

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 2000-116
SENATE BILL 1329

AN ACT TO PROVIDE FOR ADDITIONAL NOTICE OF AN APPLICATION FOR
A PERMIT UNDER THE MINING ACT OF 1971, AS RECOMMENDED BY
THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-50 reads as rewritten:

"§ 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) '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.
- (2) 'Permit boundaries' means the boundaries of a permitted area.
- (3) '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: (i) any parcel or tract that includes the permitted area or (ii) 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, taken together, are contiguous to the permitted area.

(b1) At the time of the an application for a new mining permit or 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, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to notify all owners of record of land adjoining the proposed site, and to notify the chief administrative officer of the county or municipality in which the site is located that the operator intends to conduct a mining operation on the site in question. 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.
- (3) The owners of record of land that 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 and that lies within 1,000 feet of the permit boundaries. For purposes of this 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.

(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 mining operation and the opportunity to request a public hearing regarding the proposed 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 Environment and Natural Resources.
- (2) Division of Parks and Recreation, Department of Environment and Natural Resources.
- (3) Division of Water Quality, Department of Environment and Natural Resources.
- (4) Division of Water Resources, Department of Environment and Natural Resources.
- (5) North Carolina Geological Survey, Division of Land Resources, Department of Environment and Natural Resources.
- (6) Wildlife Resources Commission, Department of Environment and Natural Resources.
- (7) Division of Archives and History, Department of 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, Department of Environment and Natural Resources; the Division of Marine Fisheries, Department of Environment and Natural Resources; the Division of Waste Management, Department of Environment and Natural Resources; 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) An operating permit shall be granted for a period not exceeding 10 years. If the mining operation terminates and the reclamation required under the approved reclamation plan is completed prior to the end of the period, the permit shall terminate. 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."

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 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."

Section 3. This act becomes effective 1 October 2000.

In the General Assembly read three times and ratified this the 4th day of July, 2000.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker Pro Tempore of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 8:38 a.m. this 14th day of July, 2000