

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1580

By: Sharp

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5  
6 AS INTRODUCED

7 An Act relating to mining; amending 45 O.S. 2011,  
8 Section 724, which relates to permits; modifying term  
9 limit for certain permit; updating statutory  
10 references; and providing an effective date.

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)~~ eighteen (18) 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  
24

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~~ the Mining Lands Reclamation Act shall not be  
6 out of compliance with the provisions of this section. Any renewal  
7 of an existing permit or expansion or amendment to an existing  
8 operation upon time of application shall submit a copy of all  
9 approved licenses and permits issued by other agencies or  
10 jurisdictions.

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

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



1 amendment to the original permit covering the additional land  
2 described in the amended application, without the payment of any  
3 additional fee.

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

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

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

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

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

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

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

23 P. Within a reasonable time, as established by the Department,  
24 written comments or objections on permit or bond release

1 applications may be submitted to the Department by public entities  
2 including but not limited to the local soil conservation district,  
3 with respect to the effects of the proposed mining operations on the  
4 environment.

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

13 SECTION 2. This act shall become effective November 1, 2018.

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