



2024 South Dakota Legislature

Senate Bill 111

HOUSE ENGROSSED

Introduced by: **Senator Deibert**

1 **An Act to revise requirements for mining and mineral exploration.**

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

3 **Section 1. That § 45-6-65 be AMENDED:**

4 **45-6-65.** An operator shall obtain a license to mine ~~for sand, gravel, rock:~~

5 (1) Sand;

6 (2) Gravel;

7 (3) Rock to be crushed and used in construction, ~~pegmatite;~~

8 (4) Pegmatite minerals ~~or for limestone, iron;~~

9 (5) Limestone; and

10 (6) Iron ore, sand, gypsum, shale, pozzolan, ~~or~~ and other materials used in the process
11 of making cement or lime.

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

15 The fee for the license is ~~an annual fee of~~ one hundred dollars annually, for each
16 ~~individual~~ mine site authorized under the license, ~~which shall be deposited.~~ The
17 department shall forward any fees collected under this section to the state treasurer for
18 deposit in the environment and natural resources fee fund established in § 1-41-23 ~~by the~~
19 ~~department.~~

20 **Section 2. That § 45-6-71 be AMENDED:**

21 **45-6-71.** Prior to the commencement of mining, an operator shall submit a surety
22 ~~to the Board of Minerals and Environment a surety~~ department, to be held under the
23 authority of the board.

24 If a mining operation was licensed prior to July 1, 2024, the surety required by this
25 section must, through June 30, 2026, be in the amount of five hundred dollars per acre

1 of affected land. ~~In lieu of filing a surety for each operation, the operator may post a or~~
 2 ~~twenty thousand dollar surety for~~ dollars for the statewide mining of sand, gravel, or rock
 3 ~~to be crushed and used in construction~~ any material listed in § 45-6-65.

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

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

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

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

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

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

24 (1) An irrevocable letter of credit;

25 (2) A cash ~~or a~~ deposit;

26 (3) A certificate of deposit made payable to the ~~individual and to the board,~~
 27 or government

28 (4) Government securities ~~with the board in an amount equal to that of the required~~
 29 surety.

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

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

33 A political subdivision may, in order to avoid the imposition of duplicate surety
 34 requirements, enter into a joint powers agreement with the board, provided the political

1 subdivision has established requirements pertaining to reclamation after the mining of any
 2 material listed in § 45-6-65.

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

4 **45-6B-55.** ~~A~~ The application must be accompanied by:

5 (1) A nonrefundable fee of one hundred dollars; ~~i~~ ~~and a~~

6 (2) A surety not to exceed two thousand five hundred dollars as, in an amount
 7 determined sufficient by the Board of Minerals and Environment shall determine,
 8 shall accompany the application and shall be paid by the applicant board to cover
 9 the cost of reclamation, but not exceeding thirty-eight thousand five hundred
 10 dollars.

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

12 **45-6B-81.** The board may promulgate rules, pursuant to chapter 1-26, ~~consistent~~
 13 ~~with the provisions of this chapter, to provide for:~~

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

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

1 **45-6C-13.** The operator may commence the exploration operation ~~thirty days after~~
2 ~~filing the notice of intent or~~ upon receipt of the written restrictions provided for in §§ 45-
3 6C-10 to 45-6C-12, inclusive. The department may not issue written restrictions until the
4 operator posts surety pursuant to § 45-6C-19.

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

6 **45-6C-19.** ~~The Department of Agriculture and Natural Resources~~ department may
7 inspect the area proposed to be explored. Based upon this inspection, the criteria
8 established in § 45-6C-20, and the submitted reclamation plan, the department shall set
9 the level of the surety necessary to guarantee the costs of plugging all ~~of~~ the proposed
10 test holes and reclamation of affected public and private lands.

11 ~~The surety operator shall be filed or deposited file or deposit the surety with the~~
12 ~~department, in a form required by the department, before the operator commences~~
13 commencing the exploration operation ~~in such form as required by the department.~~

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