

COMMUNITY RESPONSE

The amendments to the Act greatly impact a community's ability to enforce regulations relating to the operation of mines over 1000 tons per year. This calls for a revised approach to these mines within the zoning statute. Several options are available:

- ◆ Mining operations can be removed as permissible uses from existing districts. This option has the advantage of being the easiest to implement. However, legitimate mineral resource areas that could be developed with little community impact may be lost.
- ◆ Overlay districts offer another alternative. These should be structured to delineate areas where mining is permitted only if it meets the minimum locational criteria contained in the overlay. Criteria that could be part of the overlay district include minimum distances from residences, schools, aquifers, wetlands, lakes, streams, and other sensitive areas as well as access requirements such as requiring frontage on a state or county road. This would allow the community to treat those "quality-of-life" issues associated with mining on a locational rather than operational basis. Mining operations meeting these conditions would then be allowed subject to a special permit. It should be recognized that the special permit decisions would be limited to the permissible issues under the State Statute but the mine would be required to show that it meets the locational conditions contained in the overlay district in order to be eligible for the special permit.
- ◆ Floating zones are another means of mine regulation within the confines of the Act's amendments. Conditions, similar to those in an overlay, district would provide a basis for the local governing body to consider the establishment of the zone. A mining operation would be required to undergo scrutiny similar to a rezoning process before approval is given. This process offers the advantage of resting the decision with the local governing body that has a wide discretion on matters relating to zoning.

MINING ACTIVITIES

The Mined Land Reclamation Act contains provisions on the information necessary for the filing of mining plans and reports. Working with the DEC and utilizing the SEQOR process a community should be able to obtain additional information and establish or perhaps require mitigation measures the municipality considers essential. Appropriate items include: information on the depth to water table, quantity of material to be removed, proposed hours of operation, traffic and access points, equipment to be used on site, processing requirements, mine security, lighting, location of fuel storage, spill containment provisions, and disposal of cut and slash. The community should request that the Department of Environmental Conservation address its concerns and needs by incorporating the necessary conditions into the permit issued by the DEC.

The following standards pertain to unconsolidated materials. DEC should be asked to incorporate into its permit those that are deemed appropriate.

Groundwater - presence and movement through the mining site should be established with borings and/or monitoring wells. These borings can also be used to determine depth of material and any rock that may be encountered. Mine floor elevation should be set above the water table found during borings. Mining below water table could be allowed if a drainage or siltation pond is incorporated into plans.

Disturbed areas - size should be limited depending on the depth of material and size of the mine. For larger mines five acres is a good limitation. Each five acre section should have a detailed mining, drainage and reclamation plan. In addition, an estimate on amount of material removed and time frame should be required. If the mine will be operated in phases then information for the five acre sections within each phase should be required before mining of that phase can begin. No more than two five acre sections should be open at one time: one for actual mining and one undergoing restoration.

Buffer areas - buffers should be a minimum of 50 feet. Additional buffer areas may be based on the change in contours, site visibility, surrounding land uses as well as buffers required by the underlying zoning district. Buffer areas should be staked in the field to avoid encroachment.

Screening - Mining plans should show areas where screening will be necessary. Plans should indicate actual size of screening to be planted. In addition, planting of thorny shrubs and bushes should be considered to hinder mine access. Planting of buffer areas should be accomplished before mining can commence except where overburden will be used to create berms

Overburden - topsoil should be stored and used for reclamation. Locations of areas used for storage of topsoil and overburden should be shown if located out of section. Topsoil storage can be utilized to create berms to aid in site screening. Overburden to be removed should be limited to an area that will be mined in a single season.

Processing facilities - washing, screening and crushing facilities are usually associated with mining. These produce noise, dust and require areas for stockpiles. Siting of these facilities is crucial and should be clearly identified on the mining plan. If these will move with the mine, location within each section should be shown.

Operation and maintenance - the use of equipment on-site should be established in terms of hours, types and associated facilities. Logbooks should be required to insure operator compliance. These can serve as a source of information for the number of trucks leaving the site as well as the amount of material being removed. They can aid in problem solving when neighbors complain about traffic or noise or when reclamation lags due to mine stagnation.

Fencing - if not required initially should be made conditional depending on the ability to control access to the site. Fencing should be considered adjacent to residential areas and public roads.

Erosion and sediment control - should be given priority during the life of the mine. It is important that the community identify sensitive areas for erosion control. Guidelines established by the Soil Conservation Service can help in establishing the necessary control measures but it should be noted that these are primarily directed at urban runoff. Periodic inspections should be made to insure that control structures are properly maintained. Where possible, drainage from areas in production should be directed onto the mine floor where infiltration, sedimentation and controlled release can occur.

RECLAMATION PLANS

Reclamation plans should contain all the information and meet all of the requirements in the Mined Land Reclamation Act including: final grades, cover material and vegetative type, final disposition of haulageways, processing equipment and other on-site structures. The plan should also be required to show interim reclamation areas so that the process of concurrent reclamation with mining is established. Proposed reclamation/reuse plans should be consistent with community's land use regulations and with the mining plan.

Reclamation plans should be acted upon at the time sections are closed. These should be aimed at establishing ground cover as soon as possible. Communities should allow operators an economic return on reclaimed areas to give them a vested interest in their success. Christmas trees for example may be able to mature during mine life. These could be planted and harvested before all mining is completed, act as additional buffers for the site and still provide for alternative uses such as residential development in the final stage.

Time frames for reclamation of an interim nature such as bank stabilization and intermediate ground cover should be required if a mine remains idle.

ADDITIONAL COMMUNITY CONCERNS

Common problems that usually occur during the life of the mine include: disputes on hours of operation, noise and number of vehicles using the site, storage of materials not mined on site, or storage of other materials (pipe, old trucks, trailer bodies, assorted junk). The major contributors to these problems involve the economics and logistics of mining. Other factors are the lack of specifics in the mining permit, lagging inspections, and the disproportionate expectations of neighbors and the mine operator.

To address these issues the community should establish an atmosphere of cooperation with the DEC and its inspectors. Reports and findings from inspections should be shared. Land use regulations, which deal with mining, should be clear on the use of the mine for other purposes especially the accessory uses permitted. Allowable material storage if not generated by the mine should be clearly spelled out. Zoning should address the maintenance and storage of equipment not used on the site and any restrictions included in the special permit. The mine does not have to become a contractor's maintenance and storage yard without specific community approval.

