

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 239

Short Title: Mining Permit Amendments.

(Public)

Sponsors: Senator Kaplan.

Referred to: Environment and Natural Resources.

March 18, 1991

A BILL TO BE ENTITLED

AN ACT TO AMEND THE MINING PERMIT REQUIREMENTS AND TO ALLOW
THE MINING COMMISSION TO CONSIDER ADDITIONAL FACTORS IN
GRANTING OR DENYING A MINING PERMIT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-51 reads as rewritten:

"§ 74-51. 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 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. Notice shall be sent to the unit of local government with jurisdiction and any other unit of local government within one-half mile of the proposed activity. The Department shall grant

1 or deny the permit requested as expeditiously as possible, but in no event later than 60
2 days after the application form and any relevant and material supplemental information
3 reasonably required shall have been filed with the Department, or if a public hearing is
4 held, within 30 days following the hearing and the filing of any relevant and material
5 supplemental information reasonably required by the Department. Priority
6 consideration shall be given to applicants who submit evidence that the mining
7 proposed will be for the purpose of supplying materials to the Board of Transportation.

8 Upon its determination that significant public interest exists, the Department shall
9 conduct a public hearing on any application for a new mining permit. Such hearing
10 shall be held before the Department reaches a final decision on the application, and in
11 making its determination, the Department shall give full consideration to all comments
12 submitted at the public hearing. Such public hearing shall be held within 60 days of the
13 filing of the application.

14 The Department may deny such permit upon finding:

- 15 (1) That any requirement of this Article or any rule promulgated
16 hereunder will be violated by the proposed operation;
- 17 (2) That the operation will have unduly adverse effects on wildlife or fresh
18 water, estuarine, or marine fisheries;
- 19 (3) That the operation will violate standards of air quality, surface water
20 quality, or groundwater quality which have been promulgated by the
21 Department;
- 22 (4) That the operation will constitute a substantial physical hazard to a
23 neighboring dwelling house, school, church, hospital, commercial or
24 industrial building, public road or other public property;
- 25 (5) That the operation will have a significantly adverse effect on the
26 purposes of a publicly owned park, forest or recreation area;
- 27 (6) That previous experience with similar operations indicates a
28 substantial possibility that the operation will result in substantial
29 deposits of sediment in stream beds or lakes, landslides, or acid water
30 pollution; ~~or~~
- 31 (7) That the operator has not corrected all violations which he may have
32 committed under any prior permit and which resulted in,
 - 33 a. Revocation of his permit,
 - 34 b. Forfeiture of part or all of his bond or other security,
 - 35 c. Conviction of a misdemeanor under G.S. 74-64, or
 - 36 d. Any other court order issued under G.S. 74-64.
- 37 (8) That the unit of local government with jurisdiction over the area has
38 certified that the activity is not in accordance with its comprehensive
39 plan; or
- 40 (9) That the operation will be within one-half mile of 10 or more occupied
41 dwellings.

42 In the absence of any such findings, a permit shall be granted.

43 Any permit issued shall be expressly conditioned upon compliance with all
44 requirements of the approved reclamation plan for the operation and with such further

1 reasonable and appropriate requirements and safeguards as may be deemed necessary
2 by the Department to assure that the operation will comply fully with the requirements
3 and objectives of this Article. Such conditions may, among others, include a
4 requirement of visual screening, vegetative or otherwise, so as to screen the view of the
5 operation from public highways, public parks, or residential areas, where the
6 Department finds such screening to be feasible and desirable. Violation of any such
7 conditions shall be treated as a violation of this Article and shall constitute a basis for
8 suspension or revocation of the permit.

9 Any operator wishing any modification of the terms and conditions of his permit or
10 of the approved reclamation plan shall submit a request for modification in accordance
11 with the provisions of G.S. 74-52.

12 If the Department denies an application for a permit, it shall notify the operator in
13 writing, stating the reasons for its denial and any modifications in the application which
14 would make it acceptable. The operator may thereupon modify his application or file an
15 appeal, as provided in G.S. 74-61, but no such appeal shall be taken more than 60 days
16 after notice of disapproval has been mailed to him at the address shown on his
17 application.

18 Upon approval of an application, the Department shall set the amount of the
19 performance bond or other security which is to be required pursuant to G.S. 74-54. The
20 operator shall have 60 days following the mailing of such notification in which to
21 deposit the required bond or security with the Department. The operating permit shall
22 not be issued until receipt of this deposit.

23 When one operator succeeds to the interest of another in any uncompleted mining
24 operation, by virtue of a sale, lease, assignment, or otherwise, the Department may
25 release the first operator from the duties imposed upon him by this Article with
26 reference to such operation and transfer the permit to the successor operator; provided,
27 that both operators have complied with the requirements of this Article and that the
28 successor operator assumes the duties of the first operator with reference to reclamation
29 of the land and posts a suitable bond or other security."

30 Sec. 2. This act is effective upon ratification.