

SB 1205

THE STATE SENATE
Wednesday, February 18, 2004

Senate Bill No. 1205

SENATE BILL NO. 1205 - 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

1 and underground, that contribute directly or indirectly to the
2 mining properties, concentration or handling of minerals;

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

5 4. "Minerals" means asphalt, clay, copper, granite, gravel,
6 gypsum, lead, marble, salt, sand, shale, stone, tripoli, volcanic
7 ash and zinc, or any other substance commonly recognized as a
8 mineral, and includes ores or rock containing any such substances,
9 but excludes oil, gas and any other mineral found naturally in a
10 liquid or gaseous state;

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

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

19 a. excavation or removal of shale, sand, gravel, clay,
20 rock or other materials in remote areas by an owner or
21 holder of a possessory interest in land for the
22 primary purpose of construction or maintenance of

1 access roads to or on such landowner's property;
2 ~~Surface mining shall not include,~~
3 b. excavations or grading conducted for forming, on-site
4 road construction or other on-site construction, ~~or~~
5 c. the extraction of minerals other than anthracite and
6 bituminous coal by a landowner for his or her own
7 noncommercial use from land owned or leased by ~~him,~~
8 ~~nor~~ the landowner,
9 d. the extraction of such noncoal minerals for commercial
10 purposes in an amount less than five hundred (500)
11 tons per acre of aggregate or mass of mineral matter
12 in any permit year; ~~nor,~~
13 e. the extraction of sand, gravel, rock, stone, earth or
14 fill from borrow pits for highway construction
15 purposes, so long as such work is performed under a
16 bond, contract and specifications which substantially
17 provide for and require reclamation of the area
18 affected; ~~nor to,~~
19 f. the handling, processing or storage of slag on the
20 premises of a manufacturer as a part of the
21 manufacturing process. ~~Surface mining shall not~~
22 ~~include,~~ or

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

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

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

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

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

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

19 19. "Borrow pit" means:

- 20 a. the one-time or intermittent extraction of sand,
21 gravel, rock, stone, earth or fill in its natural
22 state, not being mechanically altered to affect its
23 size, by a federal, state or local governmental entity

1 or political subdivision, for ~~government-financed road~~
2 construction purposes. Such work shall be performed
3 ~~under a bond, contract and specifications which~~
4 ~~substantially provide for and require reclamation of~~
5 ~~the affected area~~ by the governmental entity,
6 political subdivision or a contractor acting on behalf
7 of the governmental entity or political subdivision,
8 or

9 b. the extraction of soils, or select materials
10 consisting of soils, clays or sand, for the purpose of
11 a construction project; provided that:

12 (1) no mechanical alteration or processing of such
13 material occurs,

14 (2) the site of the excavation does not exceed five
15 (5) acres,

16 (3) the duration of extraction does not exceed one
17 hundred eighty (180) days,

18 (4) the extraction is in compliance with local
19 ordinances, and

20 (5) the extraction occurs under certification from
21 the Department of Mines. The request for
22 certification shall contain the following:

- 1 (a) a survey of the location, including contours
2 of the site,
- 3 (b) a plan of restoration for the site,
4 including cross-section maps outlining the
5 post contours of the excavated area,
- 6 (c) a minimum bond of Fifty Thousand Dollars
7 (\$50,000.00),
- 8 (d) a one-time fee of Five Hundred Dollars
9 (\$500.00), and
- 10 (e) any further information deemed necessary by
11 the Department.

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

18 No excavation shall exceed the stated time period unless an
19 extension is expressly granted by the Department. Any excavation
20 occurring beyond the time period allowed without an extension, or
21 which occurs for more than one project, shall require a mining
22 permit according to the provisions of Section 721 et seq. of this
23 title.

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

5 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENT &
6 COMMUNICATIONS, dated 2-12-04 - DO PASS, As Coauthored.