

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1184 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Charles McCall

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1184

By: Paddack and Simpson of the
Senate

and

McCall of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to mines and mining; amending 45 O.S.
2011, Section 724, which relates to mining permits;
modifying types of hearings; requiring certain
hearings to comply with Administrative Procedures
Act; and declaring an emergency.

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

SECTION 1. AMENDATORY 45 O.S. 2011, 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 a permit or a Limited Use Permit from the Department of
Mines for each separate mining operation. The Department shall
determine what constitutes a separate mining operation by rules
promulgated under the Mining Lands Reclamation Act.

1 B. Any operator desiring to engage in limited mining activity
2 may apply for a Limited Use Permit for those mining operations not
3 eligible for a surface mining permit. Application for such permit
4 shall be made upon forms furnished by the Department. The form
5 shall contain a description of the tract or tracts of land and shall
6 include the section, township, range and county in which the land is
7 located. A map shall be attached to the application which
8 accurately outlines and locates the tract of land. A statement that
9 the applicant has the right and power by legal estate owned to mine
10 the land so described shall be included with the application. In
11 addition, the following conditions and requirements shall apply to
12 Limited Use Permits:

13 1. The maximum acreage shall be restricted to two (2) acres;

14 2. The term of a Limited Use Permit shall not exceed twelve
15 (12) months from the date of issuance;

16 3. A Limited Use Permit shall not carry a right of successive
17 renewal;

18 4. A Limited Use Permit site must be reclaimed as required by
19 Section 725 of this title within six (6) months following the
20 expiration of the permit term;

21 5. A three-thousand-five-hundred-dollar reclamation bond must
22 be filed with the Department prior to issuance of the permit;
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1 6. Failure to reclaim the site disturbance within the permitted
2 time frame or revocation of the Limited Use Permit will be cause for
3 bond forfeiture or other action as may be ordered by the Department;

4 7. The use of processing equipment shall not be approved for a
5 Limited Use Permit;

6 8. The use of explosives shall not be approved under a Limited
7 Use Permit;

8 9. A processing fee of One Hundred Dollars (\$100.00) shall
9 accompany the application for a Limited Use Permit; and

10 10. Mining production shall be reported and paid as required by
11 Section 931 of this title.

12 If the above listed conditions and requirements are met, the
13 Department may issue a Limited Use Permit which shall not be subject
14 to the notice and publication requirements as otherwise required by
15 this section.

16 C. 1. Any operator desiring to engage in surface mining shall
17 make written application to the Department for a permit.
18 Application for such permit shall be made upon a form furnished by
19 the Department. The form shall contain a description of the tract
20 or tracts of land and the estimated number of acres to be affected
21 by surface mining by the operator. The description shall include
22 the section, township, range and county in which the land is located
23 and shall otherwise describe the land with sufficient certainty so
24 that it may be located and distinguished from other lands.

1 2. Transmission lines shall be plotted on a location map
2 submitted with the application. A statement that the operator has
3 the right and power by legal estate owned to mine by surface mining
4 the land so described shall be included with the application.

5 D. 1. Any operator desiring to engage in underground mining
6 shall make written application to the Department for a permit.
7 Application for such permit shall be made upon a form furnished by
8 the Department. The form shall contain a description of the tract
9 or tracts of land to be used as refuse disposal areas. The
10 description shall include the section, township, range and county in
11 which the land is located and shall otherwise describe the land with
12 sufficient certainty so that it may be located and distinguished
13 from other lands.

14 2. A statement that the applicant has the right and power by
15 legal estate owned to use the land so described as a refuse disposal
16 area shall be included with the application.

17 E. Each application for a permit under subsections C and D of
18 this section shall be accompanied by a plan of reclamation of the
19 affected land that meets the requirements of the Mining Lands
20 Reclamation Act. The application shall set forth the proposed use
21 to be made of the affected land, the grading to be accomplished, the
22 type of revegetation, and shall include the approximate time of
23 grading and initial revegetation effort.

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

11 G. 1. Upon the receipt of such application, bond or security
12 and fee due from the operator, the Department may issue a permit to
13 the applicant which shall entitle the applicant to engage in mining
14 on the land therein described in accordance with the rules
15 promulgated by the Department, for the life expectancy of the
16 operation unless the operator is in violation of any state statute
17 or rule of the Department in which case the Department shall take
18 appropriate action against the operator.

19 2. All applications for renewal of existing permits shall be
20 filed prior to the expiration of the existing permit in accordance
21 with the rules promulgated by the Department.

22 3. No permit shall be issued except upon proper application and
23 public hearing, if requested.
24

1 H. 1. a. Upon filing the application with the Department, the
2 applicant shall place an advertisement in a newspaper
3 of general circulation in the vicinity of the mining
4 operation, containing such information as is required
5 by the Department, at least once a week for four (4)
6 consecutive weeks.

7 b. The advertisement shall contain, at a minimum, the
8 following:

- 9 (1) the name and business address of the applicant,
10 (2) a description which clearly shows or describes
11 the precise location and boundaries of the
12 proposed permit area and is sufficient to enable
13 local residents to readily identify the proposed
14 permit area. It may include towns, bodies of
15 water, local landmarks, and any other information
16 which would identify the location,
17 (3) the location where a copy of the application is
18 available for public inspection,
19 (4) the name and address of the Department where
20 written comments, objections, or requests for
21 informal conferences on the application may be
22 submitted pursuant to subsection P of this
23 section,
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- 1 (5) if an applicant seeks a permit to mine which
2 includes relocation or closing of a public road,
3 a copy of the county resolution pertaining to the
4 affected county road, and
5 (6) such other information as is required by the
6 Department.

7 2. Any property owner or resident of an occupied dwelling who
8 may be adversely affected located within one (1) mile of the mining
9 operation shall have the right to protest the issuance of a permit
10 and request a public hearing.

11 3. The Department shall notify the surface owners of any
12 hearings in connection with applications or permits in the same
13 manner as the operator is notified.

14 4. Such protests must be received by the Department within
15 fourteen (14) days after the date of publication of the newspaper
16 advertisement. If a public hearing is requested, the Department
17 shall then hold ~~an informal~~ a hearing in the vicinity of the
18 proposed mining.

19 5. Upon completion of findings after the hearing, the
20 Department shall determine whether to issue or deny the permit, and
21 shall notify all parties of its decision.

22 6. Any decision regarding the issuance of a permit under this
23 section shall be appealable when entered, as provided in the
24 Administrative Procedures Act.

1 I. Each application for a new operation shall contain, where
2 applicable, a list of all other licenses and permits needed by the
3 applicant to conduct the proposed mining operation. This list shall
4 identify each license and permit by:

5 1. Type of permit or license;

6 2. Name and address of issuing authority;

7 3. Identification number or a copy of the application for
8 permits or licenses or, if issued, a copy of the permit or license;
9 and

10 4. If a decision has been made, the date of approval or
11 disapproval by each issuing authority.

12 An existing operation which does not have on file a list of the
13 applicable licenses or permits with the Department on ~~the date of~~
14 ~~enactment of this act~~ June 5, 1998, shall not be out of compliance
15 with the provisions of this section. Any renewal of an existing
16 permit or expansion or amendment to an existing operation upon time
17 of application shall submit a copy of all approved licenses and
18 permits issued by other agencies or jurisdictions.

19 Identifications of all permits and licenses shall include local
20 government agencies with jurisdiction over or an interest in the
21 area of the proposed mining operation including, but not limited to,
22 planning agencies, water and sewer authorities; and all state and
23 federal government agencies with authority to issue permits and
24 licenses applicable to the proposed mining operation, including all

1 state environmental agencies, U.S. Army Corps of Engineers, U.S.
2 Department of Agriculture Natural Resources Conservation Service
3 district office, and federal fish and wildlife agencies.

4 J. An operator desiring to have such operator's permit amended
5 to cover additional land may file an amended application with the
6 Department. Upon receipt of the amended application, and such
7 additional bond as may be required under the provisions of the
8 Mining Lands Reclamation Act, the Department shall issue an
9 amendment to the original permit covering the additional land
10 described in the amended application, without the payment of any
11 additional fee.

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

17 L. Permits issued to an operator may be transferable to another
18 operator, provided the new operator can demonstrate to the
19 Department, prior to the transfer of ownership, that conditions and
20 obligations required for the permit will be met and the new operator
21 has submitted a performance bond or other guarantee, or has obtained
22 the bond coverage of the original permittee.

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

4 N. The Department shall determine the blasting distance to
5 transmission lines by rule.

6 O. 1. If any mining operations where blasting is required
7 occur within the limits of a municipality with a population in
8 excess of three hundred thousand (300,000) according to the latest
9 Federal Decennial Census or within the limits of a municipality
10 within a county with a population in excess of three hundred
11 thousand (300,000) according to the latest Federal Decennial Census,
12 the application for a permit pursuant to subsections C and D of this
13 section shall be accompanied by proof that the operator is in full
14 compliance with all applicable regulations of the municipality.
15 Certified copies of any required municipal permits and any other
16 required written municipal approvals shall be attached to the
17 application when submitted to the Department. No mining permit
18 shall be issued by the Department unless the applicant first
19 complies with the requirements of this subsection. A municipality
20 is not required to reconsider requests denied by the municipality
21 related to the same site unless the municipality determines there
22 has been a material change in the application.

23 2. The provisions of paragraph 1 of this subsection shall not
24 apply to existing permitted operations, revisions or amendments

1 thereto, or any application on file with the Department prior to May
2 25, 2005. In addition, the provisions of paragraph 1 of this
3 subsection shall not apply to any future operation on property
4 directly adjacent to property on which a permitted operation is
5 located, provided that the operation is permitted and the adjacent
6 property is owned or leased by the operator on ~~the effective date of~~
7 ~~this act~~ May 25, 2005. For purposes of this subsection, properties
8 separated by a public road shall be considered to be adjacent.

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

15 Q. Any person having an interest in or who is or may be
16 adversely affected by the decision on a permit or bond release
17 application, or any federal, state or local agency, shall have the
18 right to request in writing that the Department hold ~~an informal~~
19 ~~conference~~ a hearing on the application. The Department shall hold
20 the ~~informal conference~~ hearing within a reasonable time following
21 the receipt of the written request at a location in the vicinity of
22 the proposed or active surface mining or reclamation operation.
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1 R. All hearings held by the Department pursuant to this section
2 shall comply with the requirements of the Administrative Procedures
3 Act.

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

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9 54-2-10726 KB 04/01/14
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