

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-82  
HOUSE BILL 1008

AN ACT TO PROVIDE FOR THE REGULATION OF CERTAIN EXCAVATION  
AND GRADING ACTIVITIES UNDER THE SEDIMENTATION POLLUTION  
CONTROL ACT OF 1973 INSTEAD OF THE MINING ACT OF 1971.

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-49(7) reads as rewritten:

"(7) 'Mining' means:

- a. The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter.
- b. Any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location.
- c. The preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

'Mining' does not include:

- a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.
- b. Mining operations where the affected land does not exceed one acre in area.
- c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.
- d. Excavation or grading when conducted solely in aid of on-site farming or of on-site construction for purposes other than mining.
- e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting

from any exploratory excavation does not exceed one acre in area.

f. Excavation or grading where all of the following apply:

1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
2. The affected land, including nonpublic access roads, does not exceed five acres.
3. The excavation or grading is completed within one year.
4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
5. The excavation or grading is not in violation of any local ordinance.
6. An erosion control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes."

Section 2. This act becomes effective October 1, 1999.

In the General Assembly read three times and ratified this the 13th day of May, 1999.

s/ Dennis A. Wicker  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ James B. Hunt, Jr.  
Governor

Approved 4:02 p.m. this 21st day of May, 1999