



North Carolina Department of Environment and Natural Resources
Division of Land Resources

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Director and State Geologist

Michael F. Easley, Governor
William G. Ross Jr., Secretary

September 20, 2007

Memorandum

To: Carolinas Associated General Contractors
From: Jim Simons
Subject: Rock Processing at Construction Sites

On-site crushing and screening of rock excavated on construction sites provide beneficial ways to dispose of the rock and reduce the need to haul processed stone into the site. However, certain activities associated with the on-site rock processing may constitute “mining”, as defined by The Mining Act of 1971 (General Statutes 74-46 through 74). “Mining” activities require a mining permit from the Division of Land Resources, and will likely require other environmental permits from the Department, such as an air quality permit. The purpose of this memorandum is to clarify when a mining permit is required, and to ask for your help in getting this information to parties who may have any interest in crushing and screening stone at a construction site

A mining permit is generally required when the total of all the area involved in the rock processing (excavation, crusher, screening, stockpile and haul roads) affects one acre and more, **and** the processed material leaves the construction site. General Statute 74-49 (7) in The Mining Act of 1971 defines “mining” to include excavation and processing of mineral, ores or other solid matter to make it suitable for commercial, industrial or construction use. The Mining Act specifically exempts “excavation or grading when conducted solely in aid of on-site farming or on-site construction for purposes other than mining.” In order to qualify for the on-site construction exemption, the processed material must not leave the construction site. The material can be utilized in other areas of the project, but not hauled away on public roads to another site. Similarly, if excess crushed rock not needed for the on-site construction project is going to be stockpiled, a mining permit may be required, as this material will likely be hauled offsite later.

Information on obtaining a mining permit is available at the Division’s web site <http://www.dlr.enr.state.nc.us/pages/miningprogram.html>, or by calling the Land Quality Section State Office (919) 733-4574. Basically, the mining permit process involves completing an application, notifying adjoining property owners, possibly holding a public hearing and securing a reclamation bond. The mining permit application process for a rock quarry typically takes longer than getting a plan approval under the Sedimentation Pollution Control Act. Additionally, the mining permit must be obtained before the mining related activity can begin. A civil penalty and/or injunction relief may be sought for conducting mining activities without the mining permit.

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Because of the potential delays in permitting and possible zoning issues associated with mining, contractors typically have wanted to avoid having to get a mining permit for their relatively short-lived activity. To help get this clarification to interested parties, the Land Quality Section is forwarding this information to various organizations that may have an interest.

Thank you for your assistance.

Cc Mr. Mell Nevils, PE
Mr. Gray Hauser, PE
Ms. Sonya Tankersley, PE
Mr. Floyd Williams, PG
Dr. John William, Jr.
LQS Regional Engineers