

When do I need a mine permit?

Road and various construction projects require a wide variety of materials including crushed stone, sand, gravel, and other minerals. These materials are obtained from existing licensed and permitted commercial sand and gravel mines, quarry operations, or pits. However, they may be obtained in some instances from sites established solely and exclusively for a specific road or construction project. Generally, mining activities do require a license and permit issued by the Virginia Department of Energy, unless they meet specific criteria that may exempt or waiver them from these requirements. This brochure is a guide to these requirements.

What Does Virginia Law and Regulation Require?

- Section 45.2-1124 - Requires the operation of all mineral mines in the Commonwealth to be licensed and places them under the authority of the Mineral Mining.
- Section 45.2-1205 - Requires all mineral mines in the Commonwealth be permitted and operated under the jurisdiction of the Mineral Mining.
- Section 45.1-1200 - Establishes that mineral mining consists of any breaking of the surface soil to facilitate the removal of minerals or any part of the process for extraction or removal that makes the mineral suitable for commercial, industrial, or construction use.

What Activities Require a License and Permit from Mineral Mining?

Because the laws and regulations of Virginia require the operation of all mineral mines in the Commonwealth to be licensed and permitted, the following describes activities that should be licensed and permitted.

- Generally, any mineral extraction activity where mined material is sold, exchanged, or used for its unique characteristics for commercial or construction purposes, or meets the criteria of a mine, mining, or surface mineral mine as defined 45.2-1200 of the Code of Virginia.
- Mineral extraction sites used for State road and bridge construction where a contract is awarded to a Public Private Partnership (P3) where a State Agency, or the Virginia Department of Transportation (VDOT), is **not** considered to be in control and is **not** supervising the extraction. See Section 45.2-1227 of the Code of Virginia.
- Mineral extraction operations where VDOT or a contractor enters into an agreement with another party to provide materials for a project from an offsite source.
- Sites where materials are removed for an extended period of time, and/or where materials are furnished to several different projects or are not provided to one specific project.
- Sites where minerals are extracted and sold incrementally.
- Certain sites where materials are provided to, or sold to, off-site sources from a

project that may have been issued an approval under an Erosion & Sediment Control Plan or a Land Disturbance Permit by the locality for the project.

- Excavation sites that are planned to last for an indefinite time period, furnish special material, or provide significant amounts of material that exceed the usual one-time use exemption provided under regulations.

What Activities Are NOT Regulated by Mineral Mining?

When the extraction activity qualifies as an exemption set forth under Section 4 VAC 25-31-70 of the Virginia Reclamation Regulations for Mineral Mining, it may not be required to be licensed and permitted. Examples of these activities are:

- When the material extracted is clearly used for the same project site by the operator or contractor, such as onsite borrow materials, cuts, and fills. The removal site is included in the plan for the construction project where no material is removed from the site.
- One-time use activity that has been referred to the Director of the Mineral Mining Program and determined is exempt prior to starting the activity.
- Mineral mine sites that are operated solely by a governmental agency with governmental employees. No outside employees or contractors are used on the site. Example: A VDOT maintenance pit operated by VDOT employees only.

What Enforcement Actions Are Taken When Operating As An Unlicensed Mine?

A Closure Order will be issued when a mine is operating without a Mineral Mining License where required under the Virginia Mineral Mine Safety Act.

A Special Order will be issued when a mine is operating without a Mineral Mining Permit where required under Virginia Mineral Mine Reclamation Laws.

When the above enforcement actions are taken, the extraction of the mineral must immediately cease and persons must be withdrawn from the site. No activity will be allowed at the site until a permit and license are obtained. If the site does not become licensed and permitted, reclamation of the area disturbed by the mining activity is required by Mineral Mining. The necessary work must be performed to satisfactorily reclaim the area.

Any person **willfully** violating a Closure Order or any provision of the Mineral Mine Safety Act or any regulation may be convicted and found guilty of a Class 1 misdemeanor.

What Should I Do If There Is a Question?

Exemptions are provided under Section 4 VAC 25-31-70 of the Virginia Reclamation Regulations for Mineral Mining. Waivers are provided under Section 45.2-1227 of the Code of Virginia. As provided by the laws and regulations of Virginia, the Mineral Mining Program has been assigned the regulatory authority and jurisdiction over mineral mining. Under the laws and regulations, the Director is granted the authority to evaluate and determine when an activity regarding the extraction of minerals is exempt or waived. If there is a doubt or a question whether an extraction activity requires a mine permit and license, please contact the Mineral Mining Program for assistance, clarification, or a determination.

Questions? Contact our office at:

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VDOT ROAD AND CONSTRUCTION PROJECTS

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