

SECOND REGULAR SESSION

SENATE BILL NO. 1315

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS STEELMAN AND CLEMENS.

Read 1st time February 26, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4756S.011

AN ACT

To repeal sections 444.765 and 444.770, RSMo, and to enact in lieu thereof two new sections relating to excavation activities of noncommercial operators.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 444.765 and 444.770, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 444.765 and 444.770, to read as follows:

444.765. Wherever used or referred to in sections 444.760 to 444.790, unless a different meaning clearly appears from the context, the following terms mean:

(1) "Affected land", the pit area or area from which overburden shall have been removed, or upon which overburden has been deposited after September 28, 1971. When mining is conducted underground, affected land means any excavation or removal of overburden required to create access to mine openings, except that areas of disturbance encompassed by the actual underground openings for air shafts, portals, adits and haul roads in addition to disturbances within fifty feet of any openings for haul roads, portals or adits shall not be considered affected land. Sites which exceed the excluded areas by more than one acre for underground mining operations shall obtain a permit for the total extent of affected lands with no exclusions as required under sections 444.760 to 444.790;

(2) "Commission", the land reclamation commission in the department of natural resources;

(3) "Director", the staff director of the land reclamation commission;

(4) "Mineral", a constituent of the earth in a solid state which, when extracted from the earth, is usable in its natural form or is capable of conversion into a usable form as a chemical, an energy source, or raw material for manufacturing or construction material. For the purposes of this section, this definition includes barite, tar sands, and oil shales, but does not include iron, lead, zinc, gold, silver, coal, surface or subsurface water, fill dirt, natural

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

oil or gas together with other chemicals recovered therewith;

(5) **"Noncommercial operator", any person whose excavation activities are limited to sites on privately owned farmland used for agricultural purposes, as defined in section 142.800, RSMo, or other property owned by private individuals used primarily for purposes other than surface mining, and where seasonal gravel removal to manage gravel accretion is conducted in accordance with the department guidelines;**

(6) "Operator", any person, firm or corporation engaged in and controlling a surface mining operation;

[(6)] (7) "Overburden", 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 other than what is defined in subdivision (4) of this section;

[(7)] (8) "Peak", a projecting point of overburden created in the surface mining process;

[(8)] (9) "Pit", the place where minerals are being or have been mined by surface mining;

[(9)] (10) "Refuse", all waste material directly connected with the cleaning and preparation of substance mined by surface mining;

[(10)] (11) "Ridge", a lengthened elevation of overburden created in the surface mining process;

[(11)] (12) "Site" or "mining site", any location or group of associated locations where minerals are being surface mined by the same operator;

[(12)] (13) "Surface mining", the mining of minerals for commercial purposes by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed, and shall include mining of exposed natural deposits of such minerals over which no overburden lies and, after August 28, 1990, the surface effects of underground mining operations for such minerals.

444.770. 1. It shall be unlawful for any operator, **other than a noncommercial operator**, to engage in surface mining without first obtaining from the commission a permit to do so, in such form as is hereinafter provided, including any operator, **other than a noncommercial operator**, involved in any gravel mining operation where the annual tonnage of gravel mined by such operator is less than five thousand tons, **except when an operator conducts gravel removal at the request of a property owner for the primary purpose of managing seasonal gravel accretion on property not used primarily for gravel mining. Such mining shall be conducted in accordance with department guidelines.**

2. Sections 444.760 to 444.790 shall apply only to those areas which are opened on

or after January 1, 1972, or to the extended portion of affected areas extended after that date. The effective date of this section for minerals not previously covered under the provisions of sections 444.760 to 444.790 shall be August 28, 1990.

3. All surface mining operations where land is affected after September 28, 1971, which are under the control of any government agency whose regulations are equal to or greater than those imposed by section 444.774, are not subject to the further provisions of sections 444.760 to 444.790, except that such operations shall be registered with the land reclamation commission.

4. Any portion of a surface mining operation which is subject to the provisions of sections 260.200 to 260.245, RSMo, and the regulations promulgated thereunder, shall not be subject to the provisions of sections 444.760 to 444.790, and any bonds or portions thereof applicable to such operations shall be promptly released by the commission, and the associated permits canceled by the commission upon presentation to it of satisfactory evidence that the operator has received a permit pursuant to section 260.205, RSMo, and the regulations promulgated thereunder. Any land reclamation bond associated with such released permits shall be retained by the commission until presentation to the commission of satisfactory evidence that:

(1) The operator has complied with sections 260.226 and 260.227, RSMo, and the regulations promulgated thereunder, pertaining to closure and postclosure plans and financial assurance instruments; and

(2) The operator has commenced operation of the solid waste disposal area or sanitary landfill as those terms are defined in chapter 260, RSMo.

5. Notwithstanding the provisions of subsection 1 of this section, any political subdivision which uses its own personnel and equipment or any private individual for personal use may conduct in-stream gravel operations without obtaining from the commission a permit to conduct such an activity.

6. Notwithstanding the provisions of subsection 5 of this section, an operator or landowner shall be allowed to sell or barter material extracted from the landowner's property without a permit only when such excavation is conducted in accordance with department guidelines for the management of seasonal gravel accretion.