

5-3/19/96 Do Pass

FEB 29 1996
Place On Calendar

HOUSE FILE 2408
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HSB 631)

Passed House, ^(p.576) Date 3-6-96 Passed Senate, ^(p.1000) Date 3/25/96
Vote: Ayes 97 Nays 0 Vote: Ayes 46 Nays 0
Approved April 2, 1996

A BILL FOR

1 An Act concerning mining by applying the criterion for the
2 reclamation of mine sites, by redefining operator and mining
3 operations, by amending the hearing procedures, by providing
4 for administrative actions and the assessments of penalties by
5 the division of soil conservation for noncompliance, and
6 establishing additional penalties.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2408

1 Section 1. Section 208.1, Code 1995, is amended to read as
2 follows:

3 208.1 POLICY.

4 It is the policy of this state to provide for the
5 reclamation and conservation of land affected by surface the
6 mining of gypsum, clay, stone, sand, gravel, or other ores or
7 mineral solids, except coal, and thereby to preserve natural
8 resources, protect and perpetuate the taxable value of
9 property, and protect and promote the health, safety and
10 general welfare of the people of this state.

11 Sec. 2. Section 208.2, Code 1995, is amended to read as
12 follows:

13 208.2 DEFINITIONS.

14 When used in this chapter, unless the context otherwise
15 requires:

16 1. "Administrator" means the ~~division~~ administrator of the
17 division of soil conservation or a designee.

18 2. "Affected land" means the area of land from which over-
19 burden has been removed or upon which overburden has been de-
20 posited or both land which has otherwise been disturbed,
21 changed, influenced, or altered in any way in the course of
22 mining, including crushing-areas processing and stockpile
23 areas but not including roads.

24 3. "Committee" means the state soil conservation
25 committee.

26 4. "Division" means the division of soil conservation
27 within the department of agriculture and land stewardship.

28 5. ~~"Mine"-means-any-underground-or-surface-mine-developed~~
29 ~~and-operated-for-the-purpose-of-extracting-any-ores-or-mineral~~
30 ~~solids-except-coal.~~ "Exploration" means the mining of limited
31 amounts of any mineral to determine the location, quantity, or
32 quality of the mineral deposit.

33 5A. "Highwall" means the unexcavated face of exposed
34 overburden and mineral in a surface mine.

35 6. "Mine site" or "mine site" means a site where surface

1 mining is being conducted or has been conducted in the past
2 ~~and the operator anticipates further surface mining~~
3 ~~operations, or the surface operation related to an underground~~
4 mine.

5 7. "Mineral" means gypsum, clay, stone, sand, gravel, or
6 other ores or mineral solids, except coal.

7 8. "Mining" means the excavation of gypsum, clay, stone,
8 sand, gravel, or other ores or mineral solids, except coal,
9 for sale or for processing or consumption in the regular
10 operation of a business and shall include surface mining and
11 underground mining.

12 9. "Mining operation" means activities conducted by an
13 operator on a mine site relative to the excavation of minerals
14 and shall include disturbing overburden, excavation, and
15 processing of minerals, stockpiling and removal of minerals
16 from a site, and all reclamation activities conducted on a
17 mine site.

18 ~~7.~~ 10. "Operator" means any person, firm, partnership, or
19 corporation, or political subdivision engaged in and
20 controlling a mining operation but shall not include a
21 political subdivision of the state of Iowa.

22 ~~8.~~ 11. "Overburden" means all of the earth and other
23 materials which lie above natural mineral deposits of gypsum,
24 clay, stone, sand, gravel or other minerals, and includes all
25 earth and other materials disturbed from their natural state
26 in the process of surface mining.

27 ~~9.~~ "Peak" means a projecting point of overburden removed
28 from its natural position and deposited elsewhere in the
29 process of surface mining.

30 ~~10.~~ "Pit" means a tract of land from which overburden has
31 been or is being removed for the purpose of surface mining.

32 12. "Pit floor" or "quarry floor" means the lower limit of
33 a surface excavation to extract minerals.

34 13. "Political subdivision" means any county, district,
35 city, or other public agency within the state of Iowa.

1 14. "Reclamation" means the process of restoring disturbed
2 lands to the premined uses of the lands or other productive
3 uses.

4 ~~11:--"Ridge"--means-a-lengthened-elevation-of-overburden~~
5 ~~removed-from-its-natural-position-and-deposited-elsewhere-in~~
6 ~~the-process-of-surface-mining.~~

7 ~~12: 15. "Surface mining" means the mining of gypsum, clay,~~
8 ~~stone, sand, gravel or other ores or mineral solids for sale~~
9 ~~or for processing or consumption in the regular operation of a~~
10 ~~business by removing the overburden lying above the natural~~
11 ~~deposits and mining excavating directly from the natural~~
12 ~~deposits exposed, or by mining excavating directly from~~
13 ~~deposits lying exposed in their natural state and shall~~
14 ~~include dredge operations conducted in or on natural waterways~~
15 ~~or artificially created waterways within the state. Removal~~
16 ~~of overburden and mining of limited amounts of any ores or~~
17 ~~mineral solids shall not be considered surface mining when~~
18 ~~done only for the purpose and to the extent necessary to~~
19 ~~determine the location, quantity, or quality of the natural~~
20 ~~deposit, if the ores or mineral solids removed during~~
21 ~~exploratory excavation or mining are not sold, processed for~~
22 ~~sale, or consumed in the regular operation of a business.~~
23 ~~13: 16. "Topsoil" means the natural medium located at the~~
24 ~~land surface with favorable characteristics for the growth of~~
25 ~~vegetation.~~

26 17. "Underground mining" means mining by digging or
27 constructing access tunnels, adits, ramps, or shafts and exca-
28 vating directly from the natural mineral deposits exposed.

29 Sec. 3. Section 208.7, Code 1995, is amended to read as
30 follows:

31 208.7 MINING LICENSE.

32 ~~No person, firm, partnership, or corporation~~ An operator
33 ~~shall not engage in surface mining or operation of an~~
34 ~~underground mine or mines, as defined by section 208.2,~~
35 ~~without first obtaining a license from the division. Licenses~~

1 shall be issued upon approval by the division following
2 application by the operator. Applications shall be submitted
3 on a form provided by the division and shall be accompanied by
4 a fee of fifty dollars. Each applicant shall be required to
5 furnish on the form information necessary to identify the
6 applicant. Licenses shall expire on December 31 of each year
7 and shall be renewed by the division upon application
8 submitted within thirty days prior to the expiration date and
9 accompanied by a fee of ten dollars. However, a political
10 subdivision shall not be required to pay a license application
11 or renewal fee.

12 Sec. 4. Section 208.8, Code 1995, is amended to read as
13 follows:

14 208.8 SUSPENSION OR REVOCATION OF LICENSE---REFUSAL-TO
15 RENEW.

16 1. The division may, with approval of the committee,
17 commence proceedings to suspend, revoke, or refuse to renew a
18 license of any licensee for repeated or willful violation of
19 any of the provisions of this chapter, initiate an action to
20 suspend, revoke, or refuse to issue a mining license.

21 2. The division shall, by certified mail or personal
22 service, serve on the licensee operator notice in writing of
23 the charges and grounds upon which the license is to be
24 suspended, revoked, or will not be renewed issued. The notice
25 shall include the time and the place at which a hearing shall
26 be held before the committee, a subcommittee appointed by the
27 committee, or the committee's designee, to determine whether
28 to suspend, revoke, or refuse to renew issue the license. The
29 hearing shall be not less than fifteen nor more than thirty
30 days after the mailing or service of the notice.

31 3. An operator whose license the division proposes to
32 suspend, revoke, or refuse to issue has the right to counsel
33 and may produce witnesses and present statements, documents,
34 and other information in the operator's behalf at the hearing.

35 4. If after full investigation and hearing the operator is

1 found to have willfully or repeatedly violated any of the
2 provisions of this chapter, the committee or subcommittee may
3 affirm or modify the proposed suspension, revocation, or
4 refusal to issue the license.

5 5. When the committee or subcommittee finds that a license
6 should be suspended or revoked or should not be issued, the
7 division shall so notify the operator in writing by certified
8 mail or by personal service.

9 a. The suspension or revocation of a license shall become
10 effective thirty days after notice to the operator.

11 b. If the license or renewal fee has been paid and the
12 committee or subcommittee finds that the license should not be
13 issued, then the license shall expire thirty days after notice
14 to the operator.

15 6. An action by the committee or subcommittee to affirm or
16 modify the proposed suspension, revocation, or refusal to
17 issue a license constitutes a final agency action for purposes
18 of judicial review pursuant to section 208.11 and chapter 17A.

19 Sec. 5. Section 208.9, Code 1995, is amended by striking
20 the section and inserting in lieu thereof the following:

21 208.9 REGISTERING MINE SITE.

22 1. At least seven days before beginning mining or removal
23 of overburden at a mine site not previously registered, an
24 operator engaging, or preparing to engage, in mining in this
25 state shall register the mine site with the division.
26 Application for registration shall be made upon a form
27 provided by the division and shall be accompanied by a bond or
28 security as provided by section 208.14. A registration
29 renewal shall be filed annually. Application for renewal of
30 registration shall be on a form provided by the division. The
31 registration and registration cancellation fees shall be
32 established by the division in an amount not to exceed the
33 cost of administering the provisions of this chapter. The
34 application shall include a description of the tract or tracts
35 of land where the site is located and the estimated number of

1 acres at the site to be affected by the mine. The description
2 shall include the section, township, range, and county in
3 which the land is located and shall otherwise describe the
4 land with sufficient certainty to determine the location and
5 to distinguish the land to be registered from other lands.
6 The application shall include a statement explaining the
7 authority of the applicant's legal right to operate a mine on
8 the land.

9 2. A mine site registered pursuant to this chapter shall
10 have a clearly visible sign which identifies the mining
11 operation. Failure to post and maintain a sign as required by
12 this subsection, within thirty days after notice from the
13 division, invalidates the registration.

14 3. The division shall automatically invalidate all
15 registrations of an operator who fails to renew the operator's
16 mining license within a time period set by the division, who
17 has been denied license renewal by the committee or
18 subcommittee, or whose license has been suspended or revoked
19 by the committee or subcommittee.

20 Sec. 6. Section 208.10, Code 1995, is amended by striking
21 the section and inserting in lieu thereof the following:

22 208.10 VIOLATION -- ENFORCEMENT.

23 1. The administrator may issue an order directing the
24 operator to desist in an activity or practice which
25 constitutes a violation of any provision of this chapter or
26 any rules adopted by the division, or to take such corrective
27 action as may be necessary to ensure that the violation will
28 cease. If corrective measures sought by the division are not
29 commenced within the time period designated in the order, the
30 division may refer the violation to the attorney general for
31 further action.

32 2. The operator may contest an order issued under this
33 section through contested case proceedings pursuant to chapter
34 17A by filing with the administrator a notice of appeal within
35 thirty days of receipt of the order for review by the

1 division.

2 3. At the request of the division, the attorney general
3 shall institute any legal proceedings, including an action for
4 a civil penalty, injunction, or temporary injunction,
5 necessary to enforce the provisions of this chapter or to
6 obtain compliance with this chapter. Action by the attorney
7 general may be taken in lieu of or in conjunction with any
8 administrative action by the division.

9 4. Falsification of information required to be submitted
10 under this chapter is a violation of this chapter.

11 Sec. 7. NEW SECTION. 208.10A PENALTIES.

12 1. Any person who violates an order issued pursuant to
13 section 208.10 shall be subject to an administrative penalty
14 determined by the division not to exceed five thousand dollars
15 per violation.

16 a. The division shall establish, by rule, a schedule or
17 range of administrative penalties. The schedule shall provide
18 procedures and criteria for the assessment of these penalties.

19 b. Administrative penalties may be assessed in lieu of or
20 in conjunction with any action initiated by the attorney
21 general on behalf of the division.

22 c. All penalties shall be paid within thirty days of the
23 date that the order assessing the penalty becomes final. An
24 operator who fails to pay an administrative penalty assessed
25 by a final order of the division shall pay, in addition,
26 interest at the rate of one and one-half percent of the unpaid
27 balance of the assessed penalty for each month or part of a
28 month that the penalty remains unpaid.

29 d. The attorney general shall, at the request of the
30 division, institute proceedings to recover all penalties
31 assessed.

32 2. If any person violates a provision of this chapter, or
33 any rule or order adopted by the division pursuant to this
34 chapter, the division may notify the attorney general who
35 shall institute a civil action in district court for

1 injunctive relief and for the assessment of a civil penalty
2 not to exceed ten thousand dollars per violation.

3 3. Penalties, bond reversions, and bond forfeitures
4 collected under the provisions of this chapter or any rule
5 adopted by the division pursuant to this chapter shall be
6 deposited in an interest bearing account and may be used for
7 the cost and administrative expenses of reclamation or
8 rehabilitation activities for any mine site as deemed
9 necessary and appropriate by the division.

10 Sec. 8. Section 208.15, Code 1995, is amended to read as
11 follows:

12 208.15 AMENDMENT OR CANCELLATION.

13 An operator may at any time apply for amendment or
14 cancellation of registration of any site. The application for
15 amendment or cancellation of registration shall be submitted
16 by the operator on a form provided by the division and shall
17 identify as required under section ~~208.13~~ 208.9 the tract or
18 tracts of land to be added to or removed from registration.
19 If the application is for an increase in the area of a
20 registered site, the application shall be processed in the
21 same manner as an application for original registration. If
22 the application is to cancel registration of any or all of the
23 unmined part of a site, the division shall after ascertaining
24 that no overburden has been disturbed or deposited on the land
25 order release of the bond or the security posted on the land
26 being removed from registration and cancel or amend the
27 operator's written authorization to conduct surface mining on
28 the site. Fees for amendment or cancellation of registration
29 shall be determined as provided in section ~~208.13~~ 208.9. No
30 land where overburden has been disturbed or deposited shall be
31 removed from registration or released from bond or security
32 under this section.

33 Sec. 9. Section 208.16, Code 1995, is amended to read as
34 follows:

35 208.16 TRANSFER TO NEW OPERATOR.

1 1. If control of ~~an active a mine site or the right to~~
2 ~~conduct any future mining at an inactive site~~ registered
3 pursuant to section 208.9 is acquired by an operator other
4 than the operator holding authorization to conduct surface
5 mining on the site, the new operator shall within fifteen
6 thirty days apply for registration of the site ~~in the new~~
7 ~~operator's name~~. The application shall be made and processed
8 as provided under sections ~~208.13~~ 208.9 and 208.14. The
9 former operator's bond or security shall not be released until
10 the new operator's bond or security has been accepted by the
11 division.

12 2. The division may establish procedures for transferring
13 the responsibility for reclamation of a mine site to a state
14 agency or political subdivision which intends to use the site
15 for other purposes. The division, with agreement from the
16 receiving agency or subdivision to complete adequate
17 reclamation, may approve the transfer of responsibility,
18 release the bond or security, and terminate or amend the
19 operator's authorization to conduct surface mining on the
20 site.

21 Sec. 10. Section 208.17, Code 1995, is amended to read as
22 follows:

23 208.17 RECLAMATION REQUIREMENTS.

24 1. An operator authorized under this chapter to operate a
25 mine, after completion of mining operations and within the
26 time specified in section 208.19, shall:

27 a. Grade affected lands ~~except for impoundments, pit~~
28 ~~floors, and highwalls,~~ to slopes having a maximum of one foot
29 vertical rise for each four feet of horizontal distance.
30 Where the original topography of the affected land was steeper
31 than one foot of vertical rise for each four feet of
32 horizontal distance, the affected lands may be graded to blend
33 with the surrounding terrain. However, water impoundments,
34 pit or quarry floors, and highwalls are not subject to the
35 requirements of this paragraph.

1 b. ~~Provide-for-the-vegetation-of-the~~ Stabilize and
2 revegetate affected lands, except for water impoundments, and
3 pit or quarry floors, and highwalls, as approved by the
4 department division before the release of the bond as provided
5 in section 208.19.

6 c. Properly dispose of all mine-related debris, junk,
7 waste materials, old equipment, and other materials of similar
8 or like nature, within the registration boundaries of the
9 site.

10 2. Notwithstanding subsection 1, overburden piles where
11 deposition has not occurred for a period of twelve months
12 shall be stabilized and revegetated.

13 ~~3. Crushing areas and stockpile areas in place on July 1,~~
14 ~~1985 are not subject to this section unless those areas~~
15 ~~continue to function as a part of the mine site after July 1,~~
16 ~~1988.~~

17 4. 3. Topsoil that is a part of overburden shall not be
18 destroyed or buried in the process of mining.

19 5. 4. The ~~department, with concurrence of the advisory~~
20 ~~board,~~ division may grant a variance from the requirements of
21 subsections 1 and 2.

22 6. 5. A bond or security posted under this chapter to
23 assure reclamation of affected lands shall not be released
24 until all of the reclamation work required by this section has
25 been performed in accordance with this chapter and
26 ~~departmental~~ division rules, except when a replacement bond or
27 security is posted by a new operator or responsibility is
28 transferred under section 208.16.

29 Sec. 11. Section 208.18, Code 1995, is amended to read as
30 follows:

31 208.18 PERIODIC REPORTS.

32 An operator shall file with the division a periodic report
33 for each mine site under registration.

34 1. The report shall make reference to the most recent
35 registration of the mine site and shall show:

1 1- a. The location and extent of all surface land area on
2 the mine site affected by mining during the period covered by
3 the report.

4 2- b. The extent to which removal of mineral products from
5 all or any part of the affected lands has been completed.

6 2. The report shall be filed not later than twelve months
7 after original registration of the site and prior to the
8 expiration of each subsequent twelve-month period. A report
9 shall also be filed within thirty days after completion of all
10 surface mining operations at the site regardless of the date
11 of the last preceding report. Forms for the filing of
12 periodic reports required by this section shall be provided by
13 the division.

14 Sec. 12. Section 208.19, unnumbered paragraph 3, Code
15 1995, is amended to read as follows:

16 An operator, upon completion of any reclamation work
17 required by section 208.17, shall apply to the division in
18 writing for approval of the work. The division shall within a
19 reasonable time determined by divisional rule inspect the
20 completed reclamation work. Upon determination by the
21 division that the operator has satisfactorily completed all
22 required reclamation work on the land included in the
23 application, the division shall release the bond or security
24 on the reclaimed land, shall remove the land from
25 registration, and shall terminate or amend as necessary the
26 operator's authorization to conduct surface mining on the
27 site.

28 Sec. 13. Section 208.20, Code 1995, is amended to read as
29 follows:

30 208.20 EXTENSION OF TIME.

31 The time for completion of reclamation work may be extended
32 upon presentation by the operator of evidence satisfactory to
33 the division that reclamation of affected land cannot be
34 completed within the time specified by section 208.19 without
35 ~~unreasonably-impeding-removal-of-mineral-products-from-other~~

1 ~~parts of an active site or future removal of mineral products~~
2 ~~from an initiative site.~~

3 Sec. 14. Section 208.21, Code 1995, is amended to read as
4 follows:

5 208.21 POLITICAL SUBDIVISION ENGAGED IN MINING.

6 Any political subdivision of the state of Iowa which
7 engages or intends to engage in ~~surface~~ mining shall meet all
8 requirements of ~~sections 208.13 to 208.20~~ this chapter except
9 the subdivision shall not be required to post bond or security
10 on registered land and shall not be required to pay licensing
11 fees. ~~When a political subdivision engaging in surface mining~~
12 ~~violates any provision of this chapter or any rule adopted by~~
13 ~~the division pursuant to this chapter, the division shall~~
14 ~~notify the chief administrative officer or governing body of~~
15 ~~the subdivision. If after a reasonable time determined by the~~
16 ~~division, the subdivision has not commenced corrective~~
17 ~~measures approved by the division, the violation shall be~~
18 ~~referred to the committee. The chief administrative officer~~
19 ~~or governing body of the subdivision shall be notified in~~
20 ~~writing of the referral.~~

21 Sec. 15. Section 208.23, Code 1995, is amended to read as
22 follows:

23 208.23 FORM OF BOND.

24 1. A bond filed with the division by an operator pursuant
25 to this chapter shall be in a form prescribed by the division,
26 payable to the state of Iowa, and conditioned upon faithful
27 performance by the operator of all requirements of this
28 chapter and all rules adopted by the division pursuant to this
29 chapter. The bond shall be signed by the operator as
30 principal and by a corporate surety licensed to do business in
31 Iowa as surety. In lieu of a bond, the operator may deposit
32 cash, or certificates of deposit ~~or government securities~~ with
33 the division on the same conditions as prescribed by this
34 section for filing of bonds. The amount of the bond ~~or other~~
35 ~~security~~ required to be filed with an application for

1 registration of a surface mining site, or to increase the area
2 of a site previously registered, shall be equal to the
3 estimated cost of reclaiming the site as required under
4 section 208.17 and estimated by the division.

5 2. The estimated cost of reclamation of each individual
6 site shall be determined by the division on the basis of the
7 requirements of this chapter and other relevant factors
8 including, but not limited to, topography of the site, mining
9 methods being employed, depth and composition of overburden,
10 and depth of the mineral deposit being mined, and cost of
11 administration. The division may require an applicant-for
12 registration-or-amendment-of-registration-of-a-site operator
13 to furnish information necessary to estimate the cost of
14 reclaiming the site. The penalty amount of the bond or-the
15 amount-of-cash-or-securities-on-deposit may be increased or
16 reduced from time to time as determined necessary and
17 appropriate by the division or in accordance with section
18 208.15.

19 Sec. 16. Section 208.24, Code 1995, is amended to read as
20 follows:

21 208.24 SINGLE BOND FOR MULTIPLE SITES.

22 An operator who registers with the division two or more
23 surface-mining mine sites may elect, at the time the second or
24 a subsequent site is registered, to post a single bond in lieu
25 of separate bonds on each site. A single bond so posted shall
26 be in an amount equal to the estimated cost of reclaiming all
27 sites the operator has registered, determined as provided in
28 section 208.23. The penalty of a single bond on two or more
29 surface-mining mine sites may be increased or decreased from
30 time to time in accordance with sections 208.14, 208.15, and
31 208.19. When an operator elects to post a single bond in lieu
32 of separate bonds previously posted on individual sites, the
33 separate bonds shall not be released until the new bond has
34 been accepted by the division.

35 Sec. 17. Section 208.25, Code 1995, is amended to read as

1 follows:

2 208.25 CANCELLATION OF BOND.

3 No bond filed with the division by an operator pursuant to
4 this chapter may be canceled by the surety without at least
5 ninety days' notice to the division. If the license to do
6 business in Iowa of any surety of a bond filed with the
7 division is suspended or revoked, the operator, within thirty
8 days after receiving notice thereof from the division, shall
9 substitute for the surety a corporate surety licensed to do
10 business in Iowa. Upon failure of the operator to make
11 substitution of surety as herein provided, the division shall
12 have the right to suspend the operator's authorization to
13 conduct ~~surface~~ mining on the site covered by the bond until
14 substitution has been made. The commissioner of insurance
15 shall notify the division whenever the license of any surety
16 to do business in Iowa is suspended or revoked.

17 Sec. 18. Section 208.26, Code 1995, is amended to read as
18 follows:

19 208.26 RULES -- INSPECTION OF SITE.

20 The division may adopt rules to implement the provisions of
21 this chapter. The administrator or the administrator's
22 designee may enter at all times upon any-lands-on-which-any
23 operator-is-authorized-to-operate-a-mine any mine site or
24 suspected mine site for the purpose of determining whether the
25 operator is or has been complying with the provisions of this
26 chapter. ~~The division shall give written notice to any~~
27 ~~operator who violates any of the provisions of this chapter or~~
28 ~~any rules adopted by the division pursuant to this chapter.~~
29 ~~If corrective measures approved by the division are not~~
30 ~~commenced within ninety days, the violation shall be referred~~
31 ~~to the committee.--The operator shall be notified in writing~~
32 ~~of the referral.~~ All operators shall ~~co-operate~~ cooperate
33 with the division in seeking methods of operation which will
34 cause minimum disruption to the land and property adjoining a
35 mining operation.

1 The bill makes some changes to the definitions and provides
2 that mining includes both surface and underground mining and
3 defines those terms. The bill also includes a political
4 subdivision of the state within the definition of an operator
5 for purposes of the chapter.

6 The bill provides for time guidelines and hearing
7 procedures concerning the suspension, revocation, or refusal
8 to issue a license.

9 The bill also provides for administrative penalties on
10 operators, including political subdivisions, for violations of
11 an order issued by the administrator to cease or take
12 corrective action concerning a practice which constitutes a
13 violation of this chapter. The bill provides that the
14 division of soil conservation within the department of
15 agriculture and land stewardship shall establish a schedule of
16 penalties in addition to those penalties already provided by
17 this bill which penalties shall not exceed \$5,000 per
18 violation.

19 The bill provides that the penalty shall be paid within 30
20 days of the date of the order assessing the penalty becomes
21 final and provides for interest on unpaid penalties. The pro-
22 cedure for assessing the penalty is not established by the
23 bill.

24 The bill also provides that the attorney general can seek a
25 civil penalty of no more than \$10,000 for a violation of this
26 chapter. Currently the civil penalty the attorney general can
27 seek is an amount no more than \$5,000.

28 The bill also provides that an operator is still liable for
29 reclamation costs that exceed the amount of the bond filed by
30 the operator. The bill also eliminates the requirement that
31 the governor approve certain rules concerning health and
32 safety standards for surface mining.

33 The bill may include a state mandate as defined in section
34 25B.3. The bill makes inapplicable the statutory provision
35 which would relieve a political subdivision from complying

1 with a state mandate if funding for the cost of the state
2 mandate is not provided or specified.

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*Klemme, Chair
Huseman
O'Brien*

HSB 631

NATURAL RESOURCES

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2408

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES BILL
BY CHAIRPERSON KLEMME)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

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2 reclamation of mine sites, by redefining operator and mining
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2 follows:

3 208.1 POLICY.

4 It is the policy of this state to provide for the
5 reclamation and conservation of land affected by surface the
6 mining of gypsum, clay, stone, sand, gravel, or other ores or
7 mineral solids, except coal, and thereby to preserve natural
8 resources, protect and perpetuate the taxable value of
9 property, and protect and promote the health, safety and
10 general welfare of the people of this state.

11 Sec. 2. Section 208.2, Code 1995, is amended to read as
12 follows:

13 208.2 DEFINITIONS.

14 When used in this chapter, unless the context otherwise
15 requires:

16 1. "Administrator" means the ~~division~~ administrator of the
17 division of soil conservation or a designee.

18 2. "Affected land" means the area of land from which over-
19 burden has been removed or upon which overburden has been de-
20 posited or both land which has otherwise been disturbed,
21 changed, influenced, or altered in any way in the course of
22 mining, including ~~crushing-areas~~ processing and stockpile
23 areas but not including roads.

24 3. "Committee" means the state soil conservation
25 committee.

26 4. "Division" means the division of soil conservation
27 within the department of agriculture and land stewardship.

28 5. ~~"Mine"-means-any-underground-or-surface-mine-developed~~
29 ~~and-operated-for-the-purpose-of-extracting-any-ores-or-mineral~~
30 ~~solids-except-coal.~~ "Exploration" means the mining of limited
31 amounts of any mineral to determine the location, quantity, or
32 quality of the mineral deposit.

33 5A. "Highwall" means the unexcavated face of exposed
34 overburden and mineral in a surface mine.

35 6. "Mine site" or "mine site" means a site where surface

1 mining is being conducted or has been conducted in the past
2 ~~and the operator anticipates further surface mining~~
3 ~~operations, or the surface operation related to an underground~~
4 mine.

5 7. "Mineral" means gypsum, clay, stone, sand, gravel, or
6 other ores or mineral solids, except coal.

7 8. "Mining" means the excavation of gypsum, clay, stone,
8 sand, gravel, or other ores or mineral solids, except coal,
9 for sale or for processing or consumption in the regular
10 operation of a business and shall include surface mining and
11 underground mining.

12 9. "Mining operation" means activities conducted by an
13 operator on a mine site relative to the excavation of minerals
14 and shall include disturbing overburden, excavation, and
15 processing of minerals, stockpiling and removal of minerals
16 from a site, and all reclamation activities conducted on a
17 mine site.

18 7- 10. "Operator" means any person, firm, partnership, or
19 corporation, or political subdivision engaged in and
20 controlling a mining operation but shall not include a
21 political subdivision of the state of Iowa.

22 8- 11. "Overburden" means all of the earth and other
23 materials which lie above natural mineral deposits of gypsum,
24 clay, stone, sand, gravel or other minerals, and includes all
25 earth and other materials disturbed from their natural state
26 in the process of surface mining.

27 9---"Peak" means a projecting point of overburden removed
28 from its natural position and deposited elsewhere in the
29 process of surface mining.

30 10---"Pit" means a tract of land from which overburden has
31 been or is being removed for the purpose of surface mining.

32 12. "Pit floor" or "quarry floor" means the lower limit of
33 a surface excavation to extract minerals.

34 13. "Political subdivision" means any county, district,
35 city, or other public agency within the state of Iowa.

1 14. "Reclamation" means the process of restoring disturbed
2 lands to the premined uses of the lands or other productive
3 uses.

4 ~~11. "Ridge" means a lengthened elevation of overburden~~
5 ~~removed from its natural position and deposited elsewhere in~~
6 ~~the process of surface mining.~~

7 ~~12.~~ 15. "Surface mining" means the mining of gypsum, clay,
8 stone, sand, gravel or other ores or mineral solids for sale
9 or for processing or consumption in the regular operation of a
10 business by removing the overburden lying above the natural
11 deposits and mining excavating directly from the natural
12 deposits exposed, or by mining excavating directly from
13 deposits lying exposed in their natural state and shall
14 include dredge operations conducted in or on natural waterways
15 or artificially created waterways within the state. Removal
16 of overburden and mining of limited amounts of any ores or
17 mineral solids shall not be considered surface mining when
18 done only for the purpose and to the extent necessary to
19 determine the location, quantity, or quality of the natural
20 deposit, if the ores or mineral solids removed during
21 exploratory excavation or mining are not sold, processed for
22 sale, or consumed in the regular operation of a business.

23 ~~15.~~ 16. "Topsoil" means the natural medium located at the
24 land surface with favorable characteristics for the growth of
25 vegetation.

26 17. "Underground mining" means mining by digging or
27 constructing access tunnels, adits, ramps, or shafts and exca-
28 vating directly from the natural mineral deposits exposed.

29 Sec. 3. Section 208.7, Code 1995, is amended to read as
30 follows:

31 208.7 MINING LICENSE.

32 ~~No person, firm, partnership, or corporation~~ An operator
33 shall not engage in surface mining or operation of an
34 underground mine or mines, as defined by section 208.2,
35 without first obtaining a license from the division. Licenses

1 shall be issued upon approval by the division following
2 application by the operator. Applications shall be submitted
3 on a form provided by the division and shall be accompanied by
4 a fee of fifty dollars. Each applicant shall be required to
5 furnish on the form information necessary to identify the
6 applicant. Licenses shall expire on December 31 of each year
7 and shall be renewed by the division upon application
8 submitted within thirty days prior to the expiration date and
9 accompanied by a fee of ten dollars. However, a political
10 subdivision shall not be required to pay a license application
11 or renewal fee.

12 Sec. 4. Section 208.8, Code 1995, is amended to read as
13 follows:

14 208.8 SUSPENSION OR REVOCATION OF LICENSE----REFUSAL-TO
15 RENEW.

16 1. The division may, with-approval-of-the-committee,
17 commence-proceedings-to-suspend, revoke, or refuse to renew a
18 license-of-any-licensee for repeated or willful violation of
19 any of the provisions of this chapter, initiate an action to
20 suspend, revoke, or refuse to issue a mining license.

21 2. The division shall, by certified mail or personal
22 service, serve on the licensee operator notice in writing of
23 the charges and grounds upon which the license is to be
24 suspended, revoked, or will not be renewed issued. The notice
25 shall include the time and the place at which a hearing shall
26 be held before the committee, a subcommittee appointed by the
27 committee, or the committee's designee, to determine whether
28 to suspend, revoke, or refuse to renew issue the license. The
29 hearing shall be not less than fifteen nor more than thirty
30 days after the mailing or service of the notice.

31 3. An operator whose license the division proposes to
32 suspend, revoke, or refuse to issue has the right to counsel
33 and may produce witnesses and present statements, documents,
34 and other information in the operator's behalf at the hearing.

35 4. If after full investigation and hearing the operator is

1 found to have willfully or repeatedly violated any of the
2 provisions of this chapter, the committee or subcommittee may
3 affirm or modify the proposed suspension, revocation, or
4 refusal to issue the license.

5 5. When the committee or subcommittee finds that a license
6 should be suspended or revoked or should not be issued, the
7 division shall so notify the operator in writing by certified
8 mail or by personal service.

9 a. The suspension or revocation of a license shall become
10 effective thirty days after notice to the operator.

11 b. If the license or renewal fee has been paid and the
12 committee or subcommittee finds that the license should not be
13 issued, then the license shall expire thirty days after notice
14 to the operator.

15 6. An action by the committee or subcommittee to affirm or
16 modify the proposed suspension, revocation, or refusal to
17 issue a license constitutes a final agency action for purposes
18 of judicial review pursuant to section 208.11 and chapter 17A.

19 Sec. 5. Section 208.9, Code 1995, is amended by striking
20 the section and inserting in lieu thereof the following:

21 208.9 REGISTERING MINE SITE.

22 1. At least seven days before beginning mining or removal
23 of overburden at a mine site not previously registered, an
24 operator engaging, or preparing to engage, in mining in this
25 state shall register the mine site with the division.
26 Application for registration shall be made upon a form
27 provided by the division and shall be accompanied by a bond or
28 security as provided by section 208.14. A registration
29 renewal shall be filed annually. Application for renewal of
30 registration shall be on a form provided by the division. The
31 registration and registration cancellation fees shall be
32 established by the division in an amount not to exceed the
33 cost of administering the provisions of this chapter. The
34 application shall include a description of the tract or tracts
35 of land where the site is located and the estimated number of

1 acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

2. A mine site registered pursuant to this chapter shall have a clearly visible sign which identifies the mining operation. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the division, invalidates the registration.

3. The division shall automatically invalidate all registrations of an operator who fails to renew the operator's mining license within a time period set by the division, who has been denied license renewal by the committee or subcommittee, or whose license has been suspended or revoked by the committee or subcommittee.

Sec. 6. Section 208.10, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

208.10 VIOLATION -- ENFORCEMENT.

1. The administrator may issue an order directing the operator to desist in an activity or practice which constitutes a violation of any provision of this chapter or any rules adopted by the division, or to take such corrective action as may be necessary to ensure that the violation will cease. If corrective measures sought by the division are not commenced within the time period designated in the order, the division may refer the violation to the attorney general for further action.

2. The operator may contest an order issued under this section through contested case proceedings pursuant to chapter 17A by filing with the administrator a notice of appeal within thirty days of receipt of the order for review by the

1 division.

2 3. At the request of the division, the attorney general
3 shall institute any legal proceedings, including an action for
4 a civil penalty, injunction, or temporary injunction,
5 necessary to enforce the provisions of this chapter or to
6 obtain compliance with this chapter. Action by the attorney
7 general may be taken in lieu of or in conjunction with any
8 administrative action by the division.

9 4. Falsification of information required to be submitted
10 under this chapter is a violation of this chapter.

11 Sec. 7. NEW SECTION. 208.10A PENALTIES.

12 1. Any person who violates an order issued pursuant to
13 section 208.10 shall be subject to an administrative penalty
14 determined by the division not to exceed five thousand dollars
15 per violation.

16 a. The division shall establish, by rule, a schedule or
17 range of administrative penalties. The schedule shall provide
18 procedures and criteria for the assessment of these penalties.

19 b. Administrative penalties may be assessed in lieu of or
20 in conjunction with any action initiated by the attorney
21 general on behalf of the division.

22 c. All penalties shall be paid within thirty days of the
23 date that the order assessing the penalty becomes final. An
24 operator who fails to pay an administrative penalty assessed
25 by a final order of the division shall pay, in addition,
26 interest at the rate of one and one-half percent of the unpaid
27 balance of the assessed penalty for each month or part of a
28 month that the penalty remains unpaid.

29 d. The attorney general shall, at the request of the
30 division, institute proceedings to recover all penalties
31 assessed.

32 2. If any person violates a provision of this chapter, or
33 any rule or order adopted by the division pursuant to this
34 chapter, the division may notify the attorney general who
35 shall institute a civil action in district court for

1 injunctive relief and for the assessment of a civil penalty
2 not to exceed ten thousand dollars per violation.

3 3. Penalties, bond reversions, and bond forfeitures
4 collected under the provisions of this chapter or any rule
5 adopted by the division pursuant to this chapter shall be
6 deposited in an interest bearing account and may be used for
7 the cost and administrative expenses of reclamation or
8 rehabilitation activities for any mine site as deemed
9 necessary and appropriate by the division.

10 Sec. 8. Section 208.15, Code 1995, is amended to read as
11 follows:

12 208.15 AMENDMENT OR CANCELLATION.

13 An operator may at any time apply for amendment or
14 cancellation of registration of any site. The application for
15 amendment or cancellation of registration shall be submitted
16 by the operator on a form provided by the division and shall
17 identify as required under section ~~208.13~~ 208.9 the tract or
18 tracts of land to be added to or removed from registration.
19 If the application is for an increase in the area of a
20 registered site, the application shall be processed in the
21 same manner as an application for original registration. If
22 the application is to cancel registration of any or all of the
23 unmined part of a site, the division shall after ascertaining
24 that no overburden has been disturbed or deposited on the land
25 order release of the bond or the security posted on the land
26 being removed from registration and cancel or amend the
27 operator's written authorization to conduct ~~surface~~ mining on
28 the site. Fees for amendment or cancellation of registration
29 shall be determined as provided in section ~~208.13~~ 208.9. No
30 land where overburden has been disturbed or deposited shall be
31 removed from registration or released from bond or security
32 under this section.

33 Sec. 9. Section 208.16, Code 1995, is amended to read as
34 follows:

35 208.16 TRANSFER TO NEW OPERATOR.

1 1. If control of ~~an active~~ a mine site ~~or the right to~~
2 ~~conduct any future mining at an inactive site~~ registered
3 pursuant to section 208.9 is acquired by an operator other
4 than the operator holding authorization to conduct **surface**
5 mining on the site, the new operator shall within **fifteen**
6 **thirty** days apply for registration of the site ~~in the new~~
7 ~~operator's name~~. The application shall be made and processed
8 as provided under sections ~~208.13~~ 208.9 and 208.14. The
9 former operator's bond or security shall not be released until
10 the new operator's bond or security has been accepted by the
11 division.

12 2. The division may establish procedures for transferring
13 the responsibility for reclamation of a mine site to a state
14 agency or political subdivision which intends to use the site
15 for other purposes. The division, with agreement from the
16 receiving agency or subdivision to complete adequate
17 reclamation, may approve the transfer of responsibility,
18 release the bond or security, and terminate or amend the
19 operator's authorization to conduct **surface** mining on the
20 site.

21 Sec. 10. Section 208.17, Code 1995, is amended to read as
22 follows:

23 208.17 RECLAMATION REQUIREMENTS.

24 1. An operator authorized under this chapter to operate a
25 mine, after completion of mining operations and within the
26 time specified in section 208.19, shall:

27 a. Grade affected lands ~~except for impoundments, pit~~
28 ~~floors, and highwalls,~~ to slopes having a maximum of one foot
29 vertical rise for each four feet of horizontal distance.
30 Where the original topography of the affected land was steeper
31 than one foot of vertical rise for each four feet of
32 horizontal distance, the affected lands may be graded to blend
33 with the surrounding terrain. However, water impoundments,
34 pit or quarry floors, and highwalls are not subject to the
35 requirements of this paragraph.

1 b. ~~Provide-for-the-vegetation-of-the~~ Stabilize and
2 revegetate affected lands, except for water impoundments, and
3 pit or quarry floors, and highwalls, as approved by the
4 department division before the release of the bond as provided
5 in section 208.19.

6 c. Properly dispose of all mine-related debris, junk,
7 waste materials, old equipment, and other materials of similar
8 or like nature, within the registration boundaries of the
9 site.

10 2. Notwithstanding subsection 1, overburden piles where
11 deposition has not occurred for a period of twelve months
12 shall be stabilized and revegetated.

13 ~~3.---Crushing-areas-and-stockpile-areas-in-place-on-July-1,~~
14 ~~1985-are-not-subject-to-this-section-unless-those-areas~~
15 ~~continue-to-function-as-a-part-of-the-mine-site-after-July-1,~~
16 ~~1988.~~

17 4. 3. Topsoil that is a part of overburden shall not be
18 destroyed or buried in the process of mining.

19 5. 4. The department, ~~with concurrence of the advisory~~
20 ~~board,~~ division may grant a variance from the requirements of
21 subsections 1 and 2.

22 6. 5. A bond or security posted under this chapter to
23 assure reclamation of affected lands shall not be released
24 until all of the reclamation work required by this section has
25 been performed in accordance with this chapter and
26 ~~departmental~~ division rules, except when a replacement bond or
27 security is posted by a new operator or responsibility is
28 transferred under section 208.16.

29 Sec. 11. Section 208.18, Code 1995, is amended to read as
30 follows:

31 208.18 PERIODIC REPORTS.

32 An operator shall file with the division a periodic report
33 for each mine site under registration.

34 1. The report shall make reference to the most recent
35 registration of the mine site and shall show:

1 ~~1-~~ a. The location and extent of all surface land area on
2 the mine site affected by mining during the period covered by
3 the report.

4 ~~2-~~ b. The extent to which removal of mineral products from
5 all or any part of the affected lands has been completed.

6 2. The report shall be filed not later than twelve months
7 after original registration of the site and prior to the
8 expiration of each subsequent twelve-month period. A report
9 shall also be filed within thirty days after completion of all
10 ~~surface~~ mining operations at the site regardless of the date
11 of the last preceding report. Forms for the filing of
12 periodic reports required by this section shall be provided by
13 the division.

14 Sec. 12. Section 208.19, unnumbered paragraph 3, Code
15 1995, is amended to read as follows:

16 An operator, upon completion of any reclamation work
17 required by section 208.17, shall apply to the division in
18 writing for approval of the work. The division shall within a
19 reasonable time determined by divisional rule inspect the
20 completed reclamation work. Upon determination by the
21 division that the operator has satisfactorily completed all
22 required reclamation work on the land included in the
23 application, the division shall release the bond or security
24 on the reclaimed land, shall remove the land from
25 registration, and shall terminate or amend as necessary the
26 operator's authorization to conduct ~~surface~~ mining on the
27 site.

28 Sec. 13. Section 208.20, Code 1995, is amended to read as
29 follows:

30 208.20 EXTENSION OF TIME.

31 The time for completion of reclamation work may be extended
32 upon presentation by the operator of evidence satisfactory to
33 the division that reclamation of affected land cannot be
34 completed within the time specified by section 208.19 without
35 ~~unreasonably-impeding-removal-of-mineral-products-from-other~~

1 ~~parts-of-an-active-site-or-future-removal-of-mineral-products~~
2 ~~from-an-initiative-site.~~

3 Sec. 14. Section 208.21, Code 1995, is amended to read as
4 follows:

5 208.21 POLITICAL SUBDIVISION ENGAGED IN MINING.

6 Any political subdivision of the state of Iowa which
7 engages or intends to engage in surface mining shall meet all
8 requirements of ~~sections-208.13-to-208.20~~ this chapter except
9 the subdivision shall not be required to post bond or security
10 on registered land and shall not be required to pay licensing
11 fees. ~~When-a-political-subdivision-engaging-in-surface-mining~~
12 ~~violates-any-provision-of-this-chapter-or-any-rule-adopted-by~~
13 ~~the-division-pursuant-to-this-chapter, the-division-shall~~
14 ~~notify-the-chief-administrative-officer-or-governing-body-of~~
15 ~~the-subdivision.--If-after-a-reasonable-time-determined-by-the~~
16 ~~division, the-subdivision-has-not-commenced-corrective~~
17 ~~measures-approved-by-the-division, the-violation-shall-be~~
18 ~~referred-to-the-committee.--The-chief-administrative-officer~~
19 ~~or-governing-body-of-the-subdivision-shall-be-notified-in~~
20 ~~writing-of-the-referral.~~

21 Sec. 15. Section 208.23, Code 1995, is amended to read as
22 follows:

23 208.23 FORM OF BOND.

24 1. A bond filed with the division by an operator pursuant
25 to this chapter shall be in a form prescribed by the division,
26 payable to the state of Iowa, and conditioned upon faithful
27 performance by the operator of all requirements of this
28 chapter and all rules adopted by the division pursuant to this
29 chapter. The bond shall be signed by the operator as
30 principal and by a corporate surety licensed to do business in
31 Iowa as surety. In lieu of a bond, the operator may deposit
32 cash, or certificates of deposit ~~or-government-securities~~ with
33 the division on the same conditions as prescribed by this
34 section for filing of bonds. The amount of the bond ~~or-other~~
35 security required to be filed with an application for

1 registration of a surface mining site, or to increase the area
2 of a site previously registered, shall be equal to the
3 estimated cost of reclaiming the site as required under
4 section 208.17 and estimated by the division.

5 2. The estimated cost of reclamation of each individual
6 site shall be determined by the division on the basis of the
7 requirements of this chapter and other relevant factors
8 including, but not limited to, topography of the site, mining
9 methods being employed, depth and composition of overburden,
10 and depth of the mineral deposit being mined, and cost of
11 administration. The division may require an applicant-fer
12 registration-or-amendment-of-registration-of-a-site operator
13 to furnish information necessary to estimate the cost of
14 reclaiming the site. The penalty amount of the bond or-the
15 amount-of-cash-or-securities-on-deposit may be increased or
16 reduced from time to time as determined necessary and
17 appropriate by the division or in accordance with section
18 208.15.

19 Sec. 16. Section 208.24, Code 1995, is amended to read as
20 follows:

21 208.24 SINGLE BOND FOR MULTIPLE SITES.

22 An operator who registers with the division two or more
23 surface-mining mine sites may elect, at the time the second or
24 a subsequent site is registered, to post a single bond in lieu
25 of separate bonds on each site. A single bond so posted shall
26 be in an amount equal to the estimated cost of reclaiming all
27 sites the operator has registered, determined as provided in
28 section 208.23. The penalty of a single bond on two or more
29 surface-mining mine sites may be increased or decreased from
30 time to time in accordance with sections 208.14, 208.15, and
31 208.19. When an operator elects to post a single bond in lieu
32 of separate bonds previously posted on individual sites, the
33 separate bonds shall not be released until the new bond has
34 been accepted by the division.

35 Sec. 17. Section 208.25, Code 1995, is amended to read as

1 follows:

2 208.25 CANCELLATION OF BOND.

3 No bond filed with the division by an operator pursuant to
4 this chapter may be canceled by the surety without at least
5 ninety days' notice to the division. If the license to do
6 business in Iowa of any surety of a bond filed with the
7 division is suspended or revoked, the operator, within thirty
8 days after receiving notice thereof from the division, shall
9 substitute for the surety a corporate surety licensed to do
10 business in Iowa. Upon failure of the operator to make
11 substitution of surety as herein provided, the division shall
12 have the right to suspend the operator's authorization to
13 conduct surface mining on the site covered by the bond until
14 substitution has been made. The commissioner of insurance
15 shall notify the division whenever the license of any surety
16 to do business in Iowa is suspended or revoked.

17 Sec. 18. Section 208.26, Code 1995, is amended to read as
18 follows:

19 208.26 RULES -- INSPECTION OF SITE.

20 The division may adopt rules to implement the provisions of
21 this chapter. The administrator or the administrator's
22 designee may enter at all times upon ~~any-lands-on-which-any~~
23 ~~operator-is-authorized-to-operate-a-mine~~ any mine site or
24 suspected mine site for the purpose of determining whether the
25 operator is or has been complying with the provisions of this
26 chapter. ~~The-division-shall-give-written-notice-to-any~~
27 ~~operator-who-violates-any-of-the-provisions-of-this-chapter-or~~
28 ~~any-rules-adopted-by-the-division-pursuant-to-this-chapter.~~
29 ~~If-corrective-measures-approved-by-the-division-are-not~~
30 ~~commenced-within-ninety-days,-the-violation-shall-be-referred~~
31 ~~to-the-committee.--The-operator-shall-be-notified-in-writing~~
32 ~~of-the-referral.~~ All operators shall co-operate cooperate
33 with the division in seeking methods of operation which will
34 cause minimum disruption to the land and property adjoining a
35 mining operation.

1 The bill makes some changes to the definitions and provides
2 that mining includes both surface and underground mining and
3 defines those terms. The bill also includes a political
4 subdivision of the state within the definition of an operator
5 for purposes of the chapter.

6 The bill provides for time guidelines and hearing
7 procedures concerning the suspension, revocation, or refusal
8 to issue a license.

9 The bill also provides for administrative penalties on
10 operators, including political subdivisions, for violations of
11 an order issued by the administrator to cease or take
12 corrective action concerning a practice which constitutes a
13 violation of this chapter. The bill provides that the
14 division of soil conservation within the department of
15 agriculture and land stewardship shall establish a schedule of
16 penalties in addition to those penalties already provided by
17 this bill which penalties shall not exceed \$5,000 per
18 violation.

19 The bill provides that the penalty shall be paid within 30
20 days of the date of the order assessing the penalty becomes
21 final and provides for interest on unpaid penalties. The pro-
22 cedure for assessing the penalty is not established by the
23 bill.

24 The bill also provides that the attorney general can seek a
25 civil penalty of no more than \$10,000 for a violation of this
26 chapter. Currently the civil penalty the attorney general can
27 seek is an amount no more than \$5,000.

28 The bill also provides that an operator is still liable for
29 reclamation costs that exceed the amount of the bond filed by
30 the operator. The bill also eliminates the requirement that
31 the governor approve certain rules concerning health and
32 safety standards for surface mining.

33 The bill may include a state mandate as defined in section
34 25B.3. The bill makes inapplicable the statutory provision
35 which would relieve a political subdivision from complying

S.F. _____ H.F. _____

1 with a state mandate if funding for the cost of the state
2 mandate is not provided or specified.

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HOUSE FILE 2408

AN ACT

CONCERNING MINING BY APPLYING THE CRITERION FOR THE RECLAMATION OF MINE SITES, BY REDEFINING OPERATOR AND MINING OPERATIONS, BY AMENDING THE HEARING PROCEDURES, BY PROVIDING FOR ADMINISTRATIVE ACTIONS AND ASSESSMENTS OF PENALTIES BY THE DIVISION OF SOIL CONSERVATION FOR NONCOMPLIANCE, AND ESTABLISHING ADDITIONAL PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 208.1, Code 1995, is amended to read as follows:

208.1 POLICY.

It is the policy of this state to provide for the reclamation and conservation of land affected by surface the mining of gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal, and thereby to preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

Sec. 2. Section 208.2, Code 1995, is amended to read as follows:

208.2 DEFINITIONS.

When used in this chapter, unless the context otherwise requires:

1. "Administrator" means the ~~division~~ administrator of the division of soil conservation or a designee.
2. "Affected land" means the area of land from which overburden has been removed or upon which overburden has been deposited or both land which has otherwise been disturbed, changed, influenced, or altered in any way in the course of mining, including ~~crushing areas~~ processing and stockpile areas but not including roads.

3. "Committee" means the state soil conservation committee.

4. "Division" means the division of soil conservation within the department of agriculture and land stewardship.

5. ~~"Mine" means any underground or surface mine developed and operated for the purpose of extracting any ores or mineral solids except coal.~~ "Exploration" means the mining of limited amounts of any mineral to determine the location, quantity, or quality of the mineral deposit.

5A. "Highwall" means the unexcavated face of exposed overburden and mineral in a surface mine.

6. "Mine site" or "mine site" means a site where surface mining is being conducted or has been conducted in the past ~~and the operator anticipates further surface mining operations, or the surface operation related to an underground mine.~~

7. "Mineral" means gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal.

8. "Mining" means the excavation of gypsum, clay, stone, sand, gravel, or other ores or mineral solids, except coal, for sale or for processing or consumption in the regular operation of a business and shall include surface mining and underground mining.

9. "Mining operation" means activities conducted by an operator on a mine site relative to the excavation of minerals and shall include disturbing overburden, excavation, and processing of minerals, stockpiling and removal of minerals from a site, and all reclamation activities conducted on a mine site.

~~7- 10.~~ "Operator" means any person, firm, partnership, or corporation, or political subdivision engaged in and controlling a mining operation ~~but shall not include a political subdivision of the state of Iowa.~~

~~8- 11.~~ "Overburden" means all of the earth and other materials which lie above natural mineral deposits ~~of gypsum,~~

~~clay, stone, sand, gravel or other minerals,~~ and includes all earth and other materials disturbed from their natural state in the process of surface mining.

~~9. -- "Peak" means a projecting point of overburden removed from its natural position and deposited elsewhere in the process of surface mining.~~

~~10. -- "Pit" means a tract of land from which overburden has been or is being removed for the purpose of surface mining.~~

12. "Pit floor" or "quarry floor" means the lower limit of a surface excavation to extract minerals.

13. "Political subdivision" means any county, district, city, or other public agency within the state of Iowa.

14. "Reclamation" means the process of restoring disturbed lands to the premined uses of the lands or other productive uses.

~~11. -- "Ridge" means a lengthened elevation of overburden removed from its natural position and deposited elsewhere in the process of surface mining.~~

~~12. 15. "Surface mining" means the mining of gypsum, clay, stone, sand, gravel or other ores or mineral solids for sale or for processing or consumption in the regular operation of a business by removing the overburden lying above the natural deposits and mining excavating directly from the natural deposits exposed, or by mining excavating directly from deposits lying exposed in their natural state and shall include dredge operations conducted in or on natural waterways or artificially created waterways within the state. Removal of overburden and mining of limited amounts of any ores or mineral solids shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of the natural deposit, if the ores or mineral solids removed during exploratory excavation or mining are not sold, processed for sale, or consumed in the regular operation of a business.~~

~~13. 16. "Topsoil" means the natural medium located at the land surface with favorable characteristics for the growth of vegetation.~~

~~17. "Underground mining" means mining by digging or constructing access tunnels, adits, ramps, or shafts and excavating directly from the natural mineral deposits exposed.~~

Sec. 3. Section 208.7, Code 1995, is amended to read as follows:

208.7 MINING LICENSE.

~~No person, firm, partnership, or corporation~~ An operator shall not engage in surface mining or operation of an underground mine or mines, as defined by section 208.2, without first obtaining a license from the division. Licenses shall be issued upon approval by the division following application by the operator. Applications shall be submitted on a form provided by the division and shall be accompanied by a fee of fifty dollars. Each applicant shall be required to furnish on the form information necessary to identify the applicant. Licenses shall expire on December 31 of each year and shall be renewed by the division upon application submitted within thirty days prior to the expiration date and accompanied by a fee of ten dollars. However, a political subdivision shall not be required to pay a license application or renewal fee.

Sec. 4. Section 208.8, Code 1995, is amended to read as follows:

208.8 SUSPENSION OR REVOCATION OF LICENSE----REFUSAL TO RENEW.

~~1. The division may, with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this chapter, initiate an action to suspend, revoke, or refuse to issue a mining license.~~

~~2. The division shall, by certified mail or personal service, serve on the licensee operator notice in writing of~~

the charges and grounds upon which the license is to be suspended, revoked, or will not be renewed issued. The notice shall include the time and the place at which a hearing shall be held before the committee, a subcommittee appointed by the committee, or the committee's designee, to determine whether to suspend, revoke, or refuse to renew issue the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

3. An operator whose license the division proposes to suspend, revoke, or refuse to issue has the right to counsel and may produce witnesses and present statements, documents, and other information in the operator's behalf at the hearing.

4. If after full investigation and hearing the operator is found to have willfully or repeatedly violated any of the provisions of this chapter, the committee or subcommittee may affirm or modify the proposed suspension, revocation, or refusal to issue the license.

5. When the committee or subcommittee finds that a license should be suspended or revoked or should not be issued, the division shall so notify the operator in writing by certified mail or by personal service.

a. The suspension or revocation of a license shall become effective thirty days after notice to the operator.

b. If the license or renewal fee has been paid and the committee or subcommittee finds that the license should not be issued, then the license shall expire thirty days after notice to the operator.

6. An action by the committee or subcommittee to affirm or modify the proposed suspension, revocation, or refusal to issue a license constitutes a final agency action for purposes of judicial review pursuant to section 208.11 and chapter 17A.

Sec. 5. Section 208.9, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

208.9 REGISTERING MINE SITE.

1. At least seven days before beginning mining or removal of overburden at a mine site not previously registered, an operator engaging, or preparing to engage, in mining in this state shall register the mine site with the division. Application for registration shall be made upon a form provided by the division and shall be accompanied by a bond or security as provided by section 208.14. A registration renewal shall be filed annually. Application for renewal of registration shall be on a form provided by the division. The registration and registration cancellation fees shall be established by the division in an amount not to exceed the cost of administering the provisions of this chapter. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

2. A mine site registered pursuant to this chapter shall have a clearly visible sign which identifies the mining operation. Failure to post and maintain a sign as required by this subsection, within thirty days after notice from the division, invalidates the registration.

3. The division shall automatically invalidate all registrations of an operator who fails to renew the operator's mining license within a time period set by the division, who has been denied license renewal by the committee or subcommittee, or whose license has been suspended or revoked by the committee or subcommittee.

Sec. 6. Section 208.10, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

208.10 VIOLATION -- ENFORCEMENT.

1. The administrator may issue an order directing the operator to desist in an activity or practice which constitutes a violation of any provision of this chapter or any rules adopted by the division, or to take such corrective action as may be necessary to ensure that the violation will cease. If corrective measures sought by the division are not commenced within the time period designated in the order, the division may refer the violation to the attorney general for further action.

2. The operator may contest an order issued under this section through contested case proceedings pursuant to chapter 17A by filing with the administrator a notice of appeal within thirty days of receipt of the order for review by the division.

3. At the request of the division, the attorney general shall institute any legal proceedings, including an action for a civil penalty, injunction, or temporary injunction, necessary to enforce the provisions of this chapter or to obtain compliance with this chapter. Action by the attorney general may be taken in lieu of or in conjunction with any administrative action by the division.

4. Falsification of information required to be submitted under this chapter is a violation of this chapter.

Sec. 7. NEW SECTION. 208.10A PENALTIES.

1. Any person who violates an order issued pursuant to section 208.10 shall be subject to an administrative penalty determined by the division not to exceed five thousand dollars per violation.

a. The division shall establish, by rule, a schedule or range of administrative penalties. The schedule shall provide procedures and criteria for the assessment of these penalties.

b. Administrative penalties may be assessed in lieu of or in conjunction with any action initiated by the attorney general on behalf of the division.

c. All penalties shall be paid within thirty days of the date that the order assessing the penalty becomes final. An operator who fails to pay an administrative penalty assessed by a final order of the division shall pay, in addition, interest at the rate of one and one-half percent of the unpaid balance of the assessed penalty for each month or part of a month that the penalty remains unpaid.

d. The attorney general shall, at the request of the division, institute proceedings to recover all penalties assessed.

2. If any person violates a provision of this chapter, or any rule or order adopted by the division pursuant to this chapter, the division may notify the attorney general who shall institute a civil action in district court for injunctive relief and for the assessment of a civil penalty not to exceed ten thousand dollars per violation.

3. Penalties, bond reversions, and bond forfeitures collected under the provisions of this chapter or any rule adopted by the division pursuant to this chapter shall be deposited in an interest bearing account and may be used for the cost and administrative expenses of reclamation or rehabilitation activities for any mine site as deemed necessary and appropriate by the division.

Sec. 8. Section 208.15, Code 1995, is amended to read as follows:

208.15 AMENDMENT OR CANCELLATION.

An operator may at any time apply for amendment or cancellation of registration of any site. The application for amendment or cancellation of registration shall be submitted by the operator on a form provided by the division and shall identify as required under section ~~208.13~~ 208.9 the tract or tracts of land to be added to or removed from registration. If the application is for an increase in the area of a registered site, the application shall be processed in the same manner as an application for original registration. If

the application is to cancel registration of any or all of the unmined part of a site, the division shall after ascertaining that no overburden has been disturbed or deposited on the land order release of the bond or the security posted on the land being removed from registration and cancel or amend the operator's written authorization to conduct surface mining on the site. Fees for amendment or cancellation of registration shall be determined as provided in section ~~208.13~~ 208.9. No land where overburden has been disturbed or deposited shall be removed from registration or released from bond or security under this section.

Sec. 9. Section 208.16, Code 1995, is amended to read as follows:

208.16 TRANSFER TO NEW OPERATOR.

1. If control of ~~an active a mine site or the right to conduct any future mining at an inactive site~~ registered pursuant to section 208.9 is acquired by an operator other than the operator holding authorization to conduct surface mining on the site, the new operator shall within fifteen ~~thirty~~ days apply for registration of the site ~~in the new operator's name~~. The application shall be made and processed as provided under sections ~~208.13~~ 208.9 and 208.14. The former operator's bond or security shall not be released until the new operator's bond or security has been accepted by the division.

2. The division may establish procedures for transferring the responsibility for reclamation of a mine site to a state agency or political subdivision which intends to use the site for other purposes. The division, with agreement from the receiving agency or subdivision to complete adequate reclamation, may approve the transfer of responsibility, release the bond or security, and terminate or amend the operator's authorization to conduct surface mining on the site.

Sec. 10. Section 208.17, Code 1995, is amended to read as follows:

208.17 RECLAMATION REQUIREMENTS.

1. An operator authorized under this chapter to operate a mine, after completion of mining operations and within the time specified in section 208.19, shall:

a. Grade affected lands ~~except for impoundments, pit floors, and highwalls,~~ to slopes having a maximum of one foot vertical rise for each four feet of horizontal distance. Where the original topography of the affected land was steeper than one foot of vertical rise for each four feet of horizontal distance, the affected lands may be graded to blend with the surrounding terrain. However, water impoundments, pit or quarry floors, and highwalls are not subject to the requirements of this paragraph.

b. ~~Provide for the vegetation of the~~ Stabilize and revegetate affected lands, except for water impoundments, and pit or quarry floors, and highwalls, as approved by the department division before the release of the bond as provided in section 208.19.

c. Properly dispose of all mine-related debris, junk, waste materials, old equipment, and other materials of similar or like nature, within the registration boundaries of the site.

2. Notwithstanding subsection 1, overburden piles where deposition has not occurred for a period of twelve months shall be stabilized and revegetated.

~~3. --Crushing areas and stockpile areas in place on July 17, 1985 are not subject to this section unless those areas continue to function as a part of the mine site after July 17, 1988.~~

~~4.~~ 3. Topsoil that is a part of overburden shall not be destroyed or buried in the process of mining.

~~5.~~ 4. The ~~department, with concurrence of the advisory board,~~ division may grant a variance from the requirements of subsections 1 and 2.

6- 5. A bond or security posted under this chapter to assure reclamation of affected lands shall not be released until all of the reclamation work required by this section has been performed in accordance with this chapter and departmental division rules, except when a replacement bond or security is posted by a new operator or responsibility is transferred under section 208.16.

Sec. 11. Section 208.18, Code 1995, is amended to read as follows:

208.18 PERIODIC REPORTS.

An operator shall file with the division a periodic report for each mine site under registration.

1. The report shall make reference to the most recent registration of the mine site and shall show:

1- a. The location and extent of all surface land area on the mine site affected by mining during the period covered by the report.

2- b. The extent to which removal of mineral products from all or any part of the affected lands has been completed.

2. The report shall be filed not later than twelve months after original registration of the site and prior to the expiration of each subsequent twelve-month period. A report shall also be filed within thirty days after completion of all surface mining operations at the site regardless of the date of the last preceding report. Forms for the filing of periodic reports required by this section shall be provided by the division.

Sec. 12. Section 208.19, unnumbered paragraph 3, Code 1995, is amended to read as follows:

An operator, upon completion of any reclamation work required by section 208.17, shall apply to the division in writing for approval of the work. The division shall within a reasonable time determined by divisional rule inspect the completed reclamation work. Upon determination by the division that the operator has satisfactorily completed all

required reclamation work on the land included in the application, the division shall release the bond or security on the reclaimed land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct surface mining on the site.

Sec. 13. Section 208.20, Code 1995, is amended to read as follows:

208.20 EXTENSION OF TIME.

The time for completion of reclamation work may be extended upon presentation by the operator of evidence satisfactory to the division that reclamation of affected land cannot be completed within the time specified by section 208.19 without ~~unreasonably impeding removal of mineral products from other parts of an active site or future removal of mineral products from an initiative site.~~

Sec. 14. Section 208.21, Code 1995, is amended to read as follows:

208.21 POLITICAL SUBDIVISION ENGAGED IN MINING.

Any political subdivision of the state of Iowa which engages or intends to engage in surface mining shall meet all requirements of ~~sections 208.13 to 208.20~~ this chapter except the subdivision shall not be required to post bond or security on registered land and shall not be required to pay licensing fees. ~~When a political subdivision engaging in surface mining violates any provision of this chapter or any rule adopted by the division pursuant to this chapter, the division shall notify the chief administrative officer or governing body of the subdivision; if after a reasonable time determined by the division, the subdivision has not commenced corrective measures approved by the division, the violation shall be referred to the committee; the chief administrative officer or governing body of the subdivision shall be notified in writing of the referral.~~

Sec. 15. Section 208.23, Code 1995, is amended to read as follows:

208.23 FORM OF BOND.

1. A bond filed with the division by an operator pursuant to this chapter shall be in a form prescribed by the division, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the division pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash, or certificates of deposit or government securities with the division on the same conditions as prescribed by this section for filing of bonds. The amount of the bond ~~or other security~~ required to be filed with an application for registration of a surface mining site, or to increase the area of a site previously registered, shall be equal to the estimated cost of reclaiming the site as required under section 208.17 and estimated by the division.

2. The estimated cost of reclamation of each individual site shall be determined by the division on the basis of the requirements of this chapter and other relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, and depth of the mineral deposit being mined, and cost of administration. The division may require an ~~applicant for registration or amendment of registration of a site operator~~ to furnish information necessary to estimate the cost of reclaiming the site. The penalty amount of the bond ~~or the amount of cash or securities on deposit~~ may be increased or reduced from time to time as determined necessary and appropriate by the division or in accordance with section 208.15.

Sec. 16. Section 208.24, Code 1995, is amended to read as follows:

208.24 SINGLE BOND FOR MULTIPLE SITES.

An operator who registers with the division two or more surface-mining mine sites may elect, at the time the second or a subsequent site is registered, to post a single bond in lieu of separate bonds on each site. A single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has registered, determined as provided in section 208.23. The penalty of a single bond on two or more surface-mining mine sites may be increased or decreased from time to time in accordance with sections 208.14, 208.15, and 208.19. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the division.

Sec. 17. Section 208.25, Code 1995, is amended to read as follows:

208.25 CANCELLATION OF BOND.

No bond filed with the division by an operator pursuant to this chapter may be canceled by the surety without at least ninety days' notice to the division. If the license to do business in Iowa of any surety of a bond filed with the division is suspended or revoked, the operator, within thirty days after receiving notice thereof from the division, shall substitute for the surety a corporate surety licensed to do business in Iowa. Upon failure of the operator to make substitution of surety as herein provided, the division shall have the right to suspend the operator's authorization to conduct surface mining on the site covered by the bond until substitution has been made. The commissioner of insurance shall notify the division whenever the license of any surety to do business in Iowa is suspended or revoked.

Sec. 18. Section 208.26, Code 1995, is amended to read as follows:

208.26 RULES -- INSPECTION OF SITE.

The division may adopt rules to implement the provisions of this chapter. The administrator or the administrator's

designee may enter at all times upon ~~any lands on which any operator is authorized to operate a mine~~ any mine site or suspected mine site for the purpose of determining whether the operator is or has been complying with the provisions of this chapter. ~~The division shall give written notice to any operator who violates any of the provisions of this chapter or any rules adopted by the division pursuant to this chapter. If corrective measures approved by the division are not commenced within ninety days, the violation shall be referred to the committee. The operator shall be notified in writing of the referral.~~ All operators shall ~~co-operate~~ cooperate with the division in seeking methods of operation which will cause minimum disruption to the land and property adjoining a mining operation.

Sec. 19. Section 208.28, Code 1995, is amended to read as follows:

208.28 FORFEITURE OF BOND -- LICENSURE RESTRICTIONS.

1. The attorney general, upon request of the ~~committee~~ division, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee reclamation of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the division pursuant to this chapter. ~~Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to reclaim affected land covered by the bond.~~ The division shall have the power to reclaim as required by section 208.17 any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary reclamation work and associated administrative costs.

2. If the proceeds from bond forfeiture proceedings are insufficient to fully satisfy the estimated cost of reclaiming disturbed lands as required under section 208.17 and division rules, the operator shall be liable for remaining costs. The division may complete, or authorize completion of, the necessary reclamation and may authorize the attorney general

to bring a civil action to recover from the operator all actual or estimated costs of reclamation in excess of the amount forfeited or require the operator to complete reclamation.

3. If the amount of bond forfeited exceeds the amount necessary to complete reclamation, the unused funds shall be returned to the operator or the surety, as appropriate.

Sec. 20. REPEALS. Sections 208.13, 208.22, 208.27, 208.29, and 208.30, Code 1995, are repealed.

Sec. 21. IMPLEMENTATION. Section 25B.2, subsection 3, shall not apply to this Act.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2408, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 2, 1996

TERRY E. BRANSTAD
Governor