

FIRST REGULAR SESSION

HOUSE BILL NO. 1104

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SCHAD (Sponsor), JONES (117) AND LOEHNER (Co-sponsors).
2421L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 444.772, RSMo, and to enact in lieu thereof one new section relating to permits for mining.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 444.772, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 444.772, to read as follows:

444.772. 1. Any operator desiring to engage in surface mining shall make written application to the director for a permit.

2. Application for permit shall be made on a form prescribed by the commission and shall include:

(1) The name of all persons with any interest in the land to be mined;

(2) The source of the applicant's legal right to mine the land affected by the permit;

(3) The permanent and temporary post office address of the applicant;

(4) Whether the applicant or any person associated with the applicant holds or has held any other permits pursuant to sections 444.500 to 444.790, and an identification of such permits;

(5) The written consent of the applicant and any other persons necessary to grant access to the commission or the director to the area of land affected under application from the date of application until the expiration of any permit granted under the application and thereafter for such time as is necessary to assure compliance with all provisions of sections 444.500 to 444.790 or any rule or regulation promulgated pursuant to them. Permit applications submitted by operators who mine an annual tonnage of less than ten thousand tons shall be required to include written consent from the operator to grant access to the commission or the director to the area of land affected;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (6) A description of the tract or tracts of land and the estimated number of acres thereof
19 to be affected by the surface mining of the applicant for the next succeeding twelve months; and

20 (7) Such other information that the commission may require as such information applies
21 to land reclamation.

22 3. The application for a permit shall be accompanied by a map in a scale and form
23 specified by the commission by regulation.

24 4. The application shall be accompanied by a bond, security or certificate meeting the
25 requirements of section 444.778, a geologic resources fee authorized under section 256.700,
26 RSMo, and a permit fee approved by the commission not to exceed one thousand dollars. The
27 commission may also require a fee for each site listed on a permit not to exceed four hundred
28 dollars for each site. If mining operations are not conducted at a site for six months or more
29 during any year, the fee for such site for that year shall be reduced by fifty percent. The
30 commission may also require a fee for each acre bonded by the operator pursuant to section
31 444.778 not to exceed twenty dollars per acre. If such fee is assessed, the per-acre fee on all
32 acres bonded by a single operator that exceed a total of two hundred acres shall be reduced by
33 fifty percent. In no case shall the total fee for any permit be more than three thousand dollars.
34 Permit and renewal fees shall be established by rule, except for the initial fees as set forth in this
35 subsection, and shall be set at levels that recover the cost of administering and enforcing sections
36 444.760 to 444.790, making allowances for grants and other sources of funds. The director shall
37 submit a report to the commission and the public each year that describes the number of
38 employees and the activities performed the previous calendar year to administer sections 444.760
39 to 444.790. For any operator of a gravel mining operation where the annual tonnage of gravel
40 mined by such operator is less than five thousand tons, the total cost of submitting an application
41 shall be three hundred dollars. The issued permit shall be valid from the date of its issuance until
42 the date specified in the mine plan unless sooner revoked or suspended as provided in sections
43 444.760 to 444.790. Beginning August 28, 2007, the fees shall be set at a permit fee of eight
44 hundred dollars, a site fee of four hundred dollars, and an acre fee of ten dollars, with a
45 maximum fee of three thousand dollars. Fees may be raised as allowed in this subsection after
46 a regulation change that demonstrates the need for increased fees.

47 5. An operator desiring to have his or her permit amended to cover additional land may
48 file an amended application with the commission, **unless the commission has already**
49 **determined that the operator's permit application is complete.** Upon receipt of the amended
50 application, and such additional fee and bond as may be required pursuant to the provisions of
51 sections 444.760 to 444.790, the director shall, if the applicant complies with all applicable
52 regulatory requirements, issue an amendment to the original permit covering the additional land
53 described in the amended application. **If the commission determines that the application is**

54 **complete and the operator wishes to amend such application, the operator shall make a**
55 **new application to the director for a permit.**

56 6. An operation may withdraw any land covered by a permit, excepting affected land,
57 by notifying the commission thereof, in which case the penalty of the bond or security filed by
58 the operator pursuant to the provisions of sections 444.760 to 444.790 shall be reduced
59 proportionately.

60 7. Where mining or reclamation operations on acreage for which a permit has been
61 issued have not been completed, the permit shall be renewed. The operator shall submit a permit
62 renewal form furnished by the director for an additional permit year and pay a fee equal to an
63 application fee calculated pursuant to subsection 4 of this section, but in no case shall the
64 renewal fee for any operator be more than three thousand dollars. For any operator involved in
65 any gravel mining operation where the annual tonnage of gravel mined by such operator is less
66 than five thousand tons, the permit as to such acreage shall be renewed by applying on a permit
67 renewal form furnished by the director for an additional permit year and payment of a fee of three
68 hundred dollars. Upon receipt of the completed permit renewal form and fee from the operator,
69 the director shall approve the renewal. With approval of the director and operator, the permit
70 renewal may be extended for a portion of an additional year with a corresponding prorating of
71 the renewal fee.

72 8. Where one operator succeeds another at any uncompleted operation, either by sale,
73 assignment, lease or otherwise, the commission may release the first operator from all liability
74 pursuant to sections 444.760 to 444.790 as to that particular operation if both operators have
75 been issued a permit and have otherwise complied with the requirements of sections 444.760 to
76 444.790 and the successor operator assumes as part of his or her obligation pursuant to sections
77 444.760 to 444.790 all liability for the reclamation of the area of land affected by the former
78 operator.

79 9. The application for a permit shall be accompanied by a plan of reclamation that meets
80 the requirements of sections 444.760 to 444.790 and the rules and regulations promulgated
81 pursuant thereto, and shall contain a verified statement by the operator setting forth the proposed
82 method of operation, reclamation, and a conservation plan for the affected area including
83 approximate dates and time of completion, and stating that the operation will meet the
84 requirements of sections 444.760 to 444.790, and any rule or regulation promulgated pursuant
85 to them.

86 10. At the time that a permit application is deemed complete by the director, the operator
87 shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to
88 section 493.050, RSMo, to publish legal notices in any county where the land is located. If the
89 director does not respond to a permit application within forty-five calendar days, the application

90 shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four
91 consecutive weeks beginning no more than ten days after the application is deemed complete.
92 **The notice shall be printed and published in some newspaper printed in such town, city,**
93 **or village wherein such mining operations are proposed to be carried on, or if no**
94 **newspaper is printed in such city, town, or village, then in some newspaper printed in such**
95 **county, or if no newspaper is printed in such county, then by written or printed handbills**
96 **posted up in six public places in the city, town, or village wherein such mining operations**
97 **are proposed to be carried on.** The operator shall also send notice of intent to operate a surface
98 mine by certified mail to the governing body of the counties or cities in which the proposed area
99 is located, and to the last known addresses of all record landowners **within five hundred yards**
100 of contiguous real property or real property located adjacent to the proposed mine plan area. The
101 notices shall include the name and address of the operator, a legal description, **in plain**
102 **language**, consisting of county, section, township and range, the number of acres involved, a
103 statement that the operator plans to mine a specified mineral during a specified time, and the
104 address of the commission. The notices shall also contain a statement that any person with a
105 direct, personal interest in one or more of the factors the commission may consider in issuing a
106 permit may request a public meeting, a public hearing or file written comments to the director
107 no later than fifteen days following the final public notice publication date.

108 11. The commission may approve a permit application or permit amendment whose
109 operation or reclamation plan deviates from the requirements of sections 444.760 to 444.790 if
110 it can be demonstrated by the operator that the conditions present at the surface mining location
111 warrant an exception. The criteria accepted for consideration when evaluating the merits of an
112 exception or variance to the requirements of sections 444.760 to 444.790 shall be established by
113 regulations.

114 12. Fees imposed pursuant to this section shall become effective August 28, 2007, and
115 shall expire on December 31, 2013. No other provisions of this section shall expire.

116 **13. A permit shall not be extended under an existing permit for a new mine that is**
117 **in a different location than the existing mine. Permit extensions shall only apply to the**
118 **existing mine location.**

119 **14. No permit application shall be approved under this section:**

120 **(1) Until the director, or his or her designee, conducts an on-site inspection of the**
121 **mine listed in the application; and**

122 **(2) A public meeting is held with an opportunity to comment on the permit request.**

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