

SECOND REGULAR SESSION

# HOUSE BILL NO. 1309

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HODGES (Sponsor) AND SCHIEFFER (Co-sponsor).

3156L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 444.772, RSMo, and to enact in lieu thereof one new section relating to the land reclamation commission.

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*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Section A. Section 444.772, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 444.772, to read as follows: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. Upon receipt of the amended application, and  
49 such additional fee and bond as may be required pursuant to the provisions of sections 444.760  
50 to 444.790, the director shall, if the applicant complies with all applicable regulatory  
51 requirements, issue an amendment to the original permit covering the additional land described  
52 in the amended application.

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

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

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

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

83           10. At the time that a permit application is deemed complete by the director, the operator  
84 shall publish a notice of intent to operate a surface mine in any newspaper qualified pursuant to  
85 section 493.050, RSMo, to publish legal notices in any county where the land is located. If the  
86 director does not respond to a permit application within forty-five calendar days, the application  
87 shall be deemed to be complete. Notice in the newspaper shall be posted once a week for four  
88 consecutive weeks beginning no more than ten days after the application is deemed complete.

89 The operator shall also send notice of intent to operate a surface mine by certified mail to the  
90 governing body of the counties or cities in which the proposed area is located, and to the last  
91 known addresses of all record landowners of contiguous real property or real property located  
92 adjacent to the proposed mine plan area. The notices shall include the name and address of the  
93 operator, a legal description consisting of county, section, township and range, the number of  
94 acres involved, a statement that the operator plans to mine a specified mineral during a specified  
95 time, and the address of the commission. The notices shall also contain a statement that any  
96 person with a direct, personal interest in one or more of the factors the commission may consider  
97 in issuing a permit may request a public meeting, a public hearing or file written comments to  
98 the director no later than fifteen days following the final public notice publication date.

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

105 12. **The commission may reject an application for a permit to reactivate an inactive**  
106 **quarry if residential homes are located near the site listed on the permit application.**

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

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