



2021 South Dakota Legislature

House Bill 1029

Introduced by: The Committee on Agriculture and Natural Resources at the request of the Department of Environment and Natural Resources

1 **An Act to require a permit to conduct mining operations for certain ore milling**
 2 **facilities.**

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

4 **Section 1.** That § 45-6B-3 be AMENDED.

5 **45-6B-3. Definition of terms.**

6 Terms used in this chapter mean:

- 7 (1) "Abandoned mined lands," lands that were mined for noncoal minerals and
 8 materials and for which there is no continuing reclamation responsibility or
 9 responsibility for other remedial action under state or federal laws;
- 10 (2) "Affected land," land from which overburden is to be or has been removed and land
 11 upon which overburden, waste rock, mine spoil, or mill tailings is to be or has been
 12 deposited; land which is disturbed by the building of access roads, railroad loops,
 13 warehouses, storage areas, or other support facilities for the purpose of mining or
 14 milling; and land affected by surface subsidence, unstable slopes, and other surface
 15 effects caused by underground mine workings;
- 16 (3) "Aquifer," a water-bearing bed or stratum of permeable rock, sand, or gravel
 17 capable of yielding usable quantities of water to wells or springs;
- 18 (4) "Black Hills," Lawrence County south of Interstate Highway 90, Meade County west
 19 and south of Interstate Highway 90 and Pennington and Custer Counties west of
 20 South Dakota Highway 79;
- 21 (5) "Board," the Board of Minerals and Environment;
- 22 (6) "Department," the Department of Environment and Natural Resources;
- 23 (7) "Development," the work performed in relation to a deposit, following the
 24 exploration required to prove minerals are in existence in commercial quantities but
 25 before production activities, aimed at preparing the site for mining, defining further

1 the ore deposit by drilling or other means, conducting pilot plant operations,
2 constructing roads or ancillary facilities;

3 (8) "Life of the mine permit," a permit to conduct a mining operation which is in effect
4 if:

5 (a) An operator continues to engage in the extraction of minerals and complies
6 with the provisions of this chapter;

7 (b) Mineral reserves are shown by the operator to remain in the mining operation
8 and the operator plans to, or does, temporarily cease production for one
9 hundred eighty days or more if the operator files a notice thereof with the
10 board stating the reasons for nonproduction, a plan for ceasing production
11 for one hundred eighty days or more if the operator files a notice thereof with
12 the board stating the reasons for nonproduction, a plan for the resumption of
13 production, and the measures taken to comply with reclamation and other
14 necessary activities as established by the board to maintain the mine in a
15 nonproducing state. The requirement of a notice of temporary cessation does
16 not apply to operators who resume operating within one year and have
17 included, in their permit applications, a statement following the exploration
18 required to prove minerals are in existence in that the affected lands are to
19 be used for less than one hundred eighty days per year;

20 (c) Production is resumed within five years of the date production ended, or the
21 operator files a report requesting an extension of the period of temporary
22 cessation of production with the board stating the reasons for the
23 continuation of nonproduction and those factors necessary to, and the
24 operator's plans for, resumption of production. A temporary cessation of
25 production may not be continued for more than ten years without terminating
26 the operation and fully complying with the reclamation requirements of this
27 chapter.

28 A life of the mine permit includes that period of time after cessation of production
29 necessary to complete reclamation of affected lands, until the board releases, in
30 writing, the operator from further reclamation obligations regarding the affected
31 land, declares the mining operation terminated, and releases the surety thereon;

32 (9) "Milling," the beneficiation of a mined material from its natural occurrence in ore;

33 (10) "Mineral," a substance with economic value, whether organic or inorganic, that can
34 be extracted from the earth, other than the following: water, oil, gas, sand, gravel,

- 1 or rock to be crushed and used in construction, pegmatite minerals, or limestone,
2 sand, gypsum, shale, or iron ore used in the process of making cement;
- 3 (11) "Mining operation," the development or extraction of a mineral from its natural
4 occurrence on affected land. The term includes surface mining and surface
5 operation, in situ mining, the reprocessing of tailings piles, the disposal of refuse
6 from underground mining, ~~and~~-milling and processing located on the land described
7 in the application for a mining permit, and stand-alone milling and processing
8 facilities utilizing chemical or biological leaching agents. The term does not include
9 extraction of sand, gravel, or rock to be crushed and used in construction,
10 exploration activities, bulk sampling, the exploration and extraction of natural
11 petroleum in a liquid or gaseous state by means of wells or pipe, borrow excavation
12 for embankments, or the extraction of geothermal resources;
- 13 (12) "Operator," any person, firm, partnership, limited liability company, association, or
14 corporation or any department, division or agency of federal, state, county, or
15 municipal government engaged in or controlling a mining operation;
- 16 (13) "Overburden," all of the earth and other materials which are disturbed or removed,
17 in the original state, or as it exists after removal from its natural state in the process
18 of surface mining;
- 19 (14) "Reclamation," the employment during and after a mining operation of procedures
20 reasonably designed to minimize as much as practicable the disruption from the
21 mining operation and to provide for the rehabilitation of affected land through the
22 rehabilitation of plant cover, soil stability, water resources, or other measures
23 appropriate to the subsequent beneficial use of such mined and reclaimed lands;
- 24 (15) "Surface mining," the mining of minerals by removing the overburden lying above
25 such deposits and mining directly from the deposits thereby exposed. The term
26 includes mining directly from such deposits where there is no overburden and such
27 practices as open cut mining, open pit mining, strip mining, placer mining,
28 quarrying, and dredging;
- 29 (16) "Surface mining disturbed land," land from which overburden has been removed,
30 land upon which overburden, waste rock, mine spoil, or mill tailings have been
31 deposited, land mined which has no overburden, heap leach pads, and process
32 ponds;
- 33 (17) "Tailings," the discharged valueless product of a beneficiation process.

34 **Section 2.** That § 45-6B-6 be AMENDED.

1 **45-6B-6. Application for permit--Contents.**

2 The application form shall contain the following information:

- 3 (1) The legal description and area of affected land;
- 4 (2) The owner of the surface of the area of the affected land;
- 5 (3) The owner of the substance to be mined;
- 6 (4) The source of the applicant's legal right to enter and initiate a mining operation on
- 7 the affected land;
- 8 (5) The source of the applicant's legal right to dispose of tailings on the described
- 9 affected land, if applicable;
- 10 (6) The address and telephone number of the general office and the local address and
- 11 telephone number of the applicant;
- 12 (7) The mineral or minerals to be extracted ~~and, if applicable,~~ or milled, or both;
- 13 (8) A description of the method of mining ~~and, if applicable,~~ or milling to be employed
- 14 which shall include, if applicable:
- 15 (a) A contour basis for the mining operation;
- 16 (b) The depth to which and the direction in which the mining operations are
- 17 proposed to be conducted;
- 18 (c) The proposed disposition of mine spoil and tailings; and
- 19 (d) The method of blasting and control thereof;
- 20 (9) The size of the area to be worked at any one time;
- 21 (10) The timetable estimating the proposed duration of the mining operation; and
- 22 (11) The written consent, duly acknowledged, of the applicant and such other persons,
- 23 if any, necessary to grant access to the Board of Minerals and Environment or its
- 24 agents to the area under application from the date of the application and during the
- 25 life of the permit as is necessary to assure compliance with the provisions of this
- 26 chapter or any rule, order or decision promulgated hereunder.