



2026 South Dakota Legislature

House Bill 1287

Introduced by: **Representative Jorgenson**

1 **An Act to require an alternate approval process for an operation that extracts**
 2 **materials by the use of explosives.**

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

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

5 **45-6-65.** An operator shall obtain a license to mine any of the following materials,
 6 provided they are extracted by means that do not include the use of explosives:

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

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

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

21 **Section 2. That a NEW SECTION be added to chapter 45-6:**

22 Any operator that uses explosives in its mining operation must report its use of
 23 explosives to the department within ninety days of the date this Act becomes effective.

24 Use of explosives by any contractor, subcontractor, or agent of the operator is
 25 considered use by the operator for purposes of this section.

1 In order to mine any of the materials listed in this section with the use of
2 explosives, on or after July 1, 2026, the operator of any new or expanding mining
3 operation shall obtain a permit under chapter 45-6B. Any operator that fails to obtain the
4 required permit is subject to the penalties provided in chapter 45-6B.

5 If, for good cause, an operator is unable to obtain a permit by July 1, 2026, the
6 operator may request that the department grant a six-month extension of the license
7 while the operator is applying for a permit.

8 Operators who mine with the use of explosives under permits granted under
9 chapter 45-6 must obtain permits under chapter 45-6B. The department shall implement
10 a schedule for operators to transition to permits under chapter 45-6B starting July 1,
11 2026. The schedule may allow twenty percent of the operators in each of the consecutive
12 five years from the date this Act becomes effective to transition to the new permits.

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

14 **45-6B-3.** Terms used in this chapter mean:

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

- 1 further 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
8 operation and the operator plans to, or does, temporarily cease production
9 for one hundred eighty days or more if the operator files a notice thereof
10 with the board stating the reasons for nonproduction, a plan for ceasing
11 production for one hundred eighty days or more if the operator files a notice
12 thereof with the board stating the reasons for nonproduction, a plan for the
13 resumption of production, and the measures taken to comply with
14 reclamation and other necessary activities as established by the board to
15 maintain the mine in a nonproducing state. The requirement of a notice of
16 temporary cessation does not apply to operators who resume operating
17 within one year and have included, in their permit applications, a statement
18 following the exploration required to prove minerals are in existence in that
19 the affected lands are to be used for less than one hundred eighty days per
20 year;
- 21 (c) Production is resumed within five years of the date production ended, or
22 the operator files a report requesting an extension of the period of
23 temporary cessation of production with the board stating the reasons for
24 the continuation of nonproduction and those factors necessary to, and the
25 operator's plans for, resumption of production. A temporary cessation of
26 production may not be continued for more than ten years without
27 terminating the operation and fully complying with the reclamation
28 requirements of this chapter.
- 29 A life of the mine permit includes that period of time after cessation of production
30 necessary to complete reclamation of affected lands, until the board
31 releases, in writing, the operator from further reclamation obligations
32 regarding the affected land, declares the mining operation terminated, and
33 releases the surety thereon;
- 34 (9) "Milling," the beneficiation of a mined material from its natural occurrence in ore;

- 1 (10) "Mineral," a substance with economic value, whether organic or inorganic, that can
2 be extracted from the earth, ~~other than the following: water, oil, gas, sand, gravel,~~
3 ~~or rock to be crushed and used in construction, pegmatite minerals, or limestone,~~
4 but excluding the following materials if extracted by methods that do not include
5 the use of explosives:
6 (a) Water;
7 (b) Oil;
8 (c) Gas;
9 (d) Sand;
10 (e) Gravel;
11 (f) Rock to be crushed and used in construction;
12 (g) Pegmatite minerals; and
13 (h) Limestone, sand, gypsum, shale, or iron ore used in the process of making
14 cement;
- 15 (11) "Mining operation," the development or extraction of a mineral from its natural
16 occurrence on affected land. The term includes surface mining and surface
17 operation, in situ mining, the reprocessing of tailings piles, the disposal of refuse
18 from underground mining, milling and processing located on the land described in
19 the application for a mining permit, and stand-alone milling and processing facilities
20 utilizing chemical or biological leaching agents, and the extraction of any material
21 by the use of explosives. The term does not include ~~extraction of sand, gravel, or~~
22 ~~rock to be crushed and used in construction,~~ exploration activities, bulk sampling,
23 the exploration and extraction of natural petroleum in a liquid or gaseous state by
24 means of wells or pipe, borrow excavation for embankments, or the extraction of
25 geothermal resources;
- 26 (12) "Operator," any person, firm, partnership, limited liability company, association, or
27 corporation or any department, division or agency of federal, state, county, or
28 municipal government engaged in or controlling a mining operation;
- 29 (13) "Overburden," all of the earth and other materials which are disturbed or removed,
30 in the original state, or as it exists after removal from its natural state in the
31 process of surface mining;
- 32 (14) "Reclamation," the employment during and after a mining operation of procedures
33 reasonably designed to minimize as much as practicable the disruption from the
34 mining operation and to provide for the rehabilitation of affected land through the

- 1 rehabilitation of plant cover, soil stability, water resources, or other measures
2 appropriate to the subsequent beneficial use of such mined and reclaimed lands;
- 3 (15) "Surface mining," the mining of minerals by removing the overburden lying above
4 such deposits and mining directly from the deposits thereby exposed. The term
5 includes mining directly from such deposits where there is no overburden and such
6 practices as open cut mining, open pit mining, strip mining, placer mining,
7 quarrying, and dredging;
- 8 (16) "Surface mining disturbed land," land from which overburden has been removed,
9 land upon which overburden, waste rock, mine spoil, or mill tailings have been
10 deposited, land mined which has no overburden, heap leach pads, and process
11 ponds;
- 12 (17) "Tailings," the discharged valueless product of a beneficiation process.