



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
Senator Trudy Wade, Chair
Representative Jimmy Dixon, Co-Chair
Representative Chuck McGrady, Co-Chair

JOINT LEGISLATIVE COMMITTEE ON ENERGY POLICY
Representative John Szoka, Co-Chair
Senator Paul Newton, Co-Chair

FROM: Anderson Miller
Director of Legislative Affairs

SUBJECT: Annual Mine Operating Fee Due Date Change

DATE: April 9, 2018

Pursuant to Session Law 2014-4, the Department shall submit quarterly reports to the Joint Legislative Commission on Energy Policy and the Environmental Review Commission on recommendations on changes required to existing rules and statutes and any other findings or recommendations necessary for the implementation of SL 2012-143.

We propose to change the “Annual Mine Operating Fee” due date from July 1 of each FY to September 1 of each FY. The proposed amendments to the NC Mining Act of 1971, Article 7, would a) change the due date of the annual mine operating fee so that it can be used efficiently and effectively by the Mining Program. As it is currently, the fee due date which is July 1 of each new FY results in it being paid in June at the end of the prior FY thus not allowing for adequate time to responsibly use those receipts for effective and efficient business practice. This proposal will allow the Mining Program to operate and budget evenly during the year instead of having a rushed end of year intake and budget normalizing cycle that does not work with the State’s budget cycle. There is no additional fiscal impact by this legislation. There is only a fee due date change. The proposed legislative language is below and the pertinent changes are underlined with strikethroughs on what should be removed:

G.S. 74-54.1. Permit fees.

(a) The fee schedule for the processing of new permit applications and permit modifications and transfers 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) An annual operating fee of four hundred dollar (\$400.00) per permit per year and an annual operating fee late penalty of fifty dollars (\$50.00) per permit for every month the annual operating fee payment is delinquent shall be paid as provided in G.S. 74-55 of this Article.

G.S. 74-55. Reclamation report.

The operator shall file a report of activities completed during the preceding year on a form prescribed by the Department by ~~July 1~~ September 1 of each year, which shall:

- (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) of this Article.

As part of the annual report, the permittee shall pay the annual operating fee for the permit to the Department by ~~July 1~~ September 1 of each year until the permit has been terminated by the Department. The Department may assess and collect a penalty for each annual report and annual operating fee not filed by ~~July~~ September 31 of each year on a monthly basis until the annual report and annual operating fee are filed with the Department. If the required annual operating fee and the annual report, including any late payment penalties, are not filed by ~~December~~ February 31 of each year, the Department shall give written notice to the operator and then initiate permit revocation proceedings in accordance with the provisions of G.S. 74-58 of this Article.

If you have any questions or need additional information, please contact me by phone at 919-707-8618 or via email at anderson.miller@ncdenr.gov.

cc: Chief Deputy Secretary John A. Nicholson