subject: [External] Oppose proposed Rules

You don't often get email from chucksirc@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

I am a resident of Cary for 30 years. I bike at Umstead Park weekly and appreciate the natural beauty of it. I am opposed to the proposed rules which would not permit me or others to speak out in opposition to further development of the area either for query or other uses.

Please for a change do the right things as opposed to self serving and selling out to developers, par usual!

Chuck Sirc

Get [Outlook for iOS](#)

Burgos, Alexander N

From: David C Sips <ncgater@icloud.com>
Sent: Wednesday, July 22, 2026 11:26 AM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] Proposed Mining Rules Changes

You don't often get email from ncgater@icloud.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

RE: RRC Meeting July 2026

Dear Sir or Madame,

I believe rules changes and proposals will be discussed during the Thursday meeting. Several of these proposed rules are against public interest, facilitate potential abuses not allowed by the Mining Act of 1971 (the law), and/or in direct conflict with the law. These Rules should be rejected.

The NC Rules and Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S. 74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be

approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

A very concerned citizen

David Sips

Burgos, Alexander N

From: Mary Collins <veganmaryc@gmail.com>
Sent: Wednesday, July 22, 2026 10:48 AM
To: Burgos, Alexander N
Subject: [External] Retain Public Notices, hearings, and opportunities for citizens to give input regarding Mining Rules

Follow Up Flag: Follow up
Flag Status: Flagged

You don't often get email from veganmaryc@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

As a citizen of NC for over 36 years I am taking some of my inspiration to write this from other citizens who are well versed in details. Know that these comments reflect my position and concerns. I am appalled that someone acting on the Mining Commission should have such clear conflicts of interest and reasons to make changes to long standing policies and rules.

Proposed changes to the Mining Rules benefit multi-billion dollar corporations engaged in mining and Mr. Sam Bratton has a tremendous conflict of interest, he will personally benefit financially from these changes. Ongoing and active Wake Stone litigation would be impacted by these changes, and that is surely known to Mr. Bratton. Specifically "st15A NCAC 05B .0111(a) Public Hearings - added text / added restriction "for a modification that adds land to an existing permit."-- Vulcan Materials and Sam Bratton are in active litigation regarding the "adding of land" to the Umstead RDU Quarry.

Making these rule changes would reduce oversight, or remove environmental protections, and leave the citizens who own these protected conservation lands uninformed and less able to communicate their concerns. These proposed rule changes are not posted on the NC Mining Commission webpage and the meeting minutes from 7 July are not posted. They are acting with impunity.

The NC Rules and Review Commission must reject the following proposed Mining Rules per your obligation under G.S. 150B-21.9. The proposed rules are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

Remove environmental protection: 15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

Reduce oversight: 15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.
Remove environmental protection: 15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete "unexcavated" from proposed rule to allow "unexcavated" (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a "buffer." There is no allowance for such land destruction to be classified as a "buffer" in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local

government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

Reduce oversight: 15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

Remove environmental protection: 15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

Reduce oversight: 15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

Reduce oversight: 15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

Reduce oversight: 15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Director should be able to enforce the Mining Act.

Respectfully,

Mary Collins
211 Howland Ave.
Cary, NC 27513

Burgos, Alexander N

From: Larry Gritz <gritzmap@gmail.com>
Sent: Wednesday, July 22, 2026 9:08 AM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] Your conscience

You don't often get email from gritzmap@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

How many time must we ask for your help in preserving what the community has a right to and need! To allow the destruction of safe, secure outdoor spaces to continue only feeds the monster. Please, think multiple times before you vote against the Cary/Triangle population. Do not let this Goliath ruin what they have no right to. Please open your eyes and your hearts!!!! VOTE NO ON ALL OF THE FOLLOWING PROPOSALS:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated”from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local

requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Regards,
Larry Gritz
Local resident

Burgos, Alexander N

From: Geoffrey Kabel <geoffkabel@gmail.com>
Sent: Wednesday, July 22, 2026 6:42 AM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] Objections to Proposed Mining Rules

You don't often get email from geoffkabel@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

I request that the following proposed Mining Rules be rejected:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

From: Patrick Franz <patricknfranz@gmail.com>
Sent: Tuesday, July 21, 2026 8:33 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Mining Rules Comments to Rules Review Commission

You don't often get email from patricknfranz@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow

the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging,

roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining

permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts

and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are

allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Burgos, Alexander N

From: Mike Chirico <jmichaelchirico@gmail.com>
Sent: Tuesday, July 21, 2026 6:35 PM
To: rrc.comments; Jennifer@deq.nc.gov
Subject: [External] Mining Rules Comments

You don't often get email from jmichaelchirico@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These are in conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are against public interest.

Reject the following proposed Mining Rules:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and

revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

--

Michael Chirico, PMP®

704.576.6107

jmichaelchirico@gmail.com

[LinkedIn](#)

Burgos, Alexander N

From: Dan Kelly <Dan.Kelly@sas.com>
Sent: Tuesday, July 21, 2026 5:57 PM
To: rrc.comments
Cc: Everett, Jennifer
Subject: [External] Proposed mining rules from the NC Mining Commission

You don't often get email from dan.kelly@sas.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good evening! I hope this note finds you well.

I am writing to make clear my objections to proposed mining rules that adversely impact the public interest. I'm not a lawyer, so if my formatting/wording is imperfect, I trust you'll get the gist of my comments.

The NC Rules and Review Commission **must reject** the following proposed Mining Rules per your obligation under G.S. 150B-21.9. These conflict with the Mining Act of 1971, attempt to create law beyond what is specified in the Mining Act of 1971, and are flatly against the public interest.

Reject the following proposed Mining Rules and phrases as noted:

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. **Delete Proposed new Rule.**

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. **Delete Proposed Rule.**

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” **Remove “Unexcavated”** from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as **natural** buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed. You can’t unring a bell; impacting the area and trying to minimize the damage (or retroactively ameliorate the damage) is a vastly different thing than just leaving the natural environment unmolested.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act. Really, any attempt to defang the oversight should be rejected.

Thanks,
Dan Kelly

Burgos, Alexander N

From: Laurie Edgerton <4estrunr@gmail.com>
Sent: Tuesday, July 21, 2026 5:20 PM
To: rrc.comments
Cc: Jennifer@deq.nc.gov
Subject: [External] Comment on proposed rules as submitted by the Mining Commission

You don't often get email from 4estrunr@gmail.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi,

I live in west Raleigh and I run in Umstead park regularly. It is painful to see this lovely public park sacrificed for private profit. Please consider rejecting the proposed rules as submitted by the Mining Commission. I think that several of the proposed rules are contrary to the law (Mining Act of 1971) and public interest.

15A NCAC 05A .0202 (c)(2) – Definitions - Delete New Proposed Rule to exempt logging from mining. This rule should be rejected due to conflict with G.S.74-49 (Mining Act of 1971). Logging to prepare a mining site for extraction has been considered a mining operation by DEQ and is not exempted by the Mining Act. Delete Proposed new Rule.

15A NCAC 05A .0202 (c)(4) – Authorities - Delete New Proposed Rule to allow the Director of Mining to Delegate authority. The Mining Act ONLY allows the DEQ Secretary to delegate (usually to the Director). This new rule could create potential abuses not allowed by the Mining Act. Delete Proposed Rule.

15A NCAC 05A .0202 (c)(7)(C) – Buffer Definition - Delete “unexcavated” from proposed rule to allow “unexcavated” (e.g., land to be destroyed by logging, roads, processing plants, crushers, trucking, and more) to be included as a “buffer.” There is no allowance for such land destruction to be classified as a “buffer” in the Mining Act and goes against the Mining Act (G.S. 74-50 (b) (3)). No other local government or state government would consider a destroyed land surface a “buffer.” Remove “Unexcavated” from this proposed rule.

15A NCAC 05B .0104(d)(1) and (d)(3) – Required Permit Information - Delete allowing the Department to determine land ownership. Land ownership should be determined by the Register of Deeds and title searches or court records; abuse can occur if the department allow “other source of information” to be approved by department staff who are not qualified to make land ownership determinations. This Rule modification violates the Mining Act G.S.74-50 (b1).

15A NCAC 05B .0105(2) and (3) – Permit Conditions - REJECT change from “natural buffer” to “vegetated buffer” and reject limiting stream buffers to only those required by State or Local requirements. Stream buffers should remain as natural buffer and not allowed to be disturbed and revegetated. Stream buffers serve to protect against habitat fragmentation, noise, dust, and visual as well as water quality to serve the public interest. Stream buffers currently regulated are for a different purpose than mining. Not all

streams in NC are protected by regulated buffers, but should be protected by mining operations. This change is attempting to allow stream buffer destruction and create new law which should NOT be allowed.

15A NCAC 05B .0111(a) Public Hearings - REJECT added text / added restriction “for a modification that adds land to an existing permit.” G.S. 74-51 of the Mining Act indicates that Public Hearings SHALL be held for new mining permits. G.S. 74-52 of the Mining Act indicates permit modifications must meet G.S. 74-51. Thus, all permit modifications, not just modifications that add land, are subject to public hearings when there exists a significant public interest. The Rule should state “If the Department determines that there exists a significant public interest for a new or modified permit, the Director shall appoint a hearing officer to conduct a public hearing on the application...”

15A NCAC 05B .0111(c) Public Comments related to Public Hearings - REJECT added text / added restriction “and no other public comments can be considered in the final determination of an application.” This added text violates the Mining Act, and is inconsistent with current DEQ practice that accepts and considers public comments until a Decision has been reached. Public Comments during a Public Hearing have a deadline in order to allow for the Hearing Report to be completed. Nowhere in the Mining Act are public comments in general limited to only public hearings and currently there is no such practice within DEQ for Mining or any other permits. Public comments, especially after new information is obtained or significant changes are made to an application, are allowed per Law. The Mining Commission is trying to create new law against public interest. These restrictions should be rejected.

15A NCAC 05F .0112 – Further Remedies - do NOT DELETE this Rule. The Direction should be able to enforce the Mining Act.

Thank you for letting me comment, and I hope you have a great day,
Laurie Edgerton
Raleigh, NC

Burgos, Alexander N

From: Natalie Lew <nlew@mindspring.com>
Sent: Tuesday, July 21, 2026 5:18 PM
To: Miller, Christopher S
Cc: Everett, Jennifer; Ascher, Seth M; Burgos, Alexander N
Subject: RE: [External] May 2026 RRC agenda

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Thank you. I just submitted a written comment as per the instructions below.

-Natalie

Natalie Lew
Sr. Clinical Research Associate (CRA)
Email: nlew@mindspring.com
Cell: 919-812-6446

Learn from the mistakes of others. You can't live long enough to make them all yourself.

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, July 20, 2026 11:27 AM
To: Natalie Lew <nlew@mindspring.com>
Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] May 2026 RRC agenda

Noted – the WebEx link will be available on our website at <https://www.oah.nc.gov/news/events/rrc-meeting-agenda-july-2026>.

The deadline to submit comments for this meeting is 5:00 pm on July 23, 2026. For additional information, please see rule 26 NCAC 05 .0103.

Chris

Chris Miller
Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

NOTICE: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.

From: Natalie Lew <nlew@mindspring.com>
Sent: Monday, July 20, 2026 11:14 AM
To: Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] May 2026 RRC agenda

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Chris,

Yes, I would like to make a public comment via remote attendance.

I will also submit a written comment. Can you please let me know the deadline for submission of written comments? My apologies if the question has been answered in a separate email!

Thank you!

-Natalie

From: Miller, Christopher S <christopher.miller@oah.nc.gov>
Sent: Monday, July 20, 2026 10:23 AM
To: Natalie Lew <nlew@mindspring.com>
Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Subject: RE: [External] May 2026 RRC agenda

Thanks, Seth.

Natalie, these rules are on the schedule for the July RRC meeting. The meeting will be a hybrid of in-person and WebEx attendance and will take place on Thursday, July 30, 2026, at 10:00 a.m. Please let us know if you can make it, and we can add your request to speak on to the agenda.

You can also submit written comments to rrc.comments@oah.nc.gov, which would be included in the record for this month's meeting.

Thanks,
Chris

Chris Miller

Rules Review Commission Counsel
North Carolina Office of Administrative Hearings | Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
(984) 236-1935

NOTICE: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized State officials.

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, July 20, 2026 10:11 AM
To: Natalie Lew <nlew@mindspring.com>; Miller, Christopher S <christopher.miller@oah.nc.gov>
Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Subject: Re: [External] May 2026 RRC agenda

Natalie,

I believe the rules you are concerned about are on the July agenda: under item IV.4.

<https://www.oah.nc.gov/news/events/rrc-meeting-agenda-july-2026>

Chris Miller is the staff attorney handling those rules (cc'ed on this email). He would be the best person to coordinate a request to speak or make comment.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Natalie Lew <nlew@mindspring.com>
Sent: Friday, July 17, 2026 10:32 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Subject: RE: [External] May 2026 RRC agenda

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning,

Regarding the Mining Commission Rules, below it says they would be on the August or September agenda, but I did receive other emails that says they are on the July agenda. I am planning to make a public comment, but I have had a long planned trip for the last week of July (for educational purposes), so I hope they will be on the August or September agenda. I was told I could make a public comment over the web, but would prefer to do so in person. If at all possible, please have this hearing in August or September.

Thank you,

-Natalie

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, May 21, 2026 11:39 AM
To: nlew@mindspring.com

Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Subject: Re: [External] May 2026 RRC agenda

Natalie,

The readoption deadline for those rules is August 1, 2026. That is listed here on our website: <https://www.oah.nc.gov/rule-readoption-schedule> under the 2014-2023 table at the bottom as these were holdovers from the previous decennial review.

I don't know exactly when the rules will be before the RRC, as it is up to the agency to adopt and submit them. My best guess is that they would be on the August or September agenda, but I have cc'ed the agency's rulemaking coordinator (Jennifer Everett) who may be able to provide you with more clarity on their timeline.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

From: Natalie Lew <nlew@mindspring.com>

Sent: Sunday, May 17, 2026 3:51 PM

To: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: [External] May 2026 RRC agenda

You don't often get email from nlew@mindspring.com. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon,

Can you please tell me when the “readoption of 15A NCAC 05A, 05B, 05F, and 05G “Mining Rules” ruleset” will be on the Rules Review Commission agenda? I do not see it listed on the May 2026 agenda.

Thank you,

-Natalie

Natalie Lew

Sr. Clinical Research Associate (CRA)

Email: nlew@mindspring.com

Cell: 919-812-6446

Learn from the mistakes of others. You can't live long enough to make them all yourself.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.