

1 ENGROSSED SENATE
2 BILL NO. 1184

By: Paddack and Simpson of the
Senate

3 and

4 McCall of the House

5
6 An Act relating to mines and mining; amending 45 O.S.
7 2011, Section 724, which relates to Limited Use
8 Permits; authorizing interested or adversely affected
9 persons to request formal hearing with Department of
Mines; requiring formal hearings to comply with
Administrative Procedures Act; and declaring an
emergency.

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 45 O.S. 2011, Section 724, is
13 amended to read as follows:

14 Section 724. A. It shall be unlawful for any operator to
15 engage in any mining operations in this state without first
16 obtaining a permit or a Limited Use Permit from the Department of
17 Mines for each separate mining operation. The Department shall
18 determine what constitutes a separate mining operation by rules
19 promulgated under the Mining Lands Reclamation Act.

20 B. Any operator desiring to engage in limited mining activity
21 may apply for a Limited Use Permit for those mining operations not
22 eligible for a surface mining permit. Application for such permit
23 shall be made upon forms furnished by the Department. The form
24 shall contain a description of the tract or tracts of land and shall

1 include the section, township, range and county in which the land is
2 located. A map shall be attached to the application which
3 accurately outlines and locates the tract of land. A statement that
4 the applicant has the right and power by legal estate owned to mine
5 the land so described shall be included with the application. In
6 addition, the following conditions and requirements shall apply to
7 Limited Use Permits:

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

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

11 3. A Limited Use Permit shall not carry a right of successive
12 renewal;

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

16 5. A three-thousand-five-hundred-dollar reclamation bond must
17 be filed with the Department prior to issuance of the permit;

18 6. Failure to reclaim the site disturbance within the permitted
19 time frame or revocation of the Limited Use Permit will be cause for
20 bond forfeiture or other action as may be ordered by the Department;

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

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

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

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

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

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

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

22 D. 1. Any operator desiring to engage in underground mining
23 shall make written application to the Department for a permit.
24 Application for such permit shall be made upon a form furnished by

1 the Department. The form shall contain a description of the tract
2 or tracts of land to be used as refuse disposal areas. The
3 description shall include the section, township, range and county in
4 which the land is located and shall otherwise describe the land with
5 sufficient certainty so that it may be located and distinguished
6 from other lands.

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

10 E. Each application for a permit under subsections C and D of
11 this section shall be accompanied by a plan of reclamation of the
12 affected land that meets the requirements of the Mining Lands
13 Reclamation Act. The application shall set forth the proposed use
14 to be made of the affected land, the grading to be accomplished, the
15 type of revegetation, and shall include the approximate time of
16 grading and initial revegetation effort.

17 F. Each application for a permit under subsections C and D of
18 this section shall be accompanied by the bond or security meeting
19 the requirements of Section 728 of this title, or proof that such
20 bond or security is still in effect, and a fee of One Hundred
21 Seventy-five Dollars (\$175.00) for each permit year, payable at the
22 rate of One Hundred Seventy-five Dollars (\$175.00) per year on the
23 anniversary date of the year in which the permit or permit renewal
24 was issued. All application fees shall be submitted to the State

1 Treasurer, who shall deposit them in the Department of Mines
2 Revolving Fund.

3 G. 1. Upon the receipt of such application, bond or security
4 and fee due from the operator, the Department may issue a permit to
5 the applicant which shall entitle the applicant to engage in mining
6 on the land therein described in accordance with the rules
7 promulgated by the Department, for the life expectancy of the
8 operation unless the operator is in violation of any state statute
9 or rule of the Department in which case the Department shall take
10 appropriate action against the operator.

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

14 3. No permit shall be issued except upon proper application and
15 public hearing, if requested.

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

22 b. The advertisement shall contain, at a minimum, the
23 following:

24 (1) the name and business address of the applicant,

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

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

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

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

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

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

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

19 1. Type of permit or license;

20 2. Name and address of issuing authority;

21 3. Identification number or a copy of the application for
22 permits or licenses or, if issued, a copy of the permit or license;
23 and
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1 4. If a decision has been made, the date of approval or
2 disapproval by each issuing authority.

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

10 Identifications of all permits and licenses shall include local
11 government agencies with jurisdiction over or an interest in the
12 area of the proposed mining operation including, but not limited to,
13 planning agencies, water and sewer authorities; and all state and
14 federal government agencies with authority to issue permits and
15 licenses applicable to the proposed mining operation, including all
16 state environmental agencies, U.S. Army Corps of Engineers, U.S.
17 Department of Agriculture Natural Resources Conservation Service
18 district office, and federal fish and wildlife agencies.

19 J. An operator desiring to have such operator's permit amended
20 to cover additional land may file an amended application with the
21 Department. Upon receipt of the amended application, and such
22 additional bond as may be required under the provisions of the
23 Mining Lands Reclamation Act, the Department shall issue an
24 amendment to the original permit covering the additional land

1 described in the amended application, without the payment of any
2 additional fee.

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

8 L. Permits issued to an operator may be transferable to another
9 operator, provided the new operator can demonstrate to the
10 Department, prior to the transfer of ownership, that conditions and
11 obligations required for the permit will be met and the new operator
12 has submitted a performance bond or other guarantee, or has obtained
13 the bond coverage of the original permittee.

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

17 N. The Department shall determine the blasting distance to
18 transmission lines by rule.

19 O. 1. If any mining operations where blasting is required
20 occur within the limits of a municipality with a population in
21 excess of three hundred thousand (300,000) according to the latest
22 Federal Decennial Census or within the limits of a municipality
23 within a county with a population in excess of three hundred
24 thousand (300,000) according to the latest Federal Decennial Census,

1 the application for a permit pursuant to subsections C and D of this
2 section shall be accompanied by proof that the operator is in full
3 compliance with all applicable regulations of the municipality.
4 Certified copies of any required municipal permits and any other
5 required written municipal approvals shall be attached to the
6 application when submitted to the Department. No mining permit
7 shall be issued by the Department unless the applicant first
8 complies with the requirements of this subsection. A municipality
9 is not required to reconsider requests denied by the municipality
10 related to the same site unless the municipality determines there
11 has been a material change in the application.

12 2. The provisions of paragraph 1 of this subsection shall not
13 apply to existing permitted operations, revisions or amendments
14 thereto, or any application on file with the Department prior to May
15 25, 2005. In addition, the provisions of paragraph 1 of this
16 subsection shall not apply to any future operation on property
17 directly adjacent to property on which a permitted operation is
18 located, provided that the operation is permitted and the adjacent
19 property is owned or leased by the operator on ~~the effective date of~~
20 ~~this act~~ May 25, 2005. For purposes of this subsection, properties
21 separated by a public road shall be considered to be adjacent.

22 P. Within a reasonable time, as established by the Department,
23 written comments or objections on permit or bond release
24 applications may be submitted to the Department by public entities

1 including but not limited to the local soil conservation district,
2 with respect to the effects of the proposed mining operations on the
3 environment.

4 Q. Any person having an interest in or who is or may be
5 adversely affected by the decision on a permit or bond release
6 application, or any federal, state or local agency, shall have the
7 right to request in writing that the Department hold ~~an informal~~
8 ~~conference~~ a formal hearing on the application. The Department
9 shall hold the ~~informal conference~~ formal hearing within a
10 reasonable time following the receipt of the written request at a
11 location in the vicinity of the proposed or active surface mining or
12 reclamation operation. Formal hearings shall comply with the
13 requirements of the Administrative Procedures Act.

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

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1 Passed the Senate the 6th day of March, 2014.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2014.

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8 _____
9 Presiding Officer of the House
10 of Representatives