

MINE SAFETY AND HEALTH ACT OF NORTH CAROLINA

**North Carolina General Statutes
Chapter 74, Article 2A**

AND

ADMINISTRATIVE RULES

**North Carolina Administrative Code
Title 13, Chapter 6**

WITH REVISIONS THROUGH JANUARY 2007



Mine and Quarry Bureau

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Introduction

The Mine and Quarry Bureau enforces the 1975 Mine Safety and Health Act of North Carolina (Chapter 74, Article 2A of the N.C. General Statutes) and the Administrative Rules promulgated thereunder (Title 13, Chapter 6 of the N.C. Administrative Code), and conducts a program of inspections, education and training, technical assistance, and consultations to implement provisions of the Act. The Bureau also assists mine and quarry operators to comply with the provisions of the 1977 Federal Mine Safety and Health Act that requires operators to train their employees in safe working procedures. Previous North Carolina laws on the operations and inspection of mines and quarries in the State date back to 1897. The Bureau inspects abandoned surface mines and surface areas of abandoned underground mines for the protection of the general public, promotes rockhound safety, and conducts an explosives safety course for anyone handling or using explosives.

This publication contains the Mine Safety and Health Act and the Administrative Rules contained in the N.C. Administrative Code which govern these laws. It is intended to be used by employers covered under these laws, as well as employees, in order to inform them of their rights and responsibilities in matters related to safety in mines and quarries. Our experience shows that most businesses and workers want to comply with the labor laws of the State, and will generally do so when they know what the laws provide. We hope the use of this publication will help build the spirit of cooperation and fairness which currently characterizes most workplaces in North Carolina. That gives our State a more effective and productive workforce with which to maintain our competitive national economic position.

We encourage and solicit public comments concerning these laws and regulations. Please direct your comments and questions to the Mine and Quarry Bureau, N.C. Department of Labor, 1101 Mail Service Center, Raleigh, North Carolina 27699-1101.

Cherie K. Berry
Commissioner of Labor

January 2007

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N.C. GENERAL STATUTES
CHAPTER 74 – MINES AND QUARRIES
ARTICLE 2A – MINE SAFETY AND HEALTH ACT

(Revised as of January 2007)

§ 74-24.1. Short title and legislative purpose.

(a) This Article shall be known as the Mine Safety and Health Act of North Carolina.

(b) Legislative findings and purpose:

(1) The General Assembly finds that the burden of operators and miners of this State's mines resulting from personal injuries and illnesses arising out of work situations is substantial; that the prevention of these injuries and illnesses is an important objective of the government of this State; that the greatest hope in attaining this objective lies in programs of research, engineering, education, and enforcement, and in earnest cooperation of the federal and state governments, operators, and miners.

(2) The General Assembly of North Carolina declares it to be its purpose and policy through the exercise of its powers to assure so far as possible every worker in North Carolina's mines safe and healthful working conditions and to preserve our human resources:

- a. By encouraging operators and miners in their effort to reduce the number of occupational safety and health hazards in mines and to stimulate and assist operators and miners to institute new programs and to perfect existing programs for providing safe and healthful working conditions through technical assistance and consultation;
- b. By recognizing that operators and miners have separate but interdependent responsibilities and rights with respect to achieving safe and healthful working conditions;
- c. By authorizing the Commissioner to develop occupational safety and health standards applicable to mines giving consideration to the needs of operators and miners and to adopt standards promulgated from time to time by the federal government;
- d. By providing occupational health criteria which will assure insofar as practicable that no miner will suffer diminished health, functional capacity, or life expectancy as a result of his work experience in a mine;
- e. By providing education and training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;
- f. By providing an effective enforcement program which shall include a prohibition against giving advance notice of a mine inspection;
- g. By providing for appropriate reporting procedures with respect to occupational safety and health which will help achieve the objectives of this Article and accurately describe the nature of the occupational safety and health problems in mines;

- h. By providing for research and technical assistance in the field of occupational safety and health in mines and by developing innovative methods, techniques, and approaches for dealing with occupational safety and health problems in mines; and
- i. By authorizing the Commissioner to enter into agreements and contracts with public and private agencies, including agencies of the United States government, organizations, and individuals in order to carry out the ends and purposes of this Article.

(c) The General Assembly of North Carolina appoints the North Carolina Department of Labor as the designated agency to administer the Mine Safety and Health Act of North Carolina. (1975, c. 206, s. 1.)

§ 74-24.2. Definitions.

In this Article, unless the context otherwise requires:

- (1) The term "accident" means an unexpected event resulting in injury to, illness of, or death of a person or persons as a result of mining operations and any mine explosion, mine ignition, mine fire, mine inundation, mine cave-in, or other event which could have readily resulted in serious physical harm.
- (2) The term "Advisory Council" shall mean the Advisory Council or body authorized to be established under this Article.
- (3) The term "agent" means any person charged by the operator with responsibility for the operation of all or part of a mine or supervision of the miners in a mine, and for the purposes of this Article includes contractors, subcontractors, or independent contractors employed by the operator to perform any work or services at, in, or on the mine.
- (4) The term "Commissioner" means the Commissioner of Labor of North Carolina.
- (5) The term "Director" means the person authorized under G.S. 74-24.19 and appointed by the Commissioner for the purpose of assisting in the administration of this Article.
- (6) The term "imminent danger" means the existence of any condition or practice in a mine which could reasonably be expected to cause death or serious physical harm immediately to any miner if such condition or practice is not abated at once.
- (7) The term "mine" means an area of land and all private ways and roads appurtenant thereto, structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed or constructed on, under, or above the surface of such land by any person, used in, or to be used in, or resulting from (including the reclamation of mined areas or the storage of materials in mined areas), or to facilitate the work of exploring for, developing of, or extracting by any means or method in such area all minerals, inorganic and organic, from their natural deposits. The term "mine" also includes all mineral processing and milling facilities except those used in the processing of source materials as defined in the Atomic Energy Act of 1954, as amended.

- (8) The term "miner" means any individual, other than an operator or an agent, working in or about a mine.
- (9) The term "operator" means an individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization owning, operating, leasing, controlling, or supervising a mining operation.
- (10) The term "repeated violation" means a violation for which an operator was issued a notice or an order on an inspection and which is found to exist again on the next regular inspection, even though the violation was abated within the time fixed for abatement.
- (11) The term "State" means the State of North Carolina. (1975, c. 206, s. 2.)

§ 74-24.3. Coverage.

Each mine shall be subject to the provisions of this Article, and each operator of such mine shall comply with all standards, rules, regulations, orders, and notices adopted or issued under this Article. The operator of such mine shall be responsible for the health and safety of all miners in a mine and shall assure insofar as practicable conditions of work and places of work free from hazards that are causing or are likely to cause death or serious physical harm. (1975, c. 206, s. 3.)

§ 74-24.4. Safety and health standards.

(a) The Commissioner shall develop, adopt, revise, and promulgate safety and health standards for the purpose of the protection of life, the promotion of safety and health, and the prevention of "accidents" in mines which are subject to this Article. In the development of safety and health standards, the Commissioner shall consult with the Advisory Council, interested federal agencies, appropriate representatives of other State agencies, appropriate representatives of mine operators and miners, and other interested persons and organizations whose participation would further the purposes of this Article.

(b) In developing and promulgating safety standards pursuant to this section, the Commissioner shall include standards with respect to the training of miners in first aid, safety, the proper use of rescue equipment available within mines, and periodic evacuation drills and disaster procedure training.

(c) The State Health Director shall have primary responsibility for research and the recommendation of health standards to the Commissioner to effectuate the purposes of this Article, and nothing in this subsection shall affect the authority of the Commissioner with respect to the promulgation and enforcement of both safety and health standards.

(d) The procedures utilized for the adoption and promulgation of safety and health standards, including notice and public hearings, shall be in accordance with the Administrative Procedure Act as set out in Chapter 150B of the General Statutes. (1975, c. 206, s. 4; 1989 (Reg. Sess., 1990), c. 1004, ss. 52, 53; 1993, c. 513, s. 8.)

§ 74-24.5. Modification of safety and health standards.

Upon petition by an operator, a representative of miners, or a miner, the Commissioner may modify the application of any safety and health standard to a mine if the Commissioner determines that an alternative method of protecting the miners will guarantee the same measure of protection afforded the miners by the standard, or will enhance the level of safety and health provided by that standard. Upon receipt of such petition the Commissioner shall give public notice thereof and give notice to the operator, the representative of miners, or the miner in the

affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of such operator, representative of the miners, or miner to enable the operator, the representative of miners, or miner in such mine or any interested party to present information relating to the modification of such standard. The Commissioner shall issue a decision incorporating his findings of fact therein and send a copy thereof to the operator, the representative of the miners, or miner as appropriate. A record shall be kept of a public hearing held under this section. The decision of the Commissioner is considered a final agency decision for purposes of judicial review. (1975, c. 206, s. 5; 1987, c. 827, s. 258.)

§ 74-24.6. Advisory Council.

(a) The Commissioner shall appoint an Advisory Council consisting of 11 members to assist him in the development of safety and health standards for mines which are subject to this Article and to advise him on matters relating to safety and health in such mines. Said Advisory Council shall include three members expressly qualified by experience and affiliation to present the viewpoint of operators of such mines, three persons similarly qualified to present the viewpoint of workers in such mines, and five members of the public sector with knowledge of mining operations or associated health and safety aspects thereof. The Commissioner of Labor shall annually designate one member to act as chairman. The members of the Advisory Council shall serve at the pleasure of the Commissioner and shall have no specific term of office.

(b) The Advisory Council shall hold not fewer than two meetings during each calendar year, and said meetings shall be open to the public. The Commissioner shall furnish to the Advisory Council such secretarial, clerical, and other services as he deems necessary to conduct its business.

(c) The members of the Advisory Council shall be compensated for travel expenses and per diem as authorized by the Advisory Budget Commission in accordance with those amounts paid to State boards under Chapter 138 of the General Statutes.

(d) The Commissioner may from time to time select representatives of professional organizations of technicians, professional persons specializing in occupational safety and health, and representatives of State agencies who by experience and affiliation are qualified to present the viewpoint of operators of mines and workers in mines to assist the Advisory Council in performing its duties. Such persons, except State employees, selected for temporary purposes may be paid such per diem and travel expenses for attending meetings as may be fixed by the Advisory Budget Commission and recommended by the Commissioner. (1975, c. 206, s. 6; 1977, c. 683.)

§ 74-24.7. Inspections and investigations.

(a) The Commissioner through the Director shall make as many inspections and investigations in mines each year as are deemed necessary to effectively and accurately fulfill the requirements of:

- (1) Obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of "accidents" and causes of illnesses and physical impairments originating in such mines,
- (2) Gathering information with respect to the necessity for health and safety standards,
- (3) Determining whether an imminent danger exists,

- (4) Determining whether or not there is compliance with safety and health standards or with any notice, order, or decision issued under this Article.
- (5) In carrying out the requirements of (4) of this subsection, no advance notice of an inspection shall be provided to any mine operator, official, miner, representative of the miners, or other person, except that the Commissioner or Director may authorize the giving of advance notice only when such notice is essential to the effectiveness of the inspection.

(b) For the purpose of making any inspection or investigation under this Article, the Commissioner or his authorized representative shall have a right of entry to, upon, or through any mine at reasonable times.

(c) For the purpose of making any investigation of any "accident" relating to safety and health in a mine, the Commissioner may, after notice, hold hearings, and may issue subpoenas for the attendance and testimony of persons and the production of relevant documents, and administer oaths in any investigation conducted by him. In case of contumacy or refusal to obey a subpoena served upon any person under this section, the general court of justice, superior court division, of the county in which such person is found or resides or transacts business, upon application by the Commissioner and after notice to such person, shall have jurisdiction to determine whether such person shall be punished as for contempt of court.

(d) In the event of an "accident" occurring in a mine, the operator shall notify the Commissioner or the Director thereof at such time as may be required and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any "accident" occurring in a mine where rescue and recovery work is necessary, the Commissioner through the Director shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

(e) In the event of any "accident" occurring in a mine, the Commissioner through the Director may issue such orders as he deems appropriate to insure the safety of any person in the mine, and the operator of such mine shall obtain the approval of the Commissioner or his authorized representative in consultation with appropriate federal representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(f) Whenever any miner or representative of the miners has reasonable grounds to believe that a violation of a safety or health standard exists, or that an imminent danger exists, such miner or representative of the miners may request an inspection by giving notice to the Commissioner or the Director of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall show the name of the miner, be signed by the miner or representative of the miners, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that, upon request of the person giving such notice, his name and the names of individual miners referred to therein shall not appear in such copy. If, after receipt of such notification, the Commissioner finds that there are reasonable grounds to believe a violation may exist, a special inspection shall be made as soon as practicable to determine if, in fact, such violation or danger does exist under the provisions of this Article.

(g) At the commencement of any inspection of a mine by the Commissioner or his authorized representative, under subsection (a)(3) or subsection (a)(4) of this section, the authorized representative of the miners at the mine at the time of such inspection shall be given

an opportunity to accompany the Commissioner or his authorized representative on such inspection, to inform the Commissioner or his authorized representative of conditions and practices in the mine, without loss or deduction in pay. Where there is no authorized representative of the miners, the Commissioner or his authorized representative shall have the right to consult with a reasonable number of miners concerning matters of safety and health in the work place. (1975, c. 206, s. 7.)

§ 74-24.8. Findings, notices, and orders.

- (a) (1) If, upon any inspection of a mine, the Commissioner or his authorized representative finds that an imminent danger exists, he shall determine the area throughout which such danger exists, and thereupon shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except as provided in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Commissioner or his authorized representative determines such imminent danger no longer exists.
- (2) If, upon any inspection of a mine, the Commissioner or his authorized representative finds that an imminent danger exists with respect to the condition or manner of use of any equipment, machinery, article, or apparatus, he shall thereupon issue an order requiring the operator or his agent to cause immediately such equipment, machinery, article, or apparatus to be withdrawn from, and to be prohibited from, use or operation until the Commissioner or his authorized representative determines that such imminent danger no longer exists.
- (3) As a result of any investigation of any "accident" or as a result of any other investigation or tests performed, the Commissioner or his authorized representative may cause to be withdrawn and prohibited from use or operation in any mine any equipment, machinery, article, or apparatus the use of which is likely to cause serious physical harm or an "accident" until the Commissioner or his authorized representative determines that such equipment, machinery, article, or apparatus has been repaired, modified, reconditioned, or altered in such manner that "accidents" or serious physical harm will thereafter be avoided.
- (b) If, upon any inspection of a mine, the Commissioner or his authorized representative finds that there has been a violation of any safety and health standard but the violation has not created an imminent danger, he shall issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period as originally fixed or subsequently extended, the Commissioner or his authorized representative finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except as provided in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Commissioner or his authorized representative determines that the violation has been abated.
- (c) If, upon any inspection of a mine, the Commissioner or his authorized representative finds that there has been a repeated violation of a safety or health standard which could

reasonably be expected to result in serious physical harm to any miner, he shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except as provided in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Commissioner or his authorized representative determines that the violation has been abated.

(d) The following persons may enter, upon approval of the Commissioner or his authorized representative, any area of a mine subject to an order issued under this section:

- (1) Any person whose presence in such area is necessary, in the judgment of the operator or the Commissioner or his authorized representative, to eliminate the condition described in the order;
- (2) A public official whose official duties require him to enter such area;
- (3) A representative of the miners in such mine who, in the judgment of the operator or the Commissioner, or his authorized representative, is qualified to make mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the condition described in the order;
- (4) A consultant to any of the foregoing.

(e) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any safety or health standard and where appropriate, a description of the area of the mine from which persons must be withdrawn and prohibited from entering, and a description of the equipment, machinery, article, or apparatus which shall be withdrawn and prohibited from use or operation.

(f) A notice or order issued pursuant to this section may be modified, vacated, or terminated upon review by the Commissioner or his authorized representative. (1975, c. 206, s. 8.)

§ 74-24.9. Issuance and delivery of notices, orders, and decisions.

(a) All notices or orders issued under G.S. 74-24.8 shall be in writing, signed by the Commissioner or his authorized representative, and shall be given promptly to the operator of the mine.

(b) In order to insure prompt compliance with all notices, orders, or decisions issued under this Article, the Commissioner or his authorized representative may deliver such notices, orders, or decisions to an agent of the operator, and such agent shall immediately take appropriate measures to insure compliance with such notice, order, or decision.

(c) Each operator of a mine shall file with the Commissioner the name and address of such mine and the name and address of the operator of the mine. Any revisions in such names or addresses shall be promptly filed with the Commissioner. Each operator of a mine shall designate a responsible official, and shall file the name and address of said official with the Commissioner, as the principal officer in charge of safety and health at such mine, and such official shall receive a copy of any notice, order, or decision issued under this Article affecting such mine. In any case, where the mine is subject to the control of any person not directly involved in the daily operations of the mine, there shall be filed with the Commissioner the name and address of such person and the name and address of a principal official who shall have overall responsibility for the conduct of an effective safety and health program at any mine subject to the control of such person, and such official shall receive a copy of any notice, order,

or decision issued affecting any such mine. The mere designation of a safety and health official under this subsection shall not be construed as making such official subject to any penalty under this Article. (1975, c. 206, s. 9.)

§ 74-24.10. Administrative and judicial review of decisions on mine safety.

(a) An operator to whom a notice or order is issued under G.S. 74-24.8 and G.S. 74-24.9 may contest the notice or order by filing a petition for a contested case under G.S. 150B-23 within 30 days after receiving the notice or order. An operator who files a petition for a contested case shall send a copy of the petition to all affected miners or to their representative, if any, when the petition is filed. Judicial review of a decision by the Commissioner in a contested case is available under Article 4 of Chapter 150B of the General Statutes.

(b) A notice or order, except an order issued under G.S. 74-24.8(a), shall be stayed while it is under administrative or judicial review. (1975, c. 206, s. 10; 1987, c. 827, s. 259.)

§ 74-24.11. Repealed by Session Laws 1987, c. 827, s. 260.

§ 74-24.12. Injunctions.

The Commissioner through the Director may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the superior court of the county in which a mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (i) violates or fails or refuses to comply with any final order or decision issued under this Article or (ii) interferes with, hinders, or delays the Commissioner in carrying out the provisions of this Article, or (iii) refuses to admit the Commissioner or his authorized representative to the mine, or (iv) refuses to permit the inspection of the mine, or the investigation of an accident or occupational illness occurring in, or connected with, such mine, or (v) refuses to furnish any information or report requested by the Commissioner in furtherance of the provisions of this Article. (1975, c. 206, s. 12.)

§ 74-24.13. Mandatory reporting.

Under such regulations as he may prescribe, the Commissioner shall require that:

- (1) Operators of mines which are subject to this Article submit, at least annually and at such other times as he deems necessary, and in such form as he may prescribe, reports of "accidents," injuries, occupational disease, and related data, and the Commissioner through the Director shall compile, analyze, and publish, either in summary or detailed form, the information obtained; and all information, reports, orders, or findings, obtained or issued under this Article may be published and released to any interested person, and shall be made available for public inspection.
- (2) All "accidents" shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such "accidents" and investigations shall be kept, and the information shall be made readily available for inspection by the Commissioner or his authorized representative. Such records shall include man-hours worked and shall be reported for periods determined by the Commissioner, but at least annually.
- (3) The operators of mines which are subject to this Article shall notify the Commissioner, before starting operations, of the approximate or actual date

mine operations will commence. The notification shall include mine name, location, the company name, mailing address, the person in charge, and whether operations will be continuous or intermittent. When any mine subject to this Article is closed, the operator shall notify the Commissioner of such closure and indicate whether the closure is temporary or permanent. (1975, c. 206, s. 13.)

§ 74-24.14. Criminal penalties.

Any person who (i) willfully violates any standard, order, notice, decision, rule, or regulation issued under authority of this Article, and said violation causes death or serious physical harm to another; (ii) knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Article or required by any order, notice, or decision issued under this Article; (iii) knowingly distributes, sells, offers for sale, introduces, or delivers any equipment, machinery, article, or apparatus which is represented as complying with the provisions of this Article, or with any specification or regulation of the Commissioner applicable to such equipment, machinery, article, or apparatus and knowing it does not so comply, shall be guilty of a Class 2 misdemeanor. In any instance in which such offense is committed by a corporation, the officer or authorized representative of such corporation who knowingly permits such offense to be committed shall, upon conviction, be subject to the same fine or imprisonment, or both. (1975, c. 206, s. 14; 1993, c. 539, s. 553; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 74-24.15. Rights and duties of miners.

Miners shall comply with all safety and health standards and all rules, regulations, or orders issued pursuant to this Article which are applicable to their own actions and conduct and shall have the rights afforded under Article 21 of Chapter 95 of the General Statutes. (1975, c. 206, s. 15; 1987, c. 827, s. 261; 1991 (Reg. Sess., 1992), c. 1021, s. 5.)

§ 74-24.16. Education, training, technical assistance, and research.

(a) The Commissioner through the Director is authorized to develop and conduct expanded programs for the education, training, and technical assistance of operators and miners in the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions and to conduct such research as may be necessary in mines which are subject to this Article.

(b) The Commissioner is authorized to conduct, directly or by grants, short-term training of personnel engaged in work related to the Commissioner's responsibilities under this Article.

(c) In carrying out the provisions of this Article, the Commissioner is authorized to enter into agreements and contracts with, and accept grants from and make grants to, public and private agencies and organizations and individuals. (1975, c. 206, s. 16; 2005-276, s. 42.2(a); 2005-345, s. 48(a); 2006-66, s. 13.1.)

§ 74-24.17. State-federal plan.

In order to promote sound and effective coordination in State and federal activities within the field covered by this Article, the Commissioner is hereby authorized to enter into and, from time to time, to amend or terminate a State-federal plan agreement with the federal agency charged with administering laws relating to safety and health in mines. (1975, c. 206, s. 17.)

§ 74-24.18. Legal representation.

It shall be the duty of the Attorney General of North Carolina to represent the Department of Labor in all actions or proceedings in connection with this Article. (1975, c. 206, s. 18.)

§ 74-24.19. Administrative provisions.

(a) The Commissioner shall appoint a Director to assist him in administering the provisions of this Article and, through the Director, shall have authority to appoint, subject to Chapter 126 of the General Statutes of North Carolina, such officers, engineers, inspectors, and employees as he deems requisite for the administration of this Article; and to prescribe powers, duties, and responsibilities of all officers, engineers, inspectors, and employees engaged in the administration of this Article.

(b) All persons appointed as representatives of the Commissioner shall be qualified by practical experience in mine safety and health administration or practical experience in mining or by experience as a practical mining engineer or by education. All persons so appointed shall be physically able to perform their duties predicated on their work assignments, and all persons subject to making inspections, investigations, or participating in rescue and recovery work shall be examined prior to their employment and annually thereafter by a physician who shall certify their physical ability to perform their duties in mines subject to this Article. The fee for the required annual examination shall be satisfied as recommended by the Commissioner.

(c) The Commissioner, the Director, or any other officer, engineer, inspector, or employee engaged in the administration of this Article shall not, upon taking office or being employed, or at any other time during the term of his office or employment, have any affiliation, financial or otherwise, with any operating mining company, operator's association, or labor union. (1975, c. 206, s. 19.)

§ 74-24.20. Construction of Article and severability.

This Article shall receive a liberal construction to the end that the safety and health of miners in the State may be effectuated and protected. If any provision of this Article or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (1975, c. 206, s. 20.)

N.C. ADMINISTRATIVE CODE
TITLE 13 – DEPARTMENT OF LABOR
CHAPTER 6 – MINE AND QUARRY DIVISION

(Revised as of January 2007)

SECTION .0100 - GENERAL PROVISIONS

13 NCAC 06 .0101 NAME: ADDRESS

The Mine and Quarry Division is located in the Raleigh office of the department. The mailing address of the division: Mine and Quarry Division, North Carolina Department of Labor, 4 West Edenton Street, Raleigh, North Carolina 27601.

*History Note: Authority G.S. 74-24.19;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 1988; December 1, 1985.*

13 NCAC 06 .0102 PURPOSE: RESPONSIBILITIES

Through the administration and enforcement of the North Carolina Mine Safety and Health Act, the division works to ensure the safe operation of mines and quarries. Under the supervision of the commissioner, the division is responsible for:

- (1) making periodic inspections of mines and quarries throughout the state,
- (2) investigating accidents relating to safety and health in a mine in the state,
- (3) collecting information and maintaining records regarding the ownership and operation of mines in the state,
- (4) conducting education and training programs for miners and mine operators throughout the state,
- (5) providing technical assistance to miners and mine operators throughout the state,
- (6) conducting research in the area of mine health and safety.

*History Note: Authority G.S. 74-24.17; 74-24.13; 74-24.16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0103 ORGANIZATION

The Director of the Mine and Quarry Division, appointed by the commissioner and under the supervision of the deputy commissioner, is in charge of the day-to-day operations of the division. The director is assisted by an assistant director. The division is divided into two sections; the inspection section and the education and training section.

*History Note: Authority G.S. 74-24.19;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0104 ADVISORY COUNCIL

*History Note: Authority G.S. 74-24.6;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. January 5, 1978;
Repealed Eff. July 1, 1988.*

13 NCAC 06 .0105 DEFINITIONS

The following definitions shall apply in this Chapter:

- (1) "division" -- the mine and quarry division of the Department of Labor;
- (2) "director" -- the Director of the Mine and Quarry Division;
- (3) "act" -- the Mine Safety and Health Act of North Carolina General Statutes 74-24.1 - 74-24.20;
- (4) "notice" -- official notification to an operator or his agent that a violation of a safety and health standard has been found during an inspection;
- (5) "order" -- official notification to an operator or his agent to withdraw all persons from the mine or to discontinue the use of machinery or equipment which is likely to cause serious physical harm;
- (6) "approved" -- approved by the commissioner.

*History Note: Authority G.S. 74-24.2; 74-24.8; 95-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 1988.*

SECTION .0200 - EDUCATION AND TRAINING

13 NCAC 06 .0201 SERVICES OFFERED

The education and training section of the division provides:

- (1) education and training programs to increase the number and competence of personnel engaged in the field of occupational safety and health in mines, both in the private and in the public sectors;
- (2) consultation to operators to institute new programs, methods and procedures for providing safe and healthful working conditions;
- (3) research and technical assistance in the field of occupational safety and health in mines by developing innovative methods, techniques, and approaches to mine safety and health;
- (4) training of staff personnel, miners, and mine operators in first aid, safety, proper use of rescue equipment, mine evacuation, disaster procedure training, and training in the recognition, avoidance, and prevention of accidents or unsafe and unhealthful working conditions.

*History Note: Authority G.S. 74-24.16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0202 REQUESTS

Operators and miners may request the education, training, consultation, and technical assistance services of the division by contacting the director or any employee of the division.

*History Note: Authority G.S. 74-24.16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

SECTION .0300 - PROCEDURES

13 NCAC 06 .0301 MODIFICATION OF STANDARDS

(a) A petition for modification of the application of a safety or health standard to a mine shall be in writing and shall be mailed to the commissioner. The petition shall include:

- (1) the name, address, title and affiliation of the petitioner;
- (2) identification of the mine at which the modification or variance is sought;
- (3) the specific standard or standards for which a modification or variance is sought;
- (4) specific reasons for seeking the variance or modification, giving reasons why the standard or standards cannot be strictly complied with;
- (5) the name and address of the representative of the miners, if any, and the names, addresses and occupations of all miners who may be affected by a modification or variance from the standard;
- (6) specify and fully describe the alternative method of protecting the miners which will guarantee the same measure of protection afforded the miners by the standard or standards or will enhance the level of safety and health provided by the standard or standards;
- (7) specify the effects of denial of the modification or variance by the commissioner.

(b) When a hearing is requested by the petitioner, or when the commissioner concludes that a hearing is warranted, the commissioner shall issue notice and hold a public hearing in accordance with the provisions of Article III of Chapter 150B of the North Carolina General Statutes and with the provisions of 13 NCAC 1B .0300.

*History Note: Authority G.S. 74-24.5; 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0302 GENERAL INSPECTIONS

(a) Advance Notice. Advance notice will be given only when it is necessary to insure that appropriate mine personnel are present at the time of the inspection. In any case, advance notice shall not be given more than 15 days before the inspection.

(b) Requests for Permission. Inspectors may make tests to determine miner exposure to dust, gases, fumes, vapors and mists, as a routine part of their inspection without requesting permission to do so from the operator or his authorized agent. Inspectors may take photographs of violations of safety and health standards and of objects of general interest only after receiving written or verbal permission from the operator, the agent of the operator, or another person authorized to give such permission.

(c) Closing Conference. Upon completion of an inspection, the inspector shall, when possible, discuss his findings with the mine operator or the authorized agent of the operator. If he determines that the operations of the mine are not in compliance with the regulations of this Chapter, the inspector shall issue either an official notice or an official order to withdraw, and after conferring with the operator or the authorized agent of the operator, shall specify an abatement period for notices issued.

(d) Forms Used. The following forms shall be used:

- (1) Notice of Violation Form. The notice of violation form, completed, signed and dated by the inspector shall include the following information: the location of the mine, the name and address of the operator, the standard(s) violated, a description of the violation(s), and the abatement period(s).
- (2) Order to Withdraw Form. The order to withdraw form, completed, signed and dated by the inspector shall include the following information: the location of the mine, the name and address of the operator, the standard(s) violated, a description of the violation(s), the specific portion(s) of the mine closed (or specific machinery prohibited).

(e) Notification of Interested Officials. Copies of all notices and orders shall be mailed, as soon as practicable, to other interested mine officials, including the person in charge of safety and health.

(f) Extension of Abatement Period. An operator may request an extension of the abatement period for a violation of a safety and health standard from the inspector or from the director. The request may be in writing, by telephone or in person, and the operator shall fully describe the reason for the requested extension. If the inspector or the director decides to extend the abatement period, the decision shall be in writing and shall be given to the operator and other interested mine officials.

(g) Follow-up Inspections. After the inspection of a mine at which a violation of a safety and health standard is found and a notice is issued, a reinspection or follow-up inspection will be made upon expiration of the abatement period. Following the follow-up inspection, the inspector shall hold a closing conference with the operator or the authorized agent of the operator. In the event of non-abatement, the inspector will either:

- (1) extend the abatement period, or
- (2) issue an order to withdraw from the affected portion of the mine. In either event, the inspector shall give a written and signed copy of his decision to the operator and to other interested mine officials.

*History Note: Authority G.S. 74-24.7; 74-24.8; 74-24.9; 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0303 HEALTH SURVEYS

(a) Agreement. The commissioner has reached an agreement with the Director, Division of Health Services of the North Carolina Department of Human Resources, under which the division of health services shall perform health surveys and investigations of mines in the state.

(b) Frequency of Inspections. The division of health services shall make inspections as follows:

- (1) gassy and nongassy underground mines at least once each calendar year,
- (2) quarries and open pit mines at least once each two calendar years,

(3) sand and gravel operations at least once each five calendar years.

The division of health services shall also make intermittent and spot-check inspections in order to determine continuous compliance with health standards.

(c) Conduct of Inspection. Advance notice of the inspection will not be given, except as provided for in Rule .0302(a) of this Section. During the inspection, the inspector of the division of health services shall investigate into the following areas, where applicable:

- (1) dust exposure;
- (2) exposure to fumes, gases, vapors, and particulate matters;
- (3) noise exposure; and
- (4) radiation exposure.

(d) Report of Findings. As soon as possible after the completion of the inspection or investigation of a mine, the inspector of the division of health services shall furnish the Director of the Mine and Quarry Division with two copies of the inspection report. The report shall include: the name and address of the operator, the location of the mine, a description of the findings of the inspection, a description of the health hazards found, the date of the inspection, and the name of the inspector.

(e) Notices, Orders. If, after reviewing the report of the inspector of the division of health services, the Director of the Mine and Quarry Division determines that a violation of a mine health standard has occurred, the director will issue the official notice or the official order to withdraw, as described in Rule .0302(d) of this Section. The director will mail copies of all notices and orders to other interested mine officials, including the person in charge of safety and health, as soon as practicable.

(f) Follow-up Inspection. The director may request an inspector of the Division of Health Services to make a follow-up inspection of a mine to insure that the operator has complied with the rules and regulations of this Chapter. After the follow-up inspection, the inspector of the division of health services shall furnish the Director of the Mine and Quarry Division with two copies of the inspection report, as described in Subsection (d) of this Rule.

(g) Quarterly Report. The division of health services shall report at least quarterly to the Director of the Mine and Quarry Division all known incidents of acute occupational illnesses resulting from skin contact with industrial agents; inhalation of dust, fumes, mists, toxic gases or radioactive particles; or ingestion of toxic agents from material on hands or food.

(h) Annual Report. The division of health services shall furnish the Director of the Mine and Quarry Division with an annual report of disabling chronic occupational illnesses occurring to miners.

*History Note: Authority G.S. 74-24.16(c); 74-24.8; 74-24.9; 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0304 ACCIDENTS: NOTIFICATION: INVESTIGATION

(a) Immediate Notification. The operator of a mine, using the fastest available means of communication, shall notify the director or any other representative of the division of any of the following accidents that occur at a mining operation:

- (1) any injury, including illness, which results in death or may reasonably be expected to result in death;

- (2) any outbreak of fire that endangers human life or a fire underground which is not brought under control within 30 minutes;
 - (3) any unplanned ignition of dust or strata gas;
 - (4) any unplanned explosion of dust or gas;
 - (5) any unplanned inundation by water or gas that endangers human life;
 - (6) any unplanned initiation of explosives, including blasting agents;
 - (7) any cave-in or entrapment that endangers human life;
 - (8) any unexpected event which could have readily resulted in serious physical harm.
- (b) Investigatory Report by Operator. Following the occurrence of an accident, as listed in (a) of this Rule, the operator shall conduct an investigation of the accident and shall submit to the director a detailed written report of his finding, as soon as practicable. The report shall include the following information: the name and address of the operator, the name and location of the mine, a description of the accident, the apparent cause of the accident, a description of all injuries to persons and of all damage to property, and the apparent consequences of the accident to the continued operation of the mine.
- (c) Official Investigation. Following the occurrence of an accident, as described in (a) of this Rule, an inspector of the division shall conduct an extensive investigation and shall prepare a written report.
- (d) Requests for Reports. Upon establishing a bonafide need, a person may obtain a copy of an accident investigation report from the director. The request for a copy of the accident investigation report shall be made in person to the director.

*History Note: Authority G.S. 74-24.7; 95-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0305 ACCIDENT AND ILLNESS RECORDS

- (a) Reporting Required. Following the occurrence of any work-related accident (including those listed in Rule .0304(a) of this Section), work-related illness, or work-related injury (other than a minor first-aid case), the operator shall complete a Mine Injury or Illness Report, Form MAQD-9 (or Mine Safety and Health Administration (MSHA) Form 7000-1). The report form shall include the following information: the mine identification number; mine name; company name; the location of the mine; a description of the circumstances of the accident, injury or illness; location of the accident within the mine; the name and job title of the ill or injured person; and the total number of lost workdays.
- (b) Report to Director. The operator shall mail or fax one copy of the form to the director within 10 calendar days of the occurrence of the accident, illness, or injury. If the form is faxed, a copy of the form must also be mailed to the director within 24 hours.
- (c) Maintenance of Records. The operator shall maintain one copy of each form at the mine or nearest mine office for at least one year and shall upon request make the record available for examination by a representative of the Division.

*History Note: Authority G.S. 74-24.13;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0306 WORK RECORDS

All operators shall maintain for at least two years records specifying: the number of days that the mine has operated each month; the number of employees working each month; the total number of manhours worked; and the number of days lost from work by accident, injury, or illness.

*History Note: Authority G.S. 74-24.13; 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0307 COMMENCEMENT: CLOSING OF OPERATIONS

(a) Commencement of Operations. Before starting operations, all operators of mines shall notify the commissioner of the approximate or actual date that mine operations will commence. The notification shall be in writing and shall include the mine name, location, the company name, mailing address, the person in charge of operations, and whether the operation will be continuous or intermittent.

(b) Closing of Mine. When a mine is closed, the operator shall promptly notify the commissioner of such closure in writing and shall indicate whether the closure is temporary or permanent.

*History Note: Authority G.S. 74-24.13(c); 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0308 PUBLICATION: RELEASE OF INFORMATION

(a) Annual Statistical Report. The director shall compile, analyze and annually publish, in summary form statistical information pertaining to accidents and injuries in mine operations within the state. Requests for the free annual report shall be made to the director.

(b) Inspection of Records. Statistical information regarding reports, notices, orders, or findings obtained or issued under the act may be inspected by the public in the offices of the division.

(c) Release of Information. A person may request other statistical information regarding reports, notices, orders, or findings obtained or issued under the act. The requests shall be made in writing to the director and shall specify the information sought, and the reasons therefor.

(d) Confidential Information. Any information that reveals the internal fiscal operation of individual mines, including manhours worked, will be held in confidence and will not be released to the public.

*History Note: Authority G.S. 74-24.13; 95-4(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0309 DISCRIMINATION AGAINST MINERS

Any miner or representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of the provisions of G.S. 95-241 may, within 180 days after such violation occurs, apply to the commissioner for a review of such alleged

discharge or discrimination. Such application shall be in writing and shall contain the complainant's name, address, title, when employed, the company name, the mine name, and the mine address. The application also shall specify the date the alleged discharge or discrimination took place and shall set forth in specific detail the reason why the miner or representative of miners believes he has been discharged or discriminated against in violation of the provisions of G.S. 95-241.

*History Note: Authority G.S. 74-24.15; 95-245;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. December 1, 2003.*

13 NCAC 06 .0310 REPRESENTATIVE OF MINERS

When used in the act, the term "representative of the miners" shall mean a union representative of the miners.

*History Note: Authority G.S. 74-24.7; 95-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0311 AUTHORIZED REPRESENTATIVE OF MINERS

When used in North Carolina General Statute 74-24.7(g), the term "authorized representative of the miners" shall mean the safety chairman, lead man, recognized spokesman, or union representative of the miners.

*History Note: Authority G.S. 74-24.7; 95-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

SECTION .0400 - GENERAL MINE STANDARDS

13 NCAC 06 .0401 GENERAL DUTY

Every operator shall use every reasonable precaution to provide safe and healthful working conditions for all miners in each mine, whether provided for in the standards of this Chapter or not. It shall be the duty of such operators to carry out the provisions of the standards of this Chapter by providing the safety devices, type of construction, materials, methods and procedures which are required by the standards of this Chapter and by generally accepted safety and health standards.

*History Note: Authority G.S. 74-24.15;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0402 FEDERAL MANDATORY STANDARDS

(a) The commissioner has adopted and shall enforce the mandatory provisions of the Metal and Nonmetal Mine Health and Safety Standards, July, 1993 edition, which are hereby incorporated

by reference, including subsequent amendments and editions, 30 CFR Chapter 1, Parts 56 and 57.

(b) Copies of the standards may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Post Office Box 371954, Pittsburgh, Pennsylvania 15250-7954. Copies of the standards are also available for inspection and purchase for twenty eight dollars (\$28.00) at the offices of the Mine and Quarry Division.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Amended Eff. June 3, 1977;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994; January 9, 1980; January 3, 1979; January 5, 1978.*

SECTION .0500 - SURFACE MINE: PIT AND QUARRY STANDARDS

13 NCAC 06 .0501 APPLICABILITY

In addition to complying with the requirements of Section .0400 of this Chapter, all mines, except for the underground portions of underground mines, shall comply with the rules of this Section.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0502 TOILET FACILITIES

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 9, 1980.*

13 NCAC 06 .0503 DANGEROUS OPENINGS

The operator, owner or lessee shall provide reasonable safeguards, such as guard rails, fences, berms or other approved means, to prevent loss of life or property at any surface mine, pit or quarry which has dangerous openings. These safeguards shall provide protection at operating, abandoned or closed surface mines, pits and quarries. Safeguards at abandoned surface mines, pits and quarries shall be located as close to the dangerous openings as possible.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976.*

13 NCAC 06 .0504 HOUSEKEEPING

History Note: Authority G.S. 74-24.4(a);

Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 5, 1978.

13 NCAC 06 .0505 MAINTENANCE

History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. August 1, 1994.

13 NCAC 06 .0506 HANDLING EQUIPMENT

History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 9, 1980.

13 NCAC 06 .0507 CRANES: DRAGLINES: SHOVELS AND DERRICKS

- (a) Air Pressure Gauge. Machines equipped with air brakes or air clutches shall have an air pressure gauge in view of the machine operator.
- (b) Derrick Guy Ropes. Derrick guy ropes that support masts shall be securely anchored and fastened. They shall be inspected at least semi-monthly and replaced when needed.
- (c) Direction of Cab Travel. The cab of machines, when traveling, shall face in the direction of travel, if practicable; otherwise a competent person shall direct the movement from the ground.
- (d) Oilers. Oilers shall keep the machine operator informed as to their whereabouts.
- (e) Suspension Cables, Sheaves and Pins. All boom suspension cables, along with their sheaves and pins, shall comply with the machine manufacturer's specifications. They shall be inspected at least monthly and replaced when needed.

History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.

13 NCAC 06 .0508 ELECTRICALLY POWERED HANDLING EQUIPMENT

History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 9, 1980.

13 NCAC 06 .0509 HAULAGE AND TRANSPORTATION

History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;

Repealed Eff. January 9, 1980.

13 NCAC 06 .0510 RAILWAYS

Starting a railroad car by "pinching" shall be prohibited except when a person is stationed at the brake wheel. ("Pinching" is defined as moving a railroad car with a pinchbar by placing the pinchbar between the wheel and the railroad track and using leverage to move it forward.)

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0511 MOTOR VEHICLES

13 NCAC 06 .0512 CONVEYORS

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. August 1, 1994.*

13 NCAC 06 .0513 CRUSHING EQUIPMENT

- (a) Feeders. Miners shall not be permitted to enter an operating feeder.
- (b) Guard Rails or Chains. Guard rails, chains or other protective devices shall be installed and maintained around jaw-type crusher openings. When necessary for miners to work over an operating jaw-type crusher to clear jams, safety belts and life lines shall be used.
- (c) Place of Safety at Crusher. Miners working at the crusher feed opening shall not be permitted to stand directly in back of or at the side of a vehicle while its contents are being dumped therein, unless provided with adequate protection from flying material.
- (d) Work Beneath Feeders and Hoppers. Miners shall not be permitted to work beneath a feeder or hopper where a hazard from falling material exists.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0514 PRESSURE TANKS

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 9, 1980.*

13 NCAC 06 .0515 FIRE PREVENTION

- (a) Open Fires. The use of open fires for comfort heating for miners shall be prohibited.
- (b) Storage and Use of Oxygen, Etc. Oxygen, oxyacetylene and oxyhydrogen or electric welding, burning and cutting equipment shall be placed under the charge of a competent person

or persons, as defined in 30 CFR Parts 56.2 and 57.2, who shall be responsible for its safe storage and use.

(c) Acetylene Storage and Use. Acetylene cylinders shall be secured vertically and shall be handled with extreme caution. Acetylene shall not be used at pressures higher than 15 pounds (6.8 kilograms) per square inch (6.452 square centimeters).

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0516 ELECTRICAL EQUIPMENT

(a) National Electrical Code. All electrical apparatus, equipment and wiring shall be installed and maintained in accordance with the National Electrical Code which is hereby incorporated by reference, 1993 Edition, including subsequent amendments and editions, insofar as the code is applicable to the operation of surface mines, pits and quarries. Copies of the code may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Post Office Box 9101, Quincy, Mass. 02269-9101. Copies of the code are also available for inspection and purchase for thirty seven dollars and fifty cents (\$37.50) at the Office of the Mine and Quarry Division.

(b) Personnel Authorization and Instruction. Only competent persons, as defined in 30 CFR Parts 56.2 and 57.2, shall install, operate, repair, work on or with electric wires, lighting conductors or electrical apparatus, machinery or equipment.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0517 HAND TOOLS

Hand tools shall be regularly inspected and maintained in a safe condition. Defective tools shall not be used until repaired.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0518 DREDGES AND SAND PUMPS

(a) Guarding Spuds. Spuds and spud lifting collars shall be either guarded or isolated.

(b) Hand Rails, Handcables and Handropes. Where practicable, all floating dredges and sand pumps shall be equipped with suitable hand rails, handcables or handropes so as to prevent miners from falling overboard.

(c) Inspection and Maintenance. Hulls and/or floats which support dredges or sand pumps shall be inspected regularly and maintained in a safe and watertight condition.

(d) Life Preservers. Approved-type life preservers shall be worn by all miners working afloat except when working on dredges and sand pumps equipped with hand rails, handcables or

handropes. Approved-type life preservers shall be worn by miners while working in any area not protected by hand rails, handcables or handropes. An adequate number of suitable life preservers shall be kept on board at all times for emergency use.

(e) Submerged Anchor Lines. Work boats shall not be permitted to pass over submerged anchor lines while dredges are in operation.

(f) Walking on Pipe Lines. Miners shall not be permitted to walk on floating pipe lines unless the pipe lines are fitted with safe walkways and hand rails.

(g) Work Boats. Work boats shall be stable and maintained in a safe condition.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977.*

13 NCAC 06 .0519 SAFETY SHOWERS AND EYE WASH FOUNTAINS

Safety showers and eye wash fountains shall be provided, operable, and easily accessible to all areas where a hazard exists from hazardous chemical splashes and spills. ("Hazardous chemical" is defined as a chemical for which there is statistically significant evidence based on at least one study conducted in accordance with established scientific principles that acute or chronic health effects may occur in exposed employees.)

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0520 JET CHANNELING OR PIERCING

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. August 1, 1994.*

13 NCAC 06 .0521 EXPLOSIVES: GENERAL RULES

(a) All Clear Signal. An "all clear" signal shall be sounded before any person is allowed to return to the blast site after a blast.

(b) Destroying Empty Containers. No person shall be permitted to remain within 100 feet (30.48 meters) of a burning pile of empty explosives containers.

(c) Removing Containers. Empty explosives containers shall not be removed from the mining premises.

(d) Work on Blast Area. Only persons necessary to the shotloading operation shall be permitted to work in front of the face of the blast area when a primary blast is being loaded.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0522 TRANSPORTATION OF EXPLOSIVES ON SITE

(a) Congested Areas. Vehicles transporting explosives or blasting agents shall not be driven through congested areas whenever it is practicable to avoid them. When it is necessary to stop a vehicle containing explosives or blasting agents in a congested area, the vehicle shall not be left unattended.

(b) Handling Explosives. Explosives or blasting agents shall not be thrown, dropped or otherwise roughly handled.

(c) Operators' Qualifications. Explosives vehicles shall be operated only by competent persons, as defined in 30 CFR Parts 56.2 and 57.2.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

13 NCAC 06 .0523 MAGAZINES

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 9, 1980.*

13 NCAC 06 .0524 BLASTING: GENERAL RULES

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. January 9, 1980.*

13 NCAC 06 .0525 PRIMARY BLASTING

(a) Detonators in Blast Area--Detonating Fuse. When loading a blast primed with detonating fuse, detonators shall not be attached to the detonating fuse until the blast site has been cleared.

(b) Loading and Other Operations. Loading shall not begin until the shot has been completely drilled. On a shot being loaded, a drill shall not be used for any purpose closer to a loaded hole than a distance of three times the spacing of the drill pattern used.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994; January 9, 1980.*

13 NCAC 06 .0526 SECONDARY BREAKAGE

(a) Dropballing. The dropball operator shall be protected from flying rock by screen cloth or plexiglass or both. The operator shall not drop the ball on a rock which has a visible drill hole until it has been determined that the hole does not contain explosives. No unprotected person

shall be permitted within the area in which flying materials from dropball operations may cause injury to persons.

(b) Loading Explosives While Drilling For Secondary Blast. Only authorized persons shall be allowed in the area where loading is being performed.

(c) Work on Muck Pile While Secondary Drilling, Blasting or Mud Capping. No tools or equipment shall be permitted on a muck pile directly above or below a blaster while a person is loading explosives for secondary blasting.

*History Note: Authority G.S. 74-24.4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1994.*

SECTION .0600 – FEES

13 NCAC 06 .0601 MINE AND QUARRY BUREAU FEE SCHEDULE

*History Note: Authority G.S. 74-24.16(d);
Emergency Adoption Eff. September 13, 2005;
Temporary Adoption Eff. November 1, 2005;
Temporary Adoption Expired August 12, 2006.*