

By: Rozell of the Senate
and
Wilson of the House

An Act relating to mines and mining; amending 45 O.S. 2001, Section 723, which relates to the Mining Lands Reclamation Act; modifying certain definitions; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 45 O.S. 2001, Section 723, is amended to read as follows:

Section 723. ~~Whenever~~ As used ~~or referred to~~ in ~~Sections 722 through 738 of this title~~ the Mining Lands Reclamation Act, unless a ~~different meaning clearly appears from~~ the context otherwise requires:

1. "Overburden" means all of the earth and other materials which lie above natural deposits of minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining;

2. "Mine" means an underground or surface excavation and development with or without shafts, slopes, drifts or tunnels for the extraction of minerals, with hoisting or haulage equipment and appliances for the extraction thereof, and ~~shall embrace~~ includes any and all of the land or property of the plant, and the surface and underground, that contribute directly or indirectly to the mining properties, concentration or handling of minerals;

3. "Mining" means the extraction of minerals from natural deposits by any method or process;

4. "Minerals" means asphalt, clay, copper, granite, gravel, gypsum, lead, marble, salt, sand, shale, stone, tripoli, volcanic ash and zinc, or any other substance commonly recognized as a

mineral, and includes ores or rock containing any such substances, but excludes oil, gas and any other mineral found naturally in a liquid or gaseous state;

5. "Underground mining" means those mining operations carried out beneath the surface by means of shafts, slopes, tunnels or other openings leading to the mineral being mined and the extraction of the mineral through such shafts, slopes, tunnels or their openings;

6. "Surface mining" means those mining operations carried out on the surface, including strip mining, auger mining, quarrying, dredging, pumping, or the use of hydraulic methods. Surface mining shall not include:

- a. excavation or removal of shale, sand, gravel, clay, rock or other materials in remote areas by an owner or holder of a possessory interest in land for the primary purpose of construction or maintenance of access roads to or on such landowner's property.
~~Surface mining shall not include,~~
- b. excavations or grading conducted for forming, on-site road construction or other on-site construction, ~~or~~
- c. the extraction of minerals other than anthracite and bituminous coal by a landowner for his or her own noncommercial use from land owned or leased by ~~him,~~
~~nor~~ the landowner,
- d. the extraction of such noncoal minerals for commercial purposes in an amount less than five hundred (500) tons per acre of aggregate or mass of mineral matter in any permit year; ~~nor,~~
- e. the extraction of sand, gravel, rock, stone, earth or fill from borrow pits for highway construction purposes, so long as such work is performed under a bond, contract and specifications which substantially

provide for and require reclamation of the area affected; ~~nor to,~~

f. the handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process. ~~Surface mining shall not include, or~~

g. the surface mining of coal or the surface effects of underground coal mining;

7. "Strip mining" means those mining operations carried out by removing the overburden lying above natural deposits of minerals, and mining directly from such natural deposits thereby exposed, but excludes auger mining, quarrying, dredging, pumping or the use of hydraulic methods;

8. "Reclamation" means conditioning affected land to make it suitable for any uses or purposes consistent with those enumerated in Section 722 of this title, and to avoid, minimize or correct adverse environmental effects of mining operations;

9. "Box cut" means the first open cut in strip mining which results in the placing of overburden on unmined land adjacent to the initial pit and outside the area to be mined;

10. "Consolidated material" means material of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing;

11. "Operator" means any person, partnership, firm or corporation engaged in and controlling a mining operation;

12. "Pit" means a tract of land from which overburden or minerals have been or are being removed in the process of surface mining;

13. "Affected land" means the area of land from which overburden shall have been removed, or upon which overburden or refuse has been deposited, or both;

14. "Refuse" means all waste material directly connected with the production, cleaning or preparation of minerals which have been mined by either underground or surface mining method;

15. "Ridge" means a lengthened elevation of overburden created in the surface mining process;

16. "Peak" means a projecting point of overburden created in the surface mining process;

17. "Department" means the ~~office of the Chief Mine Inspector, herein called the Department of Mines and Mining, or such department, bureau or commission as may lawfully succeed to the powers and duties of such department;~~

18. "Director" means the Director of the Department of Mines or the Chief Mine Inspector of the State of Oklahoma or such officer, bureau or commission as may lawfully succeed to the powers and duties of such Chief Mine Inspector; and

19. "Borrow pit" means:

- a. the one-time or intermittent extraction of sand, gravel, rock, stone, earth or fill in its natural state, not being mechanically altered to affect its size, by a federal, state or local governmental entity or political subdivision, for government-financed road construction purposes. Such work shall be performed under a bond, contract and specifications which substantially provide for and require reclamation of the affected area by the governmental entity, political subdivision or a contractor acting on behalf of the governmental entity or political subdivision,
or
- b. the extraction of soils, or select materials consisting of soils, clays or sand, for the purpose of a construction project; provided that:

- (1) no mechanical alteration or processing of such material occurs,
- (2) the site of the excavation does not exceed five (5) acres,
- (3) the duration of extraction does not exceed one hundred eighty (180) days,
- (4) the extraction is in compliance with local ordinances, and
- (5) the extraction occurs under certification from the Department of Mines. The request for certification shall contain the following:
 - (a) a survey of the location, including contours of the site,
 - (b) a plan of restoration for the site, including cross-section maps outlining the post contours of the excavated area,
 - (c) a minimum bond of Fifty Thousand Dollars (\$50,000.00),
 - (d) a one-time fee of Five Hundred Dollars (\$500.00), and
 - (e) any further information deemed necessary by the Department.

Certification fees shall be submitted to the State Treasurer to be deposited into the Department of Mines Revolving Fund. The Department is authorized to promulgate rules as necessary to ensure compliance with this paragraph.

No excavation shall exceed the stated time period unless an extension is expressly granted by the Department. Any excavation occurring beyond the time period allowed without an extension, or which occurs for more than one project, shall require a mining

permit according to the provisions of Section 721 et seq. of this title.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 1st day of March, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2004.

Presiding Officer of the House
of Representatives