



2024 South Dakota Legislature
Senate Bill 111
ENROLLED

AN ACT

ENTITLED An Act to revise requirements for mining and mineral exploration.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 45-6-65 be AMENDED:

45-6-65. An operator shall obtain a license to mine:

- (1) Sand;
- (2) Gravel;
- (3) Rock to be crushed and used in construction;
- (4) Pegmatite minerals;
- (5) Limestone; and
- (6) Iron ore, gypsum, shale, pozzolan, and other materials used in the process of making cement or lime.

The operator shall comply with the requirements of §§ 45-6-68, 45-6-69, 45-6-71, and 45-6-72, for each site to be mined. Failure to comply with these requirements for each site mined constitutes mining without a license.

The fee for the license is one hundred dollars annually, for each mine site authorized under the license. The department shall forward any fees collected under this section to the state treasurer for deposit in the environment and natural resources fee fund established in § 1-41-23.

Section 2. That § 45-6-71 be AMENDED:

45-6-71. Prior to the commencement of mining, an operator shall submit a surety to the department, to be held under the authority of the board.

If a mining operation was licensed prior to July 1, 2024, the surety required by this section must, through June 30, 2026, be in the amount of five hundred dollars per acre of affected land or twenty thousand dollars for the statewide mining of any material listed in § 45-6-65.

Beginning July 1, 2026, and continuing through June 30, 2027, the surety for a mining operation that was licensed prior to July 1, 2024, must be in the amount of one thousand five hundred dollars per acre of affected land or one hundred thousand dollars for the statewide mining of any material listed in § 45-6-65.

Beginning July 1, 2027, and continuing through June 30, 2029, the surety for a mining operation that was licensed prior to July 1, 2024, must be in the amount of two thousand seven hundred and fifty dollars per acre of affected land or two hundred thousand dollars for the statewide mining of any material listed in § 45-6-65.

Beginning July 1, 2029, the surety for a mining operation that was licensed prior to July 1, 2024, must be in the amount of three thousand eight hundred and fifty dollars per acre of affected land or three hundred thousand dollars for the statewide mining of any material listed in § 45-6-65.

If a mining operation is licensed on or after July 1, 2024, the surety required by this section must be in the amount of three thousand eight hundred and fifty dollars per acre of affected land or three hundred thousand dollars for the statewide mining of any material listed in § 45-6-65.

If a corporate surety bond is required, the bond must be signed by the operator, as principal, and by a surety insurer certified under chapter 58-21.

In lieu of the required surety, the operator may provide to the department, to be held under the authority of the board:

- (1) An irrevocable letter of credit;
- (2) A cash deposit;
- (3) A certificate of deposit made payable to the board; or
- (4) Government securities.

The surety must remain in effect until the affected land has been reclaimed, the reclamation is approved by the board, and the surety is released by the board.

Section 3. That chapter 45-6 be amended with a NEW SECTION:

A political subdivision may, in order to avoid the imposition of duplicate surety requirements, enter into a joint powers agreement with the board, provided the political subdivision has established requirements pertaining to reclamation after the mining of any material listed in § 45-6-65.

Section 4. That § 45-6B-55 be AMENDED:

45-6B-55. The application must be accompanied by:

- (1) A nonrefundable fee of one hundred dollars; and
- (2) A surety, in an amount determined sufficient by the board to cover the cost of reclamation, but not exceeding thirty-eight thousand five hundred dollars.

Section 5. That § 45-6B-81 be AMENDED:

45-6B-81. The board may promulgate rules, pursuant to chapter 1-26, to:

- (1) Establish the procedure for filing and departmental review of mining permit applications;
- (2) Establish the procedure for amending mining permits;
- (3) Establish the procedure for transfer of permits;
- (4) Provide for the reclamation of mills proposed to be operated in conjunction with a mining operation;
- (5) Establish the prehearing procedure for determining the type of reclamation to be performed on affected land;
- (6) Establish the minimum requirements for each type of reclamation;
- (7) Establish the reclamation activities required to be performed concurrent with mining activity;
- (8) Establish the procedure to address reclamation before or during a temporary cessation of mining activity, pursuant to subdivision 45-6B-3(6);
- (9) Establish the procedure for determining special, exceptional, critical, or unique land, in accordance with § 45-6B-33;
- (10) Establish the requirements for construction, operation, monitoring, and closure of uranium and other mineral mines using in situ leach processes; and
- (11) Establish the procedure for posting and monitoring financial assurance.

Section 6. That § 45-6C-13 be AMENDED:

45-6C-13. The operator may commence the exploration operation upon receipt of the written restrictions provided for in §§ 45-6C-10 to 45-6C-12, inclusive. The department may not issue written restrictions until the operator posts surety pursuant to § 45-6C-19.

Section 7. That § 45-6C-19 be AMENDED:

45-6C-19. The department may inspect the area proposed to be explored. Based upon this inspection, the criteria established in § 45-6C-20, and the submitted reclamation

plan, the department shall set the level of the surety necessary to guarantee the costs of plugging all the proposed test holes and reclamation of affected public and private lands.

The operator shall file or deposit the surety with the department, in a form required by the department, before commencing the exploration operation.

In lieu of filing or depositing a surety for each exploration operation, the operator may post a surety in the amount of one hundred thousand dollars for statewide exploration. If a statewide surety is posted, the person posting the surety must otherwise comply with the provisions of this chapter for every area to be explored.

An Act to revise requirements for mining and mineral exploration.

I certify that the attached Act originated in the:

Received at this Executive Office this ____ day of _____,

Senate as Bill No. 111

2024 at _____ M.

Secretary of the Senate

By _____
for the Governor

President of the Senate

The attached Act is hereby approved this _____ day of _____, A.D., 2024

Attest:

Secretary of the Senate

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Speaker of the House

Attest:

Filed _____, 2024
at _____ o'clock __ M.

Chief Clerk

Secretary of State

Senate Bill No. 111
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State