§ 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).)