

SHORT TITLE: Mines and mining; modifying certain notification requirements. Emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1299

By: Williams

AS INTRODUCED

An Act relating to mines and mining; amending 45 O.S. 1991, Section 724, as last amended by Section 1, Chapter 161, O.S.L. 1997 (45 O.S. Supp. 1997, Section 724), which relates to mining permit applications and bonds; updating statutory language; providing for mining permits to be issued for certain time period; requiring certain advertisement for certain time period prior to issuing permits or renewals of permits; requiring applicants to notify certain property owners and residents by certain method; stating requirements for notice; modifying time period for certain response; requiring certain public hearings and notice for amended applications; requiring Department of Mines to notify certain persons prior to releasing certain bonds; stating requirements to be included in notice; and declaring an emergency.

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

SECTION 1. AMENDATORY 45 O.S. 1991, Section 724, as last amended by Section 1, Chapter 161, O.S.L. 1997 (45 O.S. Supp. 1997, Section 724), is amended to read as follows:

Section 724. A. It shall be unlawful for any operator to engage in any mining operations in this state without first

obtaining from the Department of Mines a permit ~~to do so~~ for each separate mining operation. The Department shall determine what constitutes a separate mining operation by rules ~~and regulations~~ promulgated under the Mining Lands Reclamation Act.

B. Any operator desiring to engage in surface mining shall make written application to the Department for a permit. Application for such permit shall be made upon a form furnished by the Department. The form shall contain a description of the tract or tracts of land and the estimated number of acres to be affected by surface mining by the operator. 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 so that it may be located and distinguished from other lands. Transmission lines shall be plotted on a location map submitted with the application. A statement that the operator has the right and power by legal estate owned to mine by surface mining the land so described shall be included with the application.

C. Any operator desiring to engage in underground mining shall make written application to the Department for a permit. Application for such permit shall be made upon a form furnished by the Department. The form shall contain a description of the tract or tracts of land to be used as refuse disposal areas. 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 so that it may be located and distinguished from other lands. A statement that the applicant has the right and power by legal estate owned to use the land so described as a refuse disposal area shall be included with the application.

D. Each application for a permit under subsections B and C of this section shall be accompanied by a plan of reclamation of the affected land that meets the requirements of the Mining Lands Reclamation Act. The ~~application~~ plan of reclamation shall set

forth the proposed use ~~to be made~~ after reclamation of the affected land, the grading to be accomplished, the type of revegetation, and shall include the approximate time of grading and initial revegetation effort.

E. Each application for a permit under subsections B and C of this section shall be accompanied by the bond or security meeting the requirements of Section 728 of this title, or proof that such bond or security is still in effect, and a fee of One Hundred Seventy-five Dollars (\$175.00) for each permit year, payable at the rate of One Hundred Seventy-five Dollars (\$175.00) per year on the anniversary date of the year in which the permit or permit renewal was issued. All application fees shall be submitted to the State Treasurer, who shall deposit them in the Department of Mines Revolving Fund.

F. Upon the receipt of such application, bond or security and fee due from the operator, the Department may issue a permit ~~to the applicant~~ which shall entitle ~~him~~ the applicant to engage in mining on the land therein described in accordance with the rules promulgated by the Department, for the ~~life expectancy of the operation~~ duration of the permit unless such operator is in violation of any state statute or rule of the Department in which case the Department shall take appropriate action against the operator. All applications for renewal of existing permits shall be filed prior to the expiration of the existing permit in accordance with the rules promulgated by the Department. No permit or renewal shall be issued except upon proper application and public hearing, if requested. Upon filing the initial application or the application for renewal with the Department, the applicant shall place an advertisement in a newspaper of general circulation in the vicinity of the mining operation, containing such information as is required by the Department. Such advertisement shall be published for a period of four (4) consecutive weeks. Owners of property and

residents of occupied dwellings adjacent to the proposed mining site as described in the application shall be notified of the pending application by certified mail by the applicant. Such notification shall include a copy the application, the plan of reclamation and shall state that any property owner or resident of an occupied dwelling located within one (1) mile of the proposed mining operation shall have the right to protest the issuance of the permit or renewal and request a public hearing within thirty (30) days of the date of the publication. Any property owner or resident of an occupied dwelling ~~who may be adversely affected~~ located within one (1) mile of the proposed mining operation who may be adversely affected shall have the right to protest the issuance of a permit and request a public hearing. The Department shall notify the surface owners and residents of any hearings in connection with applications or permits in the same manner as the operator is notified. Such protests must be received by the Department within ~~fourteen (14)~~ thirty (30) days after the later of the last date of publication of the newspaper advertisement or the date of mailing the notice. If a public hearing is requested, the Department shall then hold an informal hearing in the vicinity of the proposed mining operation. Upon completion of findings after the hearing, the Department shall determine whether to issue or deny the permit, and shall notify all parties of its decision. Any decision regarding the issuance of a permit under this section shall be appealable when entered, as provided in the Administrative Procedures Act.

G. An operator desiring to have his or her permit amended to cover additional land may file an amended application with the Department. Upon receipt of the amended application, and such additional bond as may be required under the provisions of the Mining Lands Reclamation Act, the Department shall issue an amendment to the original permit covering the additional land described in the amended application, without the payment of any

additional fee provided, however, that the publication and notice requirements and provisions for public hearings as set forth in subsection F of this section shall apply to amended applications.

H. An operator may withdraw any land covered by a permit, deleting affected land therefrom, by notifying the Department, in which case the penalty of the bond or security filed by such operator pursuant to the provisions of the Mining Lands Reclamation Act shall be reduced proportionately.

I. Permits issued to an operator shall not be transferable to another operator.

J. The perimeter of the permit area shall be clearly marked by durable and recognizable markers or by other means approved by the Department.

K. The Department shall determine the blasting distance to transmission lines by ~~rule and regulation~~ rules promulgated by the Department.

L. Within a reasonable time, as established by the Department, written comments or objections on permit or bond release applications may be submitted to the Department by public entities including but not limited to the local soil conservation district, with respect to the effects of the proposed mining operations on the environment.

M. Any person having an interest in or who is or may be adversely affected by the decision on a permit or bond release application, or any federal, state or local agency, shall have the right to request in writing that the Department hold an informal conference on the application. The Department shall hold the informal conference within a reasonable time following the receipt of the written request at a location in the vicinity of the proposed or active surface mining or reclamation operation.

N. At least thirty (30) days prior to the release of any performance bond or other type of financial surety which is required

of mining permittees, the Department shall notify, by certified mail, all adjacent property owners and residents of occupied dwellings that the mining permittee has ceased operations and such bonds or other sureties are due to be released. Such notification shall include the applicant's plan for reclamation included in the original application and his or her statement of completion of the reclamation according to the approved plan.

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

46-2-2470

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