

NORTH CAROLINA GENERAL ASSEMBLY  
1971 SESSION

CHAPTER 545  
HOUSE BILL 650

AN ACT "THE MINING ACT OF 1971."

The General Assembly of North Carolina do enact:

**Section 1.** Title. This act may be known and cited as "The Mining Act of 1971."

**Sec. 2.** 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 act 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.

**Sec. 3.** Purposes. The purposes of this act are to provide:

(a) 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.

(b) That from the effective date of the act, 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.

**Sec. 4.** Definitions. Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

(a) "Mining" means (1) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter, (2) 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 its original location, (3) 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. It shall not include those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area. It shall not include mining operations where the affected land does not exceed one acre in area. It shall not include plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land. It shall not include excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining. Removal of overburden and mining of limited amounts of any ores or mineral solids shall not be considered mining 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 such 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 such exploratory excavation does not exceed one acre in area.

(b) "Council" means the Mining Council created by Sections 74-37 and 74-38 of the General Statutes of North Carolina.

(c) "Department" means the Department of Conservation and Development. Whenever in this act the Department is assigned duties, they may be performed by the Director or by such of his subordinates as he may designate.

(d) "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.

(e) "Affected land" means the surface area of land that is mined, 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, and settling ponds.

(f) "Neighboring" means in close proximity, in the immediate vicinity, or in actual contact.

(g) "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, it shall give the operator written notice of its intention to declare the operation terminated, and he shall have an opportunity to appear within 30 days and present evidence that the operation is continuing; where the Department finds that such evidence is satisfactory, it shall not make such a declaration.

(h) "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.

(i) "Overburden" means the earth, rock, and other materials that lie above the natural deposit of minerals.

(j) "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.

(k) "Spoil bank" means a deposit of excavated overburden or refuse.

(l) "Peak" means overburden removed from its natural position and deposited elsewhere in the shape of conical piles or projecting points.

(m) "Ridge" means overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation.

(n) "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.

(o) "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:

1. Proposed practices to protect adjacent surface resources;
2. 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;
3. Manner and type of revegetation or other surface treatment of the affected
4. Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;
5. Method of compliance with State air and water pollution laws;

6. Method of rehabilitation of settling ponds;
7. Method of control of contaminants and disposal of mining refuse;
8. Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;
9. Such maps and other supporting documents as may be reasonably required by the Department; and
10. A time schedule that meets the requirements of Section 8 of this act.

(p) "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.

(q) "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.

**Sec. 5.** Permits; General. After July 1, 1972, no operator shall engage in mining without having first obtained from the Department an operating permit which covers the affected land and which has not terminated, been revoked, been 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 Section 7. 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.

No permit shall be issued except in accordance with the procedures set forth in Section 6, nor modified or renewed except in accordance with the procedures set forth in Section 7.

An appeal from the Department's denial of a permit may be taken to the Mining Council, as provided by Section 16.

No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to Section 9. If at any time said bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and said lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which it pertains shall automatically become void and of no further effect.

An operating permit shall be granted for a period not exceeding ten years. If the mining operation terminates and the reclamation required under the approved reclamation plan is completed prior to the end of said period, the permit shall terminate. Termination of a permit shall not have the effect of relieving the operator of any obligations which he has incurred under his 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.

An operating permit may be renewed from time to time, pursuant to procedures set forth in Section 7.

An operating permit may be suspended or revoked for cause, pursuant to procedures set forth in Section 13.

**Sec. 6.** Permits; Application, Granting, Conditions. 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 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.

**Sec. 7.** Permits; Modification, Renewal. 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.

**Sec. 8.** 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 Section 4, 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 act, and that in addition, the plan meets the following minimum standards:

(a) 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.

(b) Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.

(c) In open cast 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.

(d) 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.

(e) 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 North Carolina Forest Service. 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.

**Sec. 9. Bonds.** Each applicant for an operating permit, or for the renewal thereof, shall file with the Department following approval of his application and shall thereafter 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.

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 he holds permits. 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 it pertains, less any such area whose reclamation has been completed and released from coverage by the Department pursuant to Section 11. Where such area totals less than five acres, the bond shall be in the amount of two thousand five hundred dollars (\$2,500); where it is five or more, but less than ten acres, the bond shall be in the amount of five thousand dollars (\$5,000); where it is ten or more, but less than 25 acres, the bond shall be in the amount of twelve thousand five hundred dollars (\$12,500); where it is 25 or more acres, the bond shall be in the amount of twenty-five thousand dollars (\$25,000).

The bond shall be conditioned upon the faithful performance of the requirements set forth in this act and of the rules and regulations adopted pursuant thereto. 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.

In lieu of the surety bond required by this section, the operator may file with the Department a cash deposit, negotiable securities, a mortgage of real property acceptable to the

Department, or an assignment of a savings account in a North Carolina bank on an assignment form prescribed by the Department.

If the license to do business in North Carolina of any surety upon a bond filed pursuant to this act should be suspended or revoked, the operator shall, within 60 days after receiving notice thereof, substitute for such surety a good and sufficient corporate surety authorized to do business in this State. Upon failure of the operator to make such substitution, his permit shall automatically become void and of no effect.

**Sec. 10.** Reclamation Report. Within 30 days after completion or termination of mining on an area under permit or within 30 days after each anniversary of the issuance of the operating permit, whichever is earlier, or at such later date as may be provided by rules and regulations of the Department, and each year thereafter until reclamation is completed and approved, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which shall:

- (a) Identify the mine, the operator and the permit number;
- (b) State acreage disturbed by mining in the last 12-month period;
- (c) State and describe amount and type of reclamation carried out in the last 12-month period;
- (d) Estimate acreage to be newly disturbed by mining in the next 12-month period;
- (e) Provide such maps as may be specifically requested by the Department.

**Sec. 11.** Inspection and Approval of Reclamation; Bond Release or Forfeiture.

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 act, any rules and regulations promulgated hereunder, and the terms and conditions of his permit. Accredited representatives of the Department shall have the right at all reasonable times to enter upon the land subject to the permit for the purpose of making such inspection and investigation.

The operator shall proceed with reclamation as scheduled in the approved reclamation plan. Following its inspection, the Department shall 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 Section 8 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.

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 him from further obligations regarding such affected land. At the same time it shall release all or the appropriate portion of any performance bond or other security which he has posted under Section 9.

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, it shall initiate forfeiture proceedings against the bond or other security filed by the operator under Section 14. In addition, such failure shall constitute grounds for suspension or revocation of the operator's permit, as provided in Section 13.

**Sec. 12.** 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 act, 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.

**Sec. 13.** Suspension or Revocation of Permit. Whenever the Department shall have reason to believe that a violation of (a) this act, (b) any rules and regulations promulgated hereunder, or (c) the terms and conditions of a permit, including the approved reclamation plan, has taken place, it shall serve written notice of such fact upon the operator, specifying the facts constituting such apparent violation and informing the operator of his right to a hearing 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. The operator may appear at the hearing, either personally or through counsel, and present such evidence as he may desire in order to prove that no violation has taken place or exists. If the operator or his representative does not appear at the hearing, or if the Department following the hearing finds that there has been a violation, the Department may suspend the permit until such time as the violation is corrected or may revoke the permit where the violation appears to be willful.

The effective date of any such suspension or revocation shall be 60 days following the date of the decision. An appeal to the Mining Council under Section 16 shall stay such effective date until the Council's decision. A further appeal to Superior Court under Section 17 shall stay such effective date until the date of the Superior Court judgment. 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 Section 19 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 such action.

Any operator whose permit has been suspended or revoked shall be denied a new permit or a renewal of the old permit to engage in mining until he gives evidence satisfactory to the Department of his ability and intent to fully comply with the provisions of this act, rules and regulations promulgated hereunder, and the terms and conditions of his permit, including the approved reclamation plan, and that he has satisfactorily corrected all previous violations.

**Sec. 14.** Bond Forfeiture Proceedings. Whenever the Department determines the necessity of a bond forfeiture under the provisions of Section 11, or whenever it revokes an operating permit under the provisions of Section 13, it shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed by the operator under Section 9; 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 Section 11, 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.

**Sec. 15.** Notice. Whenever in this act 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 or renewal of such permit. No other notice shall be required.

**Sec. 16.** Appeals. An appeal may be taken to the Mining Council from any decision or determination of the Department refusing, modifying, suspending, revoking, or terminating an operating permit or reclamation plan, or imposing any term or condition on said permit or reclamation plan. The person taking such appeal shall within 60 days after the Department's decision give written notice to the Mining Council through its secretary that he desires to take an appeal, at the same time filing a copy of such notice with the Department. The Chairman of the Mining Council shall fix a reasonable time and place for a hearing, giving reasonable notice thereof to the appellant and to the Department. The Mining Council, or a committee thereof designated by the Council's rules of procedure, shall thereupon conduct a full and complete hearing as to the matters in controversy, after which it shall within a reasonable time give a written decision setting forth its findings of fact and its conclusions. The Council or its designated committee may affirm, affirm with modifications, or overrule the decision of the Department and may direct the Department to take such action as may be required to effectuate its decision. A further appeal may be taken from the Council's decision to a superior court, as provided below.

**Sec. 17.** Judicial Review . An appeal to the courts may be taken from any decision of the Mining Council, in the manner provided by Article 33 of Chapter 143 of the General Statutes of North Carolina. Such an appeal may also lie against the Department's refusal to release part or all of a bond or other security posted under Section 9, as provided in Section 11. Any such appeal may be filed in the Superior Court of Wake County or in the Superior Court of the county in which the mining operation is to be conducted.

**Sec. 18.** Rules and Regulations . The Mining Council is hereby given authority to promulgate such rules and regulations as may be reasonably necessary respecting the administration of this act and in conformity herewith. Any such rules and regulations shall be published in accordance with the provisions of Article 18 of Chapter 143 of the General Statutes of North Carolina.

**Sec. 19.** Penalty for Violations. In addition to other penalties provided by this act, any operator who engages in mining in willful violation of the provisions of this act or of any rules and regulations promulgated hereunder or who willfully misrepresents any fact in any action taken pursuant to this act or willfully gives false information in any application or report required by this act shall be guilty of a misdemeanor and, upon conviction thereof, shall 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.

In addition to other remedies, the Department may institute any appropriate action or proceedings to prevent, restrain, correct, or abate any violation of this act or of any rules and regulations promulgated hereunder.

**Sec. 20.** Effect on Local Zoning Regulations. No provision of this act 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 act.

**Sec. 21.** Private Relief Against Nuisance or Hazard. No provision of this act 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.

**Sec. 22. Exemptions.** The provisions of this act shall not apply to those activities of the North Carolina State Highway Commission, nor of any person, firm, or corporation acting under contract with said Commission, 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 State Highway Commission shall have adopted reclamation standards applying to such activities and such standards have been approved by the Mining Council. The provisions of this act 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.

**Sec. 23. 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 act, 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 act or to accomplish its purposes more successfully.

**Sec. 24. Severability.** Should any section, clause, or provision of this act or any rules and regulations promulgated hereunder be declared by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the act as a whole nor of any part thereof other than the part so declared to be unconstitutional or invalid.

**Sec. 25.** This act shall become effective on its ratification.

In the General Assembly read three times and ratified, this the 11th day of June, 1971.