

Opinion No. 52-5568

July 23, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Mr. John A. Garcia State Inspector of Mines 312 South Third Street. Albuquerque, New Mexico

{*277} This is in reply to your letter of May 22, 1952, in which you request {*278} an opinion of this office clarifying Section 67-301, New Mexico Statutes Annotated 1941. You specifically want to know if you, as State Inspector of Mines, have jurisdiction over gravel and sand mines or pits.

Section 67-301 New Mexico Statutes Annotated 1941, reads as follows:

"Mine -- For the purpose of this act the term 'mine' except where qualified in various sections of this act shall include **all** surface and underground operations to wit coal, metals, and other mineral substances from their deposits (exclusive of natural gas or petroleum), all tunnel operations, all caisson operations, all mills, ore houses and treatment plants in close proximity to mine openings, and all quarries, pits, open-cut workings, strippings, placer mines, sand, gravel and similar banks." (Emphasis supplied.)

Vol. 38, Words and Phrases, at page 238, defines 'sand' as follows:

"'Sand,' in a general sense, is a mineral, and is a part of realty and goes with land. La Rowe v. McGee, 156 S. E. 591, 593, 171 Ga. 771."

Regardless of definitions it is to be noted that our statute specifically includes sands and gravels within mining operations.

It is my opinion, therefore, that both sand and gravel are minerals and, according to Section 67-301 New Mexico Statutes Annotated, would come under your jurisdiction, as that section covers all operations underground and on the surface.

Trusting that this fully answers your inquiry, I remain