

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1184

By: Paddack

6 AS INTRODUCED

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

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

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

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

22 B. Any operator desiring to engage in limited mining activity
23 may apply for a Limited Use Permit for those mining operations not
24 eligible for a surface mining permit. Application for such permit

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

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

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

13 3. A Limited Use Permit shall not carry a right of successive
14 renewal;

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

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

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

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

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

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

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

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

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

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

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

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

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

20 F. Each application for a permit under subsections C and D of
21 this section shall be accompanied by the bond or security meeting
22 the requirements of Section 728 of this title, or proof that such
23 bond or security is still in effect, and a fee of One Hundred
24 Seventy-five Dollars (\$175.00) for each permit year, payable at the

1 rate of One Hundred Seventy-five Dollars (\$175.00) per year on the
2 anniversary date of the year in which the permit or permit renewal
3 was issued. All application fees shall be submitted to the State
4 Treasurer, who shall deposit them in the Department of Mines
5 Revolving Fund.

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

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

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

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

1 b. The advertisement shall contain, at a minimum, the
2 following:

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

4 (2) a description which clearly shows or describes
5 the precise location and boundaries of the
6 proposed permit area and is sufficient to enable
7 local residents to readily identify the proposed
8 permit area. It may include towns, bodies of
9 water, local landmarks, and any other information
10 which would identify the location,

11 (3) the location where a copy of the application is
12 available for public inspection,

13 (4) the name and address of the Department where
14 written comments, objections, or requests for
15 informal conferences on the application may be
16 submitted pursuant to subsection P of this
17 section,

18 (5) if an applicant seeks a permit to mine which
19 includes relocation or closing of a public road,
20 a copy of the county resolution pertaining to the
21 affected county road, and

22 (6) such other information as is required by the
23 Department.
24

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

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

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

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

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

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

23 1. Type of permit or license;

24 2. Name and address of issuing authority;

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

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

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

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

22 J. An operator desiring to have such operator's permit amended
23 to cover additional land may file an amended application with the
24 Department. Upon receipt of the amended application, and such

1 additional bond as may be required under the provisions of the
2 Mining Lands Reclamation Act, the Department shall issue an
3 amendment to the original permit covering the additional land
4 described in the amended application, without the payment of any
5 additional fee.

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

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

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

20 N. The Department shall determine the blasting distance to
21 transmission lines by rule.

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

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

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

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

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

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

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