

What is Virginia's Mineral Mining Waiver Program?

The Waiver Program, as set forth in Section 45.1-197 of the Code of Virginia, establishes that the Director may waive the application of State mineral mining regulations in a locality if it has enacted and is enforcing zoning ordinances dealing with mining activities that prescribe standards and regulations not below those set forth in the Virginia Mineral Mining Law and Regulations.

What do the Mineral Mining Law and Regulations require?

Virginia's Mineral Mining Law (Chapter 16 of Title 45.1 of the Code of Virginia), enacted in 1968, and established a coordinated statewide regulatory program governing mineral mining operations and reclamation. Virginia Energy administers this program. The law provides for:

- ❖ Permits governing all mineral mining operations, with the permit application including notification of adjoining property owners, and operations, drainage and reclamation plans and maps;
- ❖ Permit fees and bonding requirements for operations that are larger than one acre and remove 500 or more tons of minerals;
 - ❖ A citizen board to hear appeals of violations;
- ❖ Misdemeanor penalties for violations; and

- ❖ State reclamation of orphaned lands.

Why was the Waiver Program Established?

When the mineral mining law was enacted, Fairfax County was administering a regulatory program over mineral mines. The General Assembly provided for a waiver of the state program to allow continued management of the local program and to allow additional localities the option of obtaining a waiver. The waiver, under Section 45.1-197 of the Mineral Mining Law, requires participating localities to have standards and regulations governing mineral mining **at least as stringent** as those adopted by the Virginia Energy.

Is there oversight by Virginia Energy of the Counties, City or towns waiver program?

Virginia Energy must review the ordinances, regulations and enforcement programs of the waived localities to assure compliance with state law. If Virginia Energy determines a program is not in compliance, then the director may rescind the waiver of the application of the state regulatory program.

Does Virginia Energy have any role in regulating Mineral Mine sites in Waiver Localities?

The waiver program applies only to mineral mining operation and reclamation activities. Virginia Energy administers mine safety regulatory program activities on mine sites that do not fall under the jurisdiction of the federal Mine Safety and Health Administration.

What must a locality do to establish a waiver program?

Each waived locality must adopt ordinances or regulations establishing standards for public notice of proposed operations, bonding, operations, and reclamation that are at least as strict as in the state program. Additionally, the locality must conduct at least semi-annual inspections and have an effective enforcement program. Specific requirements are listed on Virginia Energy's Consolidated Biennial Report form. Currently the counties of Henrico and Fairfax operate mineral mining waiver programs.

What does Virginia Energy oversight of a waiver program involve?

Virginia Energy conducts a biennial review of the mineral mining regulatory program in waived counties to ensure compliance with the requirements of the mineral mining law.

What are the reporting requirements?

Waived localities are required to submit two reports:

1. **The Consolidated Biennial Report of Waivered Counties, Cities, and Towns.**

This report details information on the mine sites in the locality and cross-references the requirements of the state mineral mining law and regulations with the locality's ordinances or regulations.

2. **The Report of Individual Mining Companies.**

This report details information on each permitted mine site in the locality.

Please contact Virginia Energy's Mineral Mining Program for copies of these reports.

Virginia Energy reviews the Consolidated Biennial Report and each locality's ordinances to assess consistency with the state program. Virginia Energy also reviews the Report of Individual Mining Companies and the permit plans for each mine site for compliance with the minimum program standards.

Virginia Energy and local officials conduct a joint inspection of each mine site.

Virginia Energy provides oral and written notification of any deficiencies found during the biennial review.

Localities are given a deadline to amend their programs to achieve compliance.

Immediate compliance is required for items that affect environmental safety.

For additional information about Virginia's Mineral Mining Waiver Program, please contact us at (434) 951-6310.



LOCAL GOVERNMENT'S GUIDE TO THE VIRGINIA MINERAL MINE WAIVER PROGRAM

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