

### **15A NCAC 05H .1309 DENIAL OF APPLICATION**

(a) The Department shall have the authority to deny a permit application to any person on finding that the well site for which a permit is requested is in violation of any of the rules contained in this Subchapter, the issuance of the permit would result in a violation of any rule of this Subchapter or other applicable law or rule, or for any of the following factors:

- (1) the permit application is incomplete and the time has lapsed for resubmission in accordance with Rule .1307 of this Subchapter;
- (2) the requirements of Section .1400 of this Subchapter have not been met;
- (3) the operation will have significant adverse effects on surface water, groundwaters, wildlife, habitats of rare and endangered flora and fauna and other critical communities; or freshwater, estuarine, or marine fisheries;
- (4) the operation will constitute a physical hazard to public health and safety or to a neighboring occupied dwelling, school, church, hospital, commercial or industrial building, public road, or other public property;
- (5) the operation will have a significant adverse effect on the uses of a publicly-owned park, forest, recreation area, or historical and archeological sites listed on the Federal or State list of historic places;
- (6) previous experience with similar operations indicates a substantial possibility that the operation will result in deposits of sediment in stream beds or lakes in violation of the Sediment Pollution Control Act of 1973 and 15A NCAC 02L .0202 and 15A NCAC 02B, landslides, or acid water pollution in violation of 15A NCAC 02L .0202 and 15A NCAC 02B, which are incorporated by reference, including subsequent amendments and editions; or
- (7) the Department finds that the applicant, permittee, or any parent, subsidiary, or other affiliate of the applicant or permittee has not been in compliance with the Oil or Gas Conservation Act, rules of this Subchapter, other laws or rules of this State for the protection of the environment administered by the Department, any plan approval, permit, or order issued by the Department, or has not corrected all violations that the applicant, permittee, or any parent, subsidiary, or other affiliate of the applicant, permittee, or parent has committed under this Act or rules adopted under the Act that resulted in:
  - (A) the revocation of a permit;
  - (B) the forfeiture of part of all of a bond or other security;
  - (C) a conviction of a misdemeanor or any other court order; or
  - (D) the final assessment of a civil penalty.

(b) In the absence of any finding set out above, or if adverse effects are mitigated by the applicant or permittee as approved by the Department, a permit shall be granted.

*History Note:* Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395;  
Eff. March 17, 2015.