

CHAPTER [45-6B](#)  
MINED LAND RECLAMATION

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#### **45-6B-1. Citation of chapter.**

This chapter may be cited as the "South Dakota Mined Land Reclamation Act."

**Source:** SL 1982, ch 305, § 1.

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#### **45-6B-2. Legislative findings and policy.**

The relatively unknown and as yet largely undeveloped mineral resources of this state consist in major proportion of minerals below the surface. The development and extraction of these minerals by means of entry through the surface and the processing of such ores are necessary for the economic development of the state and nation. Every effort should be used to promote and encourage the development of mining as an industry, but to prevent the waste and spoilage of the land and the improper disposal of tailings which would deny its future use and productivity. Proper safeguards must be provided by the state to ensure that the health and safety of the people are not endangered and that upon depletion of the mineral resources and after disposal of tailings the affected land is usable and productive to the extent possible for agricultural or recreational pursuits or future resource development; that water and other natural resources are not endangered; and that aesthetics and a tax base are maintained, all for the health, safety and general welfare of the people of the state. The Legislature finds that an increase in the level of activity in the large-scale gold and silver mining industry in the Black Hills may cause or have the potential to cause impacts of unknown scope to competing land uses, the environment and other natural resources. The Legislature further finds that, due to the unknown consequences of such an increase in activity, additional information on the cumulative impacts of mining is needed for making decisions on future permits or amended permits for large-scale gold or silver mining operations and is necessary prior to the time the board takes any action on such permits for acres in excess of the limits established by § 45-6B-83.

**Source:** SL 1982, ch 305, § 2; SL 1989, ch 306, § 49A.

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

Terms used in this chapter mean:

- (1) "Abandoned mined lands," lands that were mined for noncoal minerals and materials and for which there is no continuing reclamation responsibility or responsibility for other remedial action under state or federal laws;
- (2) "Affected land," land from which overburden is to be or has been removed and land upon which overburden, waste rock, mine spoil, or mill tailings is to be or has been deposited; land which is disturbed by the building of access roads, railroad loops, warehouses, storage areas, or other support facilities for the purpose of mining or milling; and land affected by surface subsidence, unstable slopes, and other surface effects caused by underground mine workings;
- (3) "Aquifer," a water-bearing bed or stratum of permeable rock, sand, or gravel capable of yielding usable quantities of water to wells or springs;
- (4) "Black Hills," Lawrence County south of Interstate Highway 90, Meade County west and south of Interstate Highway 90 and Pennington and Custer Counties west of South Dakota Highway 79;
- (5) "Board," the Board of Minerals and Environment;
- (6) "Department," the Department of Agriculture and Natural Resources;
- (7) "Development," the work performed in relation to a deposit, following the exploration required to prove minerals are in existence in commercial quantities but before production activities, aimed at preparing the site for mining, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities;
- (8) "Life of the mine permit," a permit to conduct a mining operation which is in effect if:
  - (a) An operator continues to engage in the extraction of minerals and complies with the provisions of this chapter;
  - (b) Mineral reserves are shown by the operator to remain in the mining operation and the operator plans to, or does, temporarily cease production for one hundred eighty days or more if the operator files a notice thereof with the board stating the reasons for nonproduction, a plan for ceasing production for one hundred eighty days or more if the operator files a notice thereof with the board stating the reasons for nonproduction, a plan for the resumption of production, and the measures taken to comply with reclamation and other necessary activities as established by the board to maintain the mine in a nonproducing state. The requirement of a notice of temporary cessation does not apply to operators who resume operating within one year and have included, in their permit applications, a statement following the exploration required to

prove minerals are in existence in that the affected lands are to be used for less than one hundred eighty days per year;

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

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

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

**Source:** SL 1982, ch 305, § 3; SL 1983, ch 308, § 1; SL 1988, ch 357, § 1; SL 1988, ch 358, § 1; SL 1990, ch 353, § 5; SL 1990, ch 354, § 2; SL 1991, ch 17 (Ex. Ord. 91-4), § 17; SL 1993, ch 332, § 1; SL 1994, ch 351, § 107; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021; SL 2021, ch 191, § 1.

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#### **45-6B-4. Local government permit--Additional bond or surety not authorized--Conditional mining permit.**

Any county or first or second class municipality which has adopted a comprehensive plan and zoning ordinances may adopt ordinances or requirements governing mining operations which are not inconsistent or in conflict with applicable state laws or administrative rules. However, such county or municipality may not require additional bonds or sureties if the same are required by state law or administrative rule. The Board of Minerals and Environment may not grant a permit for a mining operation unless the applicant has complied with all county or city ordinances and requirements and obtained necessary county or city permits. However, if the applicant has substantially complied with the procedure for obtaining any necessary county or city permits but has not obtained such permits due to administrative delay, the Board of Minerals and Environment may grant a mining permit which is conditioned upon the issuance of all necessary county or city permits within sixty days of the date of the board's issuance of the conditioned mining permit. If a county or municipality has adopted an ordinance governing mining operations, any proceedings of and any action taken by the county or municipality with regard to the proposed mining operation may be considered by the Board of Minerals and Environment before the issuance or denial of a permit pursuant to this chapter, including a permit conditioned upon the issuance of all necessary county or city permits.

No mining operations may be commenced under a permit conditioned upon the issuance of all necessary county or city permits until the Board of Minerals and Environment is notified by the applicant in writing that the required county or city permits have been obtained by the applicant.

**Source:** SL 1982, ch 305, § 4; SL 1987, ch 319; SL 1992, ch 60, § 2.

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#### **45-6B-5. Application for permit for mining operation.**

Any person desiring to engage in a mining operation shall make written application to the Board of Minerals and Environment for a permit for each mining operation on forms furnished by the board. The permit, if approved, authorizes the operator to engage in the mining operation on the affected lands described in the application for the life of the mine. The application shall consist of:

- (1) One copy of the application pursuant to § [45-6B-6](#);
- (2) A reclamation plan pursuant to § [45-6B-7](#) submitted with the application;
- (3) An accurate map of the affected lands pursuant to § [45-6B-10](#) submitted with the application;
- (4) The application fee pursuant to § [45-6B-14](#); and
- (5) A post-closure plan for mine waste disposal facilities.

**Source:** SL 1982, ch 305, § 5; SL 1989, ch 306, § 52A; SL 2011, ch 165, § 199.

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

The application form shall contain the following information:

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

**Source:** SL 1982, ch 305, § 6; SL 2021, ch 191, § 2.

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#### **45-6B-7. Reclamation plan--Contents.**

The reclamation plan shall be based on provision for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the operator. Reclamation is required on all affected lands except as provided in §§ [45-6B-8](#) and [45-6B-9](#). The reclamation plan shall include:

- (1) A description of the types of reclamation the operator proposes to achieve in the reclamation of the affected land, why each was chosen, and the amount of acreage accorded to each;
- (2) A standard soil survey of the affected land prepared by the local conservation district, paid for by the applicant, or if not available, a comparable soil survey prepared by a competent person;
- (3) A vegetative survey of the affected land prepared by the local conservation district, paid for by the applicant or prepared by a competent person, including a description of the dominant species of vegetation present, approximate size and density;

- (4) A preliminary wildlife survey of the affected land conducted by the Department of Game, Fish and Parks, paid for by the applicant, or conducted by a competent person approved by that department. Such survey shall include a description of the dominant species of wildlife inhabiting the area. The operator shall abide by any reasonable restrictions subject to review and approval by the Board of Minerals and Environment at the request of the operator concerning riparian habitat or threatened or endangered species as notified by that department. Restrictions concerning riparian habitat for mining operation activities are limited to such habitat located within one hundred feet of each stream bank. Further, restrictions concerning riparian habitat may include temporarily diverting the stream flow, bank restoration, and revegetation of the riparian habitat area;
- (5) A statement of any characteristics of the affected land of historic, archaeological, geologic, scientific, or recreational significance which are known to the applicant;
- (6) A description of how the reclamation plan will be implemented to meet the requirements of §§ [45-6B-37](#) to [45-6B-46](#), inclusive;
- (7) A description of how the reclamation plan will rehabilitate the affected land. This description shall include, but not be limited to, natural vegetation, wildlife, water, air, and soil;
- (8) A map of all of the proposed affected land by all phases of the total scope of the mining operation. It shall indicate the following:
  - (a) The expected physical appearance of the area of the affected land; and
  - (b) Portrayal of the proposed final land use for each portion of the affected land;
- (9) The baseline water quality and water level of all areas of aquifers potentially affected by the proposed mining operation. The Department of Agriculture and Natural Resources may designate, from the parameters set forth below, which parameters must be provided. The applicant shall use testing methods designated by the department:
 

(a) Alkalinity	(p) Hydrocarbon	(bb) Radon
(b) Aluminum	potential	(cc) Selenium
(c) Ammonia	(q) Iron	(dd) Silica
(d) Arsenic	(r) Lead	(ee) Silver
(e) Barium	(s) Magnesium	(ff) Sodium
(f) Bicarbonate	(t) Manganese	(gg) Sulfate
(g) Boron	(u) Mercury	(hh) Temperature
(h) Cadmium	(v) Molybdenum	(ii) Total alpha,
(i) Calcium	(w) Nickel	beta and gamma
(j) Carbonate	(x) Nitrate as	radiation
(k) Chloride	nitrogen	(jj) Total dissolved
(l) Chromium	(y) pH	solids
(m) Conductivity	(z) Potassium	(kk) Uranium
(n) Copper	(aa) Radium 226	(ll) Vanadium
(o) Fluoride	and 228	(mm) Zinc
- (10) The location of proposed reservoirs, tailings ponds, tailings disposal sites, dams, dikes, and diversion canals;
- (11) Provisions for the stripping, storage, and, if required, the replacement of the overburden and topsoil;
- (12) The estimated cost of implementing and completing the proposed reclamation.

**Source:** SL 1982, ch 305, § 7; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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**45-6B-8. Previously mined land--Reclamation not required for surface mining.**

Any new or existing surface mining operation being conducted on previously mined land with existing unreclaimed land disturbance may not be required to reclaim such existing unreclaimed land disturbance which was incurred prior to July

1, 1971. The Board of Minerals and Environment may not require reclamation of such land as a condition of any permit. The applicant shall identify existing land which is in this category.

**Source:** SL 1982, ch 305, § 8.

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**45-6B-9. Previously mined land--Reclamation not required for underground mining.**

Any new or existing underground mining operation being conducted on previously mined land with existing unreclaimed land disturbance may not be required to reclaim such existing unreclaimed land disturbance which was incurred prior to July 1, 1980. The Board of Minerals and Environment may not require reclamation of such land as a condition of any permit. The applicant shall identify existing land which is in this category.

**Source:** SL 1982, ch 305, § 9.

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**45-6B-10. Map of affected area.**

The accurate map of the affected area shall:

- (1) Identify the area which corresponds with the application;
- (2) Show adjoining surface owners of record;
- (3) Be drawn to a scale of not more than one to twenty-five thousand. A standard agricultural stabilization and conservation service aerial photo map is sufficient to meet this requirement;
- (4) Show the name and location of all domestic and commercial water wells, creeks, roads, buildings, oil and gas wells and pipelines, and power and communication lines on the area of affected land and within two hundred feet of all boundaries of the affected land;
- (5) Show the total area to be involved in the operation, including the area to be mined, the area of affected land and, if applicable, the area proposed for tailings disposition; and
- (6) Indicate on the map or by a statement the general type, thickness, and distribution of soil over the affected land.

**Source:** SL 1982, ch 305, § 10.

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**45-6B-11. Approval of reclamation plan by Department of Education and Department of Game, Fish and Parks.**

Within ten days of its receipt of a mining operation permit application, the Department of Agriculture and Natural Resources shall send copies of the reclamation plan to the Department of Education and the Department of Game, Fish and Parks. Within thirty days of their receipt, the departments may submit written comments for consideration by the board. The failure of any department to respond within thirty days shall constitute its approval of the reclamation plan.

**Source:** SL 1982, ch 305, § 11; SL 2003, ch 272, § 63; SL 2021, ch 1 (Ex. Ord. [21-3](#)), §§ 51, 53, eff. Apr. 19, 2021.

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**45-6B-12. Consultation with surface owner--Instrument of consultation.**

Before conducting a mining operation in the permit area, the applicant shall submit to the Board of Minerals and Environment an instrument of consultation from the surface landowner of the permit area, if different from the owner of the mineral interest. The instrument of consultation shall grant the operator permission to enter and commence the operations and shall contain written receipt of the operating and reclamation plans.

**Source:** SL 1982, ch 305, § 12.

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**45-6B-13. Instrument of consultation not obtained--Hearing and order.**

If the instrument of consultation required by § [45-6B-12](#) cannot be obtained, the operator may request a hearing before the Board of Minerals and Environment. The board shall issue an order in lieu of the instrument of consultation if it finds:

- (1) That the operating and reclamation plans have been submitted to the surface landowner as provided in § [45-6B-12](#);

- (2) That the operating and reclamation plans detail the full proposed surface use, including proposed routes of ingress and egress; and
- (3) The planned reclamation will restore the surface land to future use, in segments if circumstances permit, as soon as feasibly possible.

**Source:** SL 1982, ch 305, § 13.

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**45-6B-14. Fee for application.**

The application fee of one thousand dollars shall accompany the application. However, the application fee shall be fifty thousand dollars for a new large scale precious metal, coal, or uranium mine permit. The application fee for an amendment to an existing large scale precious metal, coal, or uranium mine permit shall be five thousand dollars.

**Source:** SL 1982, ch 305, § 14; SL 2009, ch 13, § 4; SL 2012, ch 211, § 1.

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**45-6B-15. Copy of application filed with department and register of deeds--Public inspection.**

Upon the filing of an application for a mining permit with the Board of Minerals and Environment, the applicant shall place a copy of such application for public inspection at the office of the Department of Agriculture and Natural Resources and at the office of the register of deeds of the county in which the affected land is located. The copy of the application placed at the office of the register of deeds need not be recorded, except at the request of the applicant. Such copy shall be retained there until the application has been approved or denied by the board, and such application shall be available for public inspection. At the end of such period, the copy may be reclaimed or destroyed by the applicant unless it is recorded. Confidential information exempted by § [45-6B-19](#) shall be deleted by the applicant from all copies available for public inspection.

**Source:** SL 1982, ch 305, § 15; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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**45-6B-16. Notice of application--Publication.**

The applicant shall cause notice of the filing of his application to be published in a newspaper of general circulation in the locality of the proposed mining operation once a week for two consecutive weeks, commencing not more than fifteen days after the filing of his application with the Board of Minerals and Environment. Such notice, prepared by the Department of Agriculture and Natural Resources, shall contain the identity and address of the applicant and resident agent, the location of the proposed mining operation, the primary mineral to be mined, the proposed dates of commencement and completion of the operation, the proposed future use of the affected land, the location where additional information about the operation may be obtained, and the location of and final date for filing objections with the board.

**Source:** SL 1982, ch 305, § 16; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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**45-6B-17. Notice of application--Mailing to owners and lessees of surface rights.**

In addition to the notice requirement of § [45-6B-16](#), the applicant shall mail a copy of such notice immediately after first publication to all owners and lessees of the surface rights of the affected land if other than the mineral owner. Proof of such notice and mailing, such as certified mail with return receipt requested where possible, shall be provided the Board of Minerals and Environment and become part of the application.

**Source:** SL 1982, ch 305, § 17.

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**45-6B-18. Amendment of permit and modifications of operating or reclamation plans--Application fees.**

At the request of the operator, the Board of Minerals and Environment may issue an amendment to the original permit covering additional contiguous land or making minor modifications of the terms and conditions of the operating or reclamation plans. An application to amend a large scale permit shall include the application fee provided by § [45-6B-14](#). An application to amend a small scale permit shall include the application fee provided by § [45-6B-55](#).



**Source:** SL 1982, ch 305, § 18; SL 1988, ch 360, § 1.

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**45-6B-19. Confidential information in application protected--Violation as misdemeanor.**

Information provided to the state agencies in an application for a mining permit relating to the geologic data, size, extent, and economic value of a mineral deposit and information that may affect the competitive position of the applicant and marked confidential by the applicant shall be protected as confidential information by state agencies and not be a matter of public record in the absence of a written release from the operator. A person who knowingly violates the provisions of this section is guilty of a Class 2 misdemeanor.

**Source:** SL 1982, ch 305, § 19.

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**45-6B-20. Inspection of site prior to issuance of permit--Surety for reclamation costs required.**

Prior to the issuance of a mining permit the Board of Minerals and Environment shall cause an inspection to be made of the proposed mine site. Based upon this inspection, the criteria established in § [45-6B-21](#), and the submitted reclamation plan, the board shall set the level of the surety necessary to guarantee the costs of reclamation of affected public and private lands. The surety shall be filed or deposited with the board before the issuance of the mining permit in such form as required by the board.

**Source:** SL 1982, ch 305, § 20.

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**45-6B-20.1. Board may require additional proof of financial assurance from certain operators--Content and amount--Factors for consideration.**

The board may require any operator whose mining operation employs cyanide leaching or any other chemical or biological leaching process to extract minerals from ore, in addition to the surety required by § [45-6B-20](#), to file or deposit an additional proof of financial assurance with the board before the issuance of the mining permit in such form as required by the board. The financial assurance may consist of insurance, cash, company net worth, or such other form of security as the board deems adequate to protect the interests of the public. The board shall set the amount of the financial assurance based on the cost of responding to and remediating accidental releases of cyanide or other chemical or biological leaching agents to the environment. In determining the assurance amount for responding to and remediating accidental releases, the board shall consider such factors as the distance to surface water and groundwater resources and their beneficial use classification, the financial and technical capability of the operator to respond to accidental releases, the type and amount of leaching agents to be used by the operator, contingencies and safeguards built into the operating and reclamation plans to lessen the likelihood of accidental releases, and any other site-specific factor related to protection of public health and safety or the environment. The amount of the financial assurance may not be more than one million dollars. Any operator whose proof of financial assurance is based on company net worth shall report to the board yearly the status of the company's net worth.

**Source:** SL 1989, ch 306, § 50; SL 2009, ch 226, § 1.

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**45-6B-20.2. Time for filing under [45-6B-20.1](#).**

The operator of any existing mining operation that employs cyanide leaching or any other chemical or biological leaching process to extract minerals from ore shall, if required by the board, file or deposit the proof of financial assurance with the board pursuant to § [45-6B-20.1](#) within one hundred twenty days of the order of the board.

**Source:** SL 1989, ch 306, § 51.

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**45-6B-21. Criteria for determining amount and duration of surety.**

In determining the amount and duration of the surety to be required, the Board of Minerals and Environment shall consider factual information as to the magnitude, type, and costs of reclamation activities planned for the affected land and

the nature, extent, and duration of the mining operation. The board shall also consider any surety or cash bond for the proposed mining operation required by an agency of the federal government which surety is required for reclamation purposes. The amount of the surety shall be based on the cost of reclaiming only that portion of the affected lands to be disturbed and the extent of such disturbance at any one time during the various stages of the mining operation.

**Source:** SL 1982, ch 305, § 21.

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**45-6B-22. Surety bond--Surety other than bond--Considerations by board.**

In determining whether the surety of an operator shall be guaranteed by a corporate surety bond and in determining the form of surety to be provided by the operator if other than a bond, the Board of Minerals and Environment shall consider, with respect to the operator, such factors as the operator's financial status, assets within the state, past performance on contractual agreements, and facilities available to carry out the planned work. The operator shall supply evidence of financial responsibility for all surety other than a bond.

**Source:** SL 1982, ch 305, § 22; SL 2011, ch 165, § 200.

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**45-6B-23. Cash or securities in lieu of surety.**

In lieu of the required surety, the operator may deposit cash or government securities with the Board of Minerals and Environment in an amount equal to that of the required surety on the conditions prescribed in § [45-6B-24](#).

**Source:** SL 1982, ch 305, § 23; SL 1987, ch 323, § 1.

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**45-6B-24. Surety payable to state--Conditions required.**

The surety required by § [45-6B-20](#) shall be payable to the State of South Dakota and conditioned upon the operator's faithful performance of all requirements of this chapter and compliance with the terms of the operating and reclamation plans approved by the Board of Minerals and Environment. If a corporate surety bond is required, such bond shall be signed by the operator as principal and by a surety insurer certified under chapter [58-21](#). Such surety shall remain in effect until the affected land has been reclaimed, the reclamation is approved by the board and is released by the board.

**Source:** SL 1982, ch 305, § 24.

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**45-6B-25. Surety liability continues until released.**

Liability of an operator under surety provisions shall continue until such time as released in part or in its entirety by the Board of Minerals and Environment. The surety may not be held more than twelve months after completion of reclamation.

**Source:** SL 1982, ch 305, § 25.

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**45-6B-26. Surety penalty--Amount.**

The penalty of the required surety shall be in an amount sufficient to cover the cost of reclamation as determined pursuant to § [45-6B-21](#).

**Source:** SL 1982, ch 305, § 26.

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**45-6B-27. Surety penalty--Increase or reduction.**

The penalty of the surety shall from time to time be increased or reduced by the Board of Minerals and Environment so that the bond covers the cost of reclamation which would accrue to the state, if the state were required to reclaim the affected areas within the permit or in accordance with the number of acres to which the bond is no longer operative because

of the operator's withdrawal of acreage or by reason of the operator's performance of his or her obligations subsequent to the issuance of the permit.

**Source:** SL 1982, ch 305, § 27; SL 2011, ch 165, § 201.

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**45-6B-28. Objections--Statements in support of application--Notice and hearing.**

Any person may file written objections to or statements in support of an application for a mining permit with the Board of Minerals and Environment. Such material shall be filed with the board not more than twenty days after the date of last publication of notice pursuant to § [45-6B-16](#). The board shall hold a hearing pursuant to § [45-6B-30](#) on the question of whether the permit should be granted. The applicant shall be notified by the board or department within ten days of receipt of any objections to the application and be provided a copy of the written objections.

**Source:** SL 1982, ch 305, § 28; SL 2011, ch 165, § 202.

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**45-6B-29. County request for hearing on application.**

The board of county commissioners of a county containing affected land may request that a hearing on the application for a mining permit be held in that county. Such request shall be filed with the Board of Minerals and Environment not more than twenty days after the date of last publication of notice pursuant to § [45-6B-16](#). Such request shall contain the reason for requesting the hearing and the location where the hearing is to be held. The board of county commissioners shall pay travel and per diem costs as established by state statute or rule to the board staff if the request designates the hearing at a location other than Pierre.

**Source:** SL 1982, ch 305, § 29.

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**45-6B-30. Hearing on application--Time extension--Notice--Time for decision.**

Upon receipt of an application for a mining operation permit and all fees due from the applicant, the Board of Minerals and Environment shall set a date for the hearing on such application not more than ninety days after the date of filing. However, the board, on request of the applicant, may extend this time limit as reasonably necessary to allow the preparation of a socioeconomic impact study required under § [45-6B-33.1](#) or for any other reason, except that any time extension exceeding forty-five days shall require the applicant to republish the notice prescribed by § [45-6B-16](#). If the department determines additional time is needed to review the technical contents of a large scale mining operation permit application, the department and the applicant may negotiate a time extension, not to exceed forty-five days. If the department and applicant are unable to reach agreement on an extension, the board shall determine if an extension should be granted. Prior to the holding of any such hearing, the board shall provide notice to any person previously filing a protest or petition for a hearing or statement in support of the application pursuant to § [45-6B-28](#), and shall publish notice of the time, date, and location of the hearing in a newspaper of general circulation in the locality of the proposed mining operation once a week for two consecutive weeks immediately prior to the hearing. The hearing shall be conducted pursuant to chapter [1-26](#). A final decision on the application shall be made within one hundred twenty days of the receipt of the application unless a time extension occurs, in which case the decision shall be made within thirty days following the hearing. In the event of serious unforeseen circumstances or significant snow cover on the affected land that prevents a necessary on-site inspection, the board may reasonably extend the maximum time sixty days.

**Source:** SL 1982, ch 305, § 30; SL 1987, ch 320, § 3; SL 1988, ch 360, § 3.

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**45-6B-31. Modification of application prior to hearing.**

Prior to the date set for the hearing on the application the applicant may, at the request of the Department of Agriculture and Natural Resources, modify the application or correct any errors.

**Source:** SL 1982, ch 305, § 31; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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#### **45-6B-32. Grant of permit if application in compliance with law--Grounds for denial.**

The Board of Minerals and Environment shall grant a permit to an operator if the application complies with the requirements of this chapter and all applicable local, state, and federal laws. The board may not deny a permit, except for one or more of the following reasons:

- (1) The application is incomplete or the surety has not been posted;
- (2) The applicant has not paid the required fee;
- (3) Any part of the proposed mining operation, the reclamation program, or the proposed future use is contrary to the laws or regulations of this state or the United States;
- (4) The mining operation will adversely affect the stability of any significant, valuable, and permanent man-made structures located within two hundred feet of the affected land, except where there is an agreement between the operator and the persons having an interest in the structure that damage to the structure is to be compensated for by the operator;
- (5) The mining operation would be in violation of any county zoning or subdivision regulations;
- (6) The proposed mining operation and reclamation can not be carried out in conformance with the requirements of § [45-6B-35](#);
- (7) The operator is currently found to be in violation of the provisions of this chapter with respect to any mining operation in this state; or
- (8) The land is unsuitable for a mining operation, as determined pursuant to § [45-6B-33](#).

**Source:** SL 1982, ch 305, § 32.

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#### **45-6B-33. Unsuitable land--No permit issued.**

No permit may be issued for a mining operation proposed on unsuitable land. Land is unsuitable if the following conditions cannot be satisfactorily mitigated:

- (1) Reclamation of the affected land pursuant to the requirements of this chapter is not physically or economically feasible;
- (2) Substantial disposition of sediment in stream or lake beds, landslides, or water pollution cannot feasibly be prevented;
- (3) The land to be affected by a proposed mining operation includes land that is special, exceptional, critical, or unique as defined in § [45-6B-33.3](#) and satisfactory mitigation is not possible;
- (4) The proposed mining operation will result in the loss or reduction of long-range productivity of aquifer, public and domestic water wells, watershed lands, aquifer recharge areas, or significant agricultural areas;
- (5) The biological productivity of the land is such that the loss would jeopardize threatened or endangered species of wildlife indigenous to the area; or
- (6) The board finds that any probable adverse socioeconomic impacts of the proposed mining operation outweigh the probable beneficial impacts of the operation.

**Source:** SL 1982, ch 305, § 33; SL 1987, ch 320, § 1; SL 1989, ch 381, § 1.

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#### **45-6B-33.1. Socioeconomic impact study--Preparation at operator's expense--Contents--Determination of sufficiency.**

Before making a determination pursuant to subdivision 45-6B-33(6), the board shall require the applicant to submit a socioeconomic impact study. The socioeconomic impact study shall be prepared at the operator's expense by a contractor approved by the board. An applicant may request board approval of a contractor at any time before or after filing a permit application.

The socioeconomic impact study shall evaluate the potential impacts of the proposed mining operation including the following areas:

- (1) Population base;
- (2) Employment and income;
- (3) Tax base;
- (4) Housing;
- (5) Community services, including schools, law enforcement and fire protection, solid waste, water and wastewater, and roads; and
- (6) Recreational opportunities or other beneficial uses of land within and adjacent to the permit area.

If applicable, a study shall include an evaluation of the cumulative impacts of the proposed operation considered together with existing operations in the surrounding region. If an applicant is required to submit a socioeconomic impact study to a county government pursuant to county zoning ordinance or requirements, the board shall determine upon receipt

of an application for a mining operation permit whether the required county socioeconomic impact study will satisfy the board requirements for such a study as provided for in this section.

**Source:** SL 1987, ch 320, § 2; SL 2011, ch 165, § 203.

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**45-6B-33.2. Permit application for small-scale mining operation--Small-scale mining operation defined.**

The provisions of § [45-6B-33.1](#) do not apply to any permit application for a small-scale mining operation. For purposes of this section, a small-scale mining operation is an operation which satisfies the criteria or definition of small-scale operation as set forth in any applicable county zoning ordinance or regulation. However, if applicable county zoning ordinances or regulations do not include a definition of "small-scale operation," the definition set forth in § [45-6B-53](#) shall apply.

**Source:** SL 1987, ch 320, § 4.

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**45-6B-33.3. Special, exceptional, critical, or unique land defined.**

For the purposes of § [45-6B-33](#), land is special, exceptional, critical, or unique if it possesses one or more of the following characteristics:

- (1) The land is so ecologically fragile that, once it is adversely affected, it could not return to its former ecological role in the reasonably foreseeable future;
- (2) The land has such a strong influence on the total ecosystem of which it is a part that even temporary effects felt by it could precipitate a system-wide ecological reaction of unpredictable scope or dimension; or
- (3) The land has scenic, historic, archaeological, topographic, geologic, ethnologic, scientific, cultural, or recreational significance.

**Source:** SL 1989, ch 381, § 2.

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**45-6B-33.4. Preliminary list of special, exceptional, critical, or unique lands--Application for classification.**

The board, after consultation with other concerned state agencies, shall establish a preliminary list of special, exceptional, critical, or unique lands in accordance with the provisions of §§ [45-6B-33](#) and [45-6B-33.3](#). In addition, any citizen, organization, or agency may make written application to the board for such classification of a specific area. Any final determination as to such designations may not be made until an application for a permit to mine is filed which application includes land on the preliminary list.

**Source:** SL 1989, ch 381, § 3.

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**45-6B-33.5. Alternative restrictions and limitations by board on special, exceptional, critical, or unique land.**

If land proposed to be affected by a mining operation includes land that is special, exceptional, critical, or unique and any adverse effects on such lands from the proposed mining operations cannot be satisfactorily mitigated, the board may find such land unsuitable for mining or may do one or more of the following:

- (1) Restrict the extent of the land to be affected at any one time to that which would not compromise those attributes of the area that qualify it as special, exceptional, critical, or unique;
- (2) Impose limitations on the type of activity allowed and the amount of time the land may be affected; or
- (3) Impose limitations that minimize visual impacts and reduce conflicts with scenic and recreational uses.

**Source:** SL 1989, ch 381, § 5.

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**45-6B-33.6. Determination of classification--Notice and grounds.**

Upon notification by any person contemplating the establishment of a mining operation, the department shall examine the lands to be affected by the proposed mining operation and determine whether such lands constitute special, exceptional, critical, or unique lands as defined in § [45-6B-33.3](#). If the department determines that the lands meet one or

more of the characteristics in § [45-6B-33.3](#) it shall notify the applicant in writing of the determination and the grounds for the determination.

**Source:** SL 1989, ch 381, § 6.

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**[45-6B-33.7. Appeal of determination--Hearing--Notice.](#)**

The applicant may appeal a determination under § [45-6B-33.6](#) to the board by filing a petition for a contested case hearing pursuant to board rules promulgated pursuant to chapter [1-26](#) within seven days of receipt of the determination. The hearing on the appeal shall be confined to the determination of the land as special, exceptional, critical, or unique and whether an environmental impact statement and socioeconomic impact study will be required. Issues concerning the reclamation requirements to be imposed upon such lands may not be heard at the hearing. Notice of an appeal and the hearing date shall be published pursuant to the publication requirements of § [45-6B-30](#), and interested persons may intervene by filing a petition to intervene pursuant to the provisions of the board rules at least three days before the hearing date.

**Source:** SL 1989, ch 381, § 7; SL 1993, ch 256, § 40.

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**[45-6B-33.8. Underground mining allowed beneath special, exceptional, critical, or unique land.](#)**

Underground mining and associated nondegrading surface disturbances may be allowed within and beneath land determined to be special, exceptional, critical, or unique provided the design and operating plans include provisions that eliminate any major surface disturbance that would severely affect the area or endanger recreational use.

**Source:** SL 1989, ch 381, § 8.

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**[45-6B-34. Notice to county commissioners of approval or denial of permit or amendment.](#)**

The Board of Minerals and Environment shall transmit notice of the approval or denial of a new mining operation permit or the amendment of a mining operation permit to the appropriate board of county commissioners within thirty days of final board action.

**Source:** SL 1982, ch 305, § 34.

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**[45-6B-35. Mining operations--Applicable law.](#)**

Every operator to whom a permit is issued pursuant to the provisions of this chapter may engage in the mining operation upon the affected lands described in the permit, upon the performance of and subject to §§ [45-6B-36](#) to [45-6B-46](#), inclusive, with respect to such lands.

**Source:** SL 1982, ch 305, § 35.

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**[45-6B-36. Annual filing of map and fee.](#)**

Within sixty days prior to the anniversary date of the permit each year, the operator shall submit a map on the scale provided for by subdivision 45-6B-10(3) showing the reclamation accomplished and any deviations from the originally approved operating and reclamation plans. Except for operators which are units of state or local government, the operator shall submit, in addition to the map, an annual fee of one hundred dollars or an annual fee of fifty thousand dollars if the operation is a large scale precious metal, coal, or uranium mine that was permitted after January 1, 2009. The annual fee for any large scale coal or uranium mine permit shall be reduced by any tax paid in accordance with chapter [10-39B](#) during the year preceding the date the annual fee is due.

**Source:** SL 1982, ch 305, § 36; SL 2009, ch 13, § 5.

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**45-6B-37. Grading.**

Grading shall be carried on so as to create a final topography appropriate to the final land use selected in accordance with § [45-6B-44](#).

**Source:** SL 1982, ch 305, § 37.

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**45-6B-38. Disposal of refuse.**

All refuse from the mining operation shall be disposed of in a manner so as to create the least amount of unsightliness and unproductive areas, and will not pollute surface or groundwater.

**Source:** SL 1982, ch 305, § 38.

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**45-6B-39. Revegetation.**

In those areas where revegetation is part of the reclamation plan, land shall be revegetated in such a way as agreed upon by the operator, the local conservation district and the landowner which establishes a diverse, effective, and long-lasting vegetative cover that is capable of self-regeneration and at least equal in extent of cover to the natural vegetation of the surrounding area.

**Source:** SL 1982, ch 305, § 39.

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**45-6B-40. Removal and handling of topsoil.**

If it is necessary to remove overburden in order to mine the mineral, topsoil shall be removed from the affected land and segregated from other spoil. If such topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, vegetative cover, or other means shall be employed so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a useable condition for sustaining vegetation when restored during reclamation. If, in the opinion of the Board of Minerals and Environment, such topsoil is of insufficient quantity or of poor quality for sustaining vegetation or if other strata can be shown to be more suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata which are best able to support vegetation.

**Source:** SL 1982, ch 305, § 40.

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**45-6B-41. Disturbance to hydrologic balance.**

Any disturbance to the prevailing hydrologic balance of the affected land and of the surrounding area and to the quality and quantity of water in surface and groundwater systems both during and after the mining operation and during reclamation shall be minimized.

**Source:** SL 1982, ch 305, § 41.

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**45-6B-42. Slides, subsidence, or damage protection--Fencing.**

Any area outside of the affected land shall be protected from slides, subsidence, or damage occurring during the mining operation and reclamation. All high walls shall be reduced to a slope not greater than the angle of repose upon abandonment of the mining operation, unless such a reduction would create conditions more detrimental than preserving the high wall. Prior to slope reduction, the operator shall take precautions to limit access to the high wall area and to warn the public of the high wall. Such precautions shall include fencing and posting of warning signs. If high wall reduction is deemed impossible, impractical, or aesthetically undesirable by the Board of Minerals and Environment, the board shall prescribe adequate fencing.

**Source:** SL 1982, ch 305, § 42.

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**45-6B-43. Surface areas protected--Spoil piles--Weeds.**

All surface areas of the affected land, including spoil piles, shall be stabilized and protected so as to effectively control erosion and attendant air and water pollution. Noxious weeds infestations shall be controlled during all phases of the mining operation and reclamation.

**Source:** SL 1982, ch 305, § 43.

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**45-6B-44. Proposed reclamation plan--Copy to adjacent landowner--Approval of plan--Consultation with landowner and local authorities--Reclamation of all affected land.**

A proposed reclamation plan filed pursuant to § [45-6B-5](#) or any substantial amendment to an existing reclamation shall be developed by the operator, the department, and the landowner. This plan shall determine which parts of the affected land shall be reclaimed for forest, range, crop, horticultural, homesite, recreational, industrial, or other uses, including food, shelter, and ground cover for wildlife. Industrial or other uses may not be construed to include future mineral exploration or development unless the Board of Minerals and Environment, operator, landowner, and local board of county commissioners agree that reclamation for future mineral exploration and development will result in a beneficial use of the affected land. If possible, adjacent landowners shall be consulted during development of the reclamation plan. The operator, upon written request of an adjacent landowner, shall provide each a copy of the proposed reclamation plan or substantial amendment to a reclamation plan pursuant to § [45-6B-5](#) or [45-6B-18](#). The board, after hearing recommendations made jointly or severally, shall approve, disapprove, or approve with reasonable modifications any proposed reclamation plan or proposed amendment to a reclamation plan prior to the granting of a mining permit or an amendment to a permit. Prior to approving any new reclamation plan or approving a substantial change in any existing reclamation plan as provided in § [45-6B-18](#), the board shall confer with the landowner, if possible, the local board of county commissioners, the board of supervisors of the local conservation district if the mining operation is within the boundaries of a conservation district and the Department of Game, Fish and Parks. Reclamation is required on all the affected land.

**Source:** SL 1982, ch 305, § 44; SL 1987, ch 321, § 1.

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**45-6B-45. Choices of reclamation--Requirements for operator.**

Depending on the reclamation plan approved by the board, the operator shall meet the following requirements:

- (1) If the choice of reclamation is forest planting, the operator may, with the approval of the Board of Minerals and Environment, select the type of trees to be planted. Planting methods and care of stock shall be governed by good planting practices. If the operator is unable to acquire sufficient planting stock of desired tree species from the state or elsewhere at a reasonable cost, the operator may defer planting until planting stock is available to plant such land as originally planned, or the operator may select an alternative method of reclamation;
- (2) If the choice of reclamation is rangeland restoration, the affected land shall be restored to the satisfaction of the board to slopes commensurate with the proposed land use and shall not be too steep to be traversed by livestock. The legume seed shall be properly inoculated in all cases. The area may be seeded either by hand, or power or by the aerial method. The species of grasses and legumes and the rates of seeding to be used per acre shall be determined primarily by recommendations from the state agricultural experiment stations, and experienced reclamation personnel of the operator, after considering other research or successful experience with range seeding. No grazing may be permitted on reclaimed land until the planting is firmly established. The board, in consultation with the landowner and the local conservation district, if any, shall determine when grazing may start;
- (3) If the choice of reclamation is for agricultural or horticultural crops which normally require the use of farm equipment, the operator shall grade so that the area can be traversed with farm machinery. Preparation for seeding or planting, fertilization and seeding, or planting rates shall be governed by general agricultural and horticultural practices, except where research or experience in such operations differs with these practices;
- (4) If the choice of reclamation is for the development of the affected land for homesite, recreational, industrial, or other uses, including food, shelter, and ground cover for wildlife, the requirements necessary for such reclamation shall be agreed upon by the operator, landowner, and the board. The term, industrial or other uses, may not be construed to include future mineral exploration or development unless the board, operator, landowner, and local board of county commissioners agree that reclamation for future mineral exploration or development will result in a beneficial future use of the affected land.



The board may require reasonable modifications in the requirements necessary for reclamation before approving a reclamation plan under this chapter.

**Source:** SL 1982, ch 305, § 45; SL 1987, ch 321, § 2; SL 2011, ch 165, § 204.

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**45-6B-46. Time for completion of reclamation--Plantings not required under certain conditions.**

All reclamation provided for in § [45-6B-45](#) shall be carried to completion by the operator with all reasonable diligence, and each phase of reclamation shall be completed within five years, unless such period is extended by the Board of Minerals and Environment upon a finding that additional time is necessary for the completion of the terms of the reclamation plan, except that:

- (1) No planting of any kind may be required to be made on any affected land being used or proposed to be used by the operator for the deposit or disposal of refuse until after the cessation of operations productive of such refuse, or on any affected land proposed for future mining under the existing permit, or within depressed haulage roads or final cuts while such roads or final cuts are being used or made, or where permanent pools or lakes have been formed;
- (2) No planting of any kind may be required on any affected land so long as the chemical and physical characteristics of the surface and immediately underlying material of such affected land are toxic, deficient in plant nutrients, or composed of sand, gravel, shale, or stone to such an extent as to seriously inhibit plant growth and such condition cannot feasibly be remedied by chemical treatment, fertilization, replacement of overburden, or like measures.

**Source:** SL 1982, ch 305, § 46; SL 1987, ch 321, § 3.

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**45-6B-47. Transfer of permit--Application--Release of first operator and surety as to reclamation--Transfer fee.**

Any mining operation permit may be transferred. If one operator succeeds another at any uncompleted operation, the successor operator shall make application for a transfer to the Board of Minerals and Environment. The board may not deny a transfer unless the operation is not in compliance or cannot be brought into compliance, with all applicable local, state, and federal laws pertaining to the operation before the transfer, or unless the successor operator is in violation of state statutes, rules, mining permit conditions, or requirements with respect to any mining operation in the state. The board shall release the first operator from all liability as to that particular reclamation operation and shall release the first operator's surety as to the operation if the successor operator assumes, as part of the successor operator's obligation under this chapter, all liability for the reclamation of the affected land, and the obligation is covered by an appropriate surety as to the affected land. Notice of a transfer shall be given to the board and accompanied by a one hundred dollar transfer fee.

**Source:** SL 1982, ch 305, § 47; SL 1988, ch 360, § 2; SL 2011, ch 165, § 205.

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**45-6B-48. Violation--Notice to operator.**

If the secretary of agriculture and natural resources has reason to believe that a violation of an order, permit, notice of intent, or rule issued under the authority of this chapter has occurred, written notice shall be given to the operator of the alleged violation. The notice shall be served personally or by registered mail upon the alleged violator or the alleged violator's agent for service of process. The notice shall state the provision alleged to be violated and the facts alleged to constitute the violation and shall recommend possible corrective action.

**Source:** SL 1982, ch 305, § 48; SL 1991, ch 17 (Ex. Ord. 91-4), § 21; SL 1993, ch 256, § 41; SL 2011, ch 165, § 206; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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**45-6B-49. Violation--Cease and desist order.**

If the secretary of agriculture and natural resources determines that any violation of any provisions of this chapter or of any notice, permit, or rule issued or promulgated under authority of this chapter exists, the board, not less than forty-eight hours after service of the notice required by § [45-6B-48](#), may issue a cease and desist order. The order shall set forth the provisions alleged to be violated, the facts alleged to constitute the violation, and the time by which the acts or practices complained of shall be terminated and shall recommend possible corrective action. The order shall be served personally or by registered mail upon the alleged violator or his agent for service of process.

#### **[45-6B-50. Violation--Hearing.](#)**

The Board of Minerals and Environment may require the alleged violator to appear before the board no sooner than twenty days after the issuance of such cease and desist order; except that an earlier date for hearing may be requested by the alleged violator. If a hearing is held pursuant to the provisions of this section, it shall be open to the public and conducted in accordance with the provisions of chapter [1-26](#). The board shall permit all parties to respond to the notice served, to present evidence and arguments on all issues, and to conduct cross-examination required for a full disclosure of the facts.

Source: SL 1982, ch 305, § 50.

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#### **[45-6B-51. Violation--Modification, suspension, or revocation of permit.](#)**

Upon a determination, after hearing, that a violation of a permit provision has occurred, the Board of Minerals and Environment may modify, suspend, or revoke the pertinent permit. If the board suspends or revokes the permit of an operator, the operator may continue mining operations only for the purpose of bringing the mining operation into satisfactory compliance with the provisions of the operator's permit. Once such operations are completed to the satisfaction of the board, the board shall reinstate the permit of the operator.

Source: SL 1982, ch 305, § 51.

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#### **[45-6B-52. Violation--Action for temporary restraining order or injunction.](#)**

The Board of Minerals and Environment may request the attorney general to bring suit for a temporary restraining order, a preliminary injunction or a permanent injunction to prevent any further or continued violation of this chapter. Any suit under this section shall be brought in the circuit court for the county where the alleged violation occurs.

Source: SL 1982, ch 305, § 52.

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#### **[45-6B-53. Small-scale operation--Special permit laws applicable.](#)**

Any mining operation, other than an in situ mining operation or a mining operation that employs a cyanide leaching or other chemical or biological leaching process to extract minerals from ore, which affects less than ten acres, excluding access roads, and extracts less than twenty-five thousand tons of ore or overburden per calendar year shall be subject to the provisions of §§ [45-6B-54](#) to [45-6B-63](#), inclusive, and are not required to comply with the provisions of §§ [45-6B-5](#) to [45-6B-7](#), inclusive, [45-6B-10](#), [45-6B-14](#), or [45-6B-36](#).

Source: SL 1982, ch 305, § 53; SL 1989, ch 306, § 52.

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#### **[45-6B-54. Small-scale operation--Application for permit--Contents.](#)**

The operator shall obtain a permit from the Board of Minerals and Environment by filing an application with the board that shall set forth the following information:

- (1) The address of the general office and the local address or addresses of the operator;
- (2) The name of the owner of the surface of the affected land;
- (3) The substance to be mined;
- (4) The name of the owner of the substance to be mined;
- (5) A map showing information sufficient to determine the location of the affected land on the ground and existing and proposed roads or access routes to be used in connection with the mining operation;
- (6) The approximate size of the affected land;
- (7) Information sufficient to describe or identify the type of mining operation proposed and how it would be conducted;

- (8) A preliminary wildlife survey conducted by the Department of Game, Fish and Parks, paid for by the applicant, or conducted by a competent person approved of by the Department of Game, Fish and Parks. The cost of a survey conducted by the Department of Game, Fish and Parks may not exceed one hundred dollars. The operator shall abide by any reasonable restrictions subject to review and approval by the board at the request of the operator concerning riparian habitat or threatened or endangered species as notified by that department. Restrictions concerning riparian habitat for mining operation activities are limited to such habitat located within one hundred feet of each stream bank. Further, restrictions concerning riparian habitat may include temporarily diverting the stream flow, bank restoration, and revegetation of the riparian habitat area;
- (9) The measures to be taken to comply with the operating and reclamation requirements of §§ [45-6B-37](#) to [45-6B-46](#), inclusive; and
- (10) The written consent, duly acknowledged, of the applicant and such other persons, if any, necessary to grant access to the board or its agents to the area under application from the date of the application and during the life of the permit as is necessary to assure compliance with the provisions of this chapter or any rule, order, or decision promulgated hereunder.

**Source:** SL 1982, ch 305, § 54.

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#### **[45-6B-55](#). Small-scale operation--Fee--Surety.**

A nonrefundable fee of one hundred dollars, and a surety not to exceed two thousand five hundred dollars as the Board of Minerals and Environment shall determine, shall accompany the application and shall be paid by the applicant.

**Source:** SL 1982, ch 305, § 55.

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#### **[45-6B-56](#). Small-scale operation--Annual notice of intent to continue--Fee and reporting requirements.**

Except as provided in subsection [45-6B-3\(6\)\(b\)](#), the operator shall annually file on the anniversary date of the permit a notice of intent to continue mining operations. The notice of intent shall contain an annual fee of fifty dollars and comply with the reporting requirements of § [45-6B-36](#).

**Source:** SL 1982, ch 305, § 56.

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#### **[45-6B-57](#). Small-scale operation--Notice of completion of reclamation.**

The operator, at any time after the completion of reclamation, may notify the Board of Minerals and Environment that the land has been reclaimed. Upon receipt of the notice that the affected land or a portion of it has been reclaimed, the board shall cause the land to be inspected and release the surety or a portion of it within thirty days after the board finds the reclamation to be satisfactory and in accordance with a plan agreed upon by the board and the operator.

**Source:** SL 1982, ch 305, § 57.

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45-6B-58. Repealed by SL 2013, ch 166, § 100.

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#### **[45-6B-59](#). Laws applicable to processing and action on applications.**

Applications for permits under § [45-6B-53](#) shall be processed and final action taken thereon within forty-five days of the filing thereof. The provisions of §§ [45-6B-16](#), [45-6B-17](#), and [45-6B-28](#) concerning publication, notice, written objections, petitions, and supporting documents shall, so far as practicable, apply to this section, but the Board of Minerals and Environment shall, by rule, provide simplified and reduced procedures and requirements therefor which are applicable to meet the forty-five-day period. Within the forty-five-day period, the board shall hold a hearing on an application as provided in § [45-6B-30](#).

**Source:** SL 1982, ch 305, § 59.

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**45-6B-60. Small-scale operation--Conversion of permit to larger operation.**

Any operator conducting an operation under a permit issued under § [45-6B-59](#), who has held the permit for two consecutive years or more, and who subsequently desires to expand it to a size in excess of the limitation set forth in § [45-6B-53](#), may request the conversion of his permit by filing an application for a permit pursuant to §§ [45-6B-5](#) to [45-6B-10](#), inclusive. However the applicant need not supply information, materials, and other data and undertakings previously supplied, including any additional applicable materials provided the Board of Minerals and Environment during the course of his current operation, or resulting from the board's inspections thereof.

**Source:** SL 1982, ch 305, § 60.

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**45-6B-61. Small-scale operation--Conversion of permit--Time for action on application.**

Applications for conversion of a permit under § [45-6B-60](#) shall be processed and final action taken thereon within ninety days of the complete filing thereof.

**Source:** SL 1982, ch 305, § 61.

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**45-6B-62. Small-scale operation--Conversion of permit--Laws applicable to procedure.**

The provisions of §§ [45-6B-16](#), [45-6B-17](#), and [45-6B-28](#), concerning publication, notice, written objections, petitions, and supporting documents shall, so far as practicable, apply to application pursuant to § [45-6B-60](#); but the Board of Minerals and Environment shall, by rule, provide procedures and requirement therefor which are applicable to meet the forty-five-day period.

**Source:** SL 1982, ch 305, § 62.

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**45-6B-63. Small-scale operation--Conversion of permit--Grounds for denial.**

The Board of Minerals and Environment may not deny the conversion of a permit issued pursuant to § [45-6B-53](#) for any reason other than those set forth in § [45-6B-32](#).

**Source:** SL 1982, ch 305, § 63.

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45-6B-64, 45-6B-65. Repealed by SL 1983, ch 308, §§ 15, 16

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**45-6B-66. Violation--Forfeiture of surety--Proceedings by attorney general.**

The attorney general, upon request of the Board of Minerals and Environment, shall institute proceedings to have the surety of the operator forfeited for violation by the operator of an order entered pursuant to § [45-6B-49](#). Before making such request of the attorney general, the board shall notify the operator in writing of the alleged violation of or noncompliance with such order and shall afford the operator the right to appear before the board at a hearing to be held not less than thirty days after the receipt of such notice by the operator. At the hearing the operator may present for the consideration of the board statements, documents, and other information with respect to the alleged violation. After the conclusion of the hearings, the board shall either withdraw the notice of violation or shall request the attorney general to institute proceedings to have the surety of the operator forfeited as to the land involved. A corporate surety shall have the option to reclaim the lands in question or forfeit the bond penalty.

**Source:** SL 1982, ch 305, § 65.

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**45-6B-67. Violation--Forfeiture of surety--Foreclosure of real estate.**

The attorney general, upon request of and on behalf of the Board of Minerals and Environment, may foreclose upon all real estate provided as surety. The board may dispose of such real estate and apply the proceeds of the disposed real estate to the reclamation of lands not reclaimed by the operator who supplied the real estate as surety.

**Source:** SL 1982, ch 305, § 66.

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**45-6B-68. Violation--Forfeiture of surety--Reclamation of land by board.**

The Board of Minerals and Environment shall reclaim, in accordance with the provisions of this chapter, any affected land with respect to which a surety has been forfeited.

**Source:** SL 1982, ch 305, § 67.

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**45-6B-69. Fees deposited in environment and natural resources fee fund--Proceeds of forfeiture of surety deposited in special revenue fund.**

All application fees and renewal fees received by the Board of Minerals and Environment shall be deposited by the board in the environment and natural resources fee fund established pursuant to § [1-41-23](#). The proceeds of any surety forfeiture proceeds conducted pursuant to § [45-6B-66](#) and the proceeds of the disposal of any property pursuant to § [45-6B-67](#) shall be deposited with the state treasurer in a special revenue fund for reclamation purposes. The special revenue fund is continuously appropriated to the board for the reclamation of affected lands which were obligated to be reclaimed under the permits upon which such surety has been forfeited. The proceeds of any surety remaining after completion of reclamation according to the approved plan shall be returned to the operator or the surety company, whichever is appropriate.

**Source:** SL 1982, ch 305, § 68; SL 1994, ch 23, § 6; SL 2021, ch 1 (Ex. Ord. 21-3), §§ 14, 53, eff. Apr. 19, 2021.

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**45-6B-70. Violation of permit--Civil penalty--Liability for damages to environment.**

Any person who violates any provision of any permit issued under this chapter is subject to a civil penalty of not less than one hundred dollars per day nor more than one thousand dollars per day for each day during which such violation occurs, for damages to the environment of this state, or both; except that any operator who operates under a permit issued under §§ [45-6B-54](#) to [45-6B-59](#), inclusive, is subject to a civil penalty of not less than fifty dollars nor more than two hundred dollars per day for each day during which such violation occurs, or is liable for damages to the environment of this state, or both. This penalty may be in addition to any other penalties authorized.

**Source:** SL 1982, ch 305, § 69; SL 1988, ch 291, § 21.

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**45-6B-71. Operation without permit--Civil penalty.**

A person who operates a mining operation without a valid permit issued pursuant to the provisions of this chapter is subject to a civil penalty of not less than one hundred dollars per day nor more than one thousand dollars per day during which such violation occurs.

**Source:** SL 1982, ch 305, § 70.

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**45-6B-71.1. Operation without permit near lake or stream as misdemeanor.**

Any operator mining within one hundred feet of a lake or stream of this state without a permit issued pursuant to this chapter is guilty of a Class 2 misdemeanor.

**Source:** SL 1983, ch 309, § 1.

#### **45-6B-72. Refusal of access or interference with inspection as violation.**

It is a violation of a mining permit's terms and conditions to refuse entry or access to any authorized representative of the Board of Minerals and Environment who after presenting appropriate credentials requests entry for the purpose of inspection under this chapter; nor may any person obstruct, hamper, or interfere with any such investigation. If requested, the operator of the mining site is entitled to receive a report setting forth the observations made by the person making the inspection which relate to compliance with this chapter.

**Source:** SL 1982, ch 305, § 71; SL 2011, ch 165, § 207.

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#### **45-6B-73. Jurisdiction and authority of board--Employment of personnel--Legal services provided by attorney general.**

The Board of Minerals and Environment shall carry out and administer the provisions of this chapter. The board has jurisdiction and authority over all persons and property, public and private, necessary to enforce the provisions of this chapter. The Department of Agriculture and Natural Resources may employ agents, employees, and consultants, permanent and temporary, as it may require and shall determine their qualifications, duties, and compensation. The board may call upon the attorney general of the state for such legal services as it may require.

**Source:** SL 1982, ch 305, § 72; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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#### **45-6B-74. Studies and programs initiated and encouraged by board.**

The Board of Minerals and Environment may initiate and encourage studies and programs through the Department of Agriculture and Natural Resources and in other agencies and institutions of state government relating to the development of less destructive methods of mining operations, better methods of land reclamation, more effective reclaimed land use, better methods of protecting water quality and quantity, and coordination of the provisions of this chapter with the programs of other state agencies dealing with environmental, recreational, rehabilitation, and related concerns.

**Source:** SL 1982, ch 305, § 73; SL 2021, ch 1 (Ex. Ord. [21-3](#)), § 53, eff. Apr. 19, 2021.

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#### **45-6B-75. Assistance provided by other departments and agencies.**

The Department of Agriculture and Natural Resources, the Department of Game, Fish and Parks, the Department of Education, the commissioner of school and public lands, and soil conservation boards shall furnish the Board of Minerals and Environment and its designees, as far as practicable, whatever data and technical assistance the board may request and deem necessary for the performance of total reclamation and enforcement duties.

**Source:** SL 1982, ch 305, § 74; SL 2004, ch 17, § 295; SL 2021, ch 1 (Ex. Ord. [21-3](#)), §§ 14, 53, eff. Apr. 19, 2021.

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#### **45-6B-76. General powers of board.**

The Board of Minerals and Environment may:

- (1) Administer oaths or affirmations, subpoena witnesses, and compel their attendance at a hearing;
- (2) Accept gifts, contributions, federal grants-in-aid, or financial aid from any other source for accomplishing reclamation or implementing the provisions of § [45-6B-74](#);
- (3) Carry out reclamation of affected lands.

**Source:** SL 1982, ch 305, § 75.

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**45-6B-77. Repealed by SL 2012, ch 215, § 30.**

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**45-6B-79. Use of reclamation fund.**

The Board of Minerals and Environment may allocate funds from the reclamation fund created by section 30 of chapter 251 of the 1971 Session Laws. These funds may be used for the reclamation of previously affected lands.

**Source:** SL 1983, ch 310.

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**45-6B-80. Exemption of educational and recreational activities.**

Any person engaged in recreational, hobby, amateur, or field activities independently or sponsored by educational institutions or by organizations involved in earth science activities including, but not limited to, geology, mineralogy, paleontology, treasure hunting, gold panning, archaeology, and noncommercial agate and gem hunting and using hand held tools and equipment is exempt from the provisions of this chapter.

**Source:** SL 1983, ch 309, § 2.

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**45-6B-81. Promulgation of rules by board regarding surface mining and reclamation.**

The board may promulgate rules, pursuant to chapter [1-26](#), consistent with the provisions of this chapter, to provide for:

- (1) The procedure for filing and departmental review of mining permit applications;
- (2) The procedure for amending mining permits;
- (3) The procedure for transfer of permits;
- (4) The reclamation of mills proposed to be operated in conjunction with a mining operation;
- (5) The prehearing procedure for determining the type of reclamation to be performed on affected land;
- (6) The minimum requirements for each type of reclamation;
- (7) The reclamation activities required to be performed concurrent with mining activity;
- (8) The procedure to be followed to address reclamation before or during a temporary cessation of mining activity pursuant to subdivision 45-6B-3(6);
- (9) The procedure for determining special, exceptional, critical, or unique land in accordance with § [45-6B-33](#); and
- (10) The requirements for construction, operation, monitoring, and closure of uranium and other mineral mines using in situ leach processes.

**Source:** SL 1987, ch 322; SL 1989, ch 381, § 4; SL 2006, ch 224, § 3.

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45-6B-82 to 45-6B-85. Repealed by SL 2005, ch 237, §§ 1 to 6.

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45-6B-85.1. Executed

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45-6B-86. Repealed by SL 2013, ch 166, § 101.

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#### **45-6B-87. Large-scale gold or silver surface mining operations not exempt from federal laws.**

Nothing in this chapter relieves the holder of any large-scale gold or silver surface mining permit from any of the requirements of the Clean Air Act of 1955, as amended to January 1, 2011, the Clean Water Act of 1977, as amended to January 1, 2011, the South Dakota Air Quality Act (chapter [34A-1](#)), the Federal Water Pollution Control Act of 1972, as amended to January 1, 2011, the Safe Drinking Water Act (P.L. 93-523), as amended to January 1, 2011, the Mine Safety and Health Administration regulations (30 C.F.R. Part 3830), as amended to January 1, 2011, United States Forest Service surface mining and exploration reclamation requirements (43 C.F.R., page 228), as amended to January 1, 2011, Bureau of Land Management mining and exploration requirements (43 C.F.R. Part 3800), as amended to January 1, 2011, the Mined Land Reclamation Act (this chapter), the regulated substance discharges statutes in chapter [34A-12](#), the Resource Conservation and Recovery Act of 1976, as amended to January 1, 2011, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (P.L. 95-510), as amended to January 1, 2011, the Toxic Substance Control Act of 1976 (P.L. 94-469), as amended to January 1, 2011, Lawrence County extractive industries ordinances, as amended to January 1, 2011, and all rules and regulations promulgated to implement existing statutes, including rules dealing with air pollution, control of visible emissions, open burning, control of particulate emissions, control of sulfur compound emissions, new source performance standards, standards of performance for storage vessels of petroleum liquids, air standards, spill control plans, buried tanks, water pollution, public water systems, and dredge and fill permit requirements.

**Source:** SL 1990, ch 353, § 7; SL 2011, ch 165, § 208.

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#### **45-6B-88. Procedures for issuance, suspension, revocation, and renewal of permits--Hearing--Uncontested recommendation.**

The board, by rules adopted in compliance with chapter [1-26](#), shall provide for the issuance, suspension, revocation, and renewal of any permits required under this chapter. Procedures shall provide for a recommendation on such permit by the secretary with an opportunity for a contested case hearing by the board on its own motion or upon protest by the applicant or any person. If the recommendation of the secretary is not contested, that recommendation shall become a final determination on the application. If an uncontested recommendation is for approval or conditional approval of the application, the permit shall be issued by the secretary consistent with his recommendation.

**Source:** SL 1991, ch 288, § 11.

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45-6B-89. Repealed by SL 2013, ch 166, § 102.

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45-6B-90. Repealed by SL 2005, ch 237, § 8.

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#### **45-6B-91. Postclosure plan--Postclosure care--Financial assurance--Certification of completed postclosure activities--Liability of operator.**

The operator shall prepare a detailed postclosure plan for a mining operation. The plan shall include, at a minimum, a description of the activities, methods, procedures, and processes necessary to ensure the continued effectiveness of reclamation measures and compliance with applicable performance standards including, as necessary:

- (1) Treatment of tailings to ensure continued neutralization or immobilization of any parameters of concern;
- (2) Operation of monitoring systems;
- (3) Inspection and maintenance activities to ensure compliance with all applicable reclamation, design, and operating criteria; and
- (4) Procedures for maintaining the final cover and controlling erosion and fugitive dust.

For each mining operation requiring a postclosure plan, the operator shall begin postclosure care immediately following the release of reclamation surety and continue postclosure care for thirty years. The board may modify the permit to reduce the length of the postclosure care period at any time after reclamation surety release if a reduced period ensures compliance



with all applicable performance standards. The board may modify the permit to extend the period beyond thirty years if necessary to ensure compliance with all applicable performance standards or design and operating criteria.

For each mining operation requiring a postclosure plan, the operator shall post with the board financial assurance to guarantee the costs of postclosure care and maintenance over the postclosure period.

After completion of postclosure care of the mine area, the operator shall submit to the department a statement certifying that postclosure activities have been completed in accordance with the postclosure plan. The department shall conduct an on-site inspection of the affected mine area, and provide public notice of its findings, at least thirty days prior to approving the certification of completion of postclosure care.

Liability of an operator for the affected mine area under this chapter shall continue until the certification of completion of postclosure care is approved by the board.

**Source:** SL 1992, ch 254, § 3.

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#### **45-6B-92. Description of critical resources affected by reclamation plan.**

The applicant shall, as part of the reclamation plan, include a description of all critical resources potentially affected by the mining operation and plans for mitigating potential impacts to such critical resources. Critical resources shall be addressed by the applicant during the evidentiary portion of a contested case hearing before the board on the mine permit application.

For purposes of this chapter, critical resources include the following:

- (1) Wildlife--critical deer winter range, threatened or endangered species, and any other critical wildlife resource identified by the Department of Game, Fish and Parks;
- (2) Aquatic resources--cold water fish life propagation water;
- (3) Vegetation--riparian zones, mountain meadows, wetlands, and threatened or endangered species;
- (4) Water--direct or indirect sources of drinking water;
- (5) Visual resources--areas of severe visual constraint or retention quality objective;
- (6) Soils--soils with high erosion and low revegetation potential;
- (7) Cultural resources--cultural resources that are eligible for the national register of historic places;
- (8) Air quality--areas with minimal ambient airborne particulates and areas near potential receptors including residences and recreational areas;
- (9) Noise--areas near potential receptors including residences and recreational areas; and
- (10) Lands designated as special, exceptional, critical, or unique pursuant to subdivision 45-6B-33(3).

**Source:** SL 1992, ch 254, § 4.

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#### **45-6B-93. Annual report on large-scale gold or silver surface mining operation--Information to be included.**

Any operator of a large-scale gold or silver surface mining operation shall submit an annual report by January first of each year including an oral presentation to the Board of Minerals and Environment explaining the information in the written annual report. The annual report shall include the following information:

- (1) The total and previous year's amount of affected land;
- (2) The total and previous year's amount of surface mining disturbed land;
- (3) The total and previous year's amount of land that has undergone interim reclamation;
- (4) The total and previous year's amount of land that has undergone final reclamation and which meets the required post-mining land use;
- (5) The total and previous year's amount of land that has undergone final reclamation but which does not meet the required post-mining land use;
- (6) The total amount of groundwater withdrawn during the previous year;
- (7) The total amount of surface water withdrawn during the previous year;
- (8) The total amount of ore mined during the previous year;
- (9) The total amount of ore processed during the previous year;
- (10) The total amount of waste rock mined during the previous year;
- (11) The total amount of gold and silver produced during the previous year;
- (12) The total amount of cyanide used during the previous year; and
- (13) A brief discussion of the coming year's operational plans including any anticipated revisions that might require department or board approval.

**Source:** SL 1992, ch 254, § 5; SL 2013, ch 166, § 103.

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#### **45-6B-94. Gold or silver surface mining--Legislative findings.**

The Legislature of South Dakota finds that protection of the environment requires regulation of the total amount of land that can be disturbed by surface mining by large-scale gold or silver surface mining operations at any given time.

**Source:** Initiated Measure No. 2, approved November 3, 1992, effective November 19, 1992.

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#### **45-6B-95. Permits for new large-scale operations--Limitations.**

The board may not issue a permit for a new large-scale gold or silver surface mining operation if the proposed surface mining disturbed lands under that permit shall exceed three hundred twenty acres. Nor may the board issue new permits or amendments to existing permits for new large-scale gold or silver surface mining operations for expanded acres of surface mining disturbed lands until reclamation has been performed in accord with § [45-6B-97](#).

**Source:** Initiated Measure No. 2, approved November 3, 1992, effective November 19, 1992.

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#### **45-6B-96. Permits for presently operating large-scale gold or silver surface mines.**

The board may not issue new permits to or amendments to existing permits for presently operating large-scale gold or silver surface mining operations for expanded acres of surface mining disturbed lands until reclamation has been performed in accord with § [45-6B-97](#), except that presently operating large-scale gold or silver surface mining operations are not subject to this provision until the permitted acres of surface mining disturbed lands total two hundred acres more per each individual permit than its permitted surface mining disturbed land total acreage as of January 1, 1992.

**Source:** Initiated Measure No. 2, approved November 3, 1992, effective November 19, 1992; SL 2011, ch 165, § 209.

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#### **45-6B-97. Reclamation--Qualifications for credit--Assignment.**

New permits or amendments to existing permits for expanded acres of surface mining disturbed land for operations referred to in §§ [45-6B-95](#) and [45-6B-96](#) may be issued only if the applicant has performed reclamation on an equal number of acres of permitted affected land, or has agreed not to disturb an equal acreage of permitted affected land, or, with consent of the board, has performed or agrees to perform reclamation concurrently with disturbance of an equal number of acres of previously mined land inside or outside a permit area boundary. For purpose of §§ [45-6B-94](#) to [45-6B-99](#), inclusive only, reclamation is performed when the operator completes required grading, topsoil replacement, erosion, and drainage control and any required planting and seeding that the department finds meets the requirements of the approved reclamation plan. To qualify for reclamation credit, reclamation activities shall have been conducted after the operator was granted the original large-scale gold or silver surface mining permit and surety for the reclaimed acres of affected land shall not have been released prior to November 19, 1992. With consent of the board, a large-scale gold or silver surface mining operator may assign reclamation credit acreage to another large-scale gold or silver surface mining operator.

**Source:** Initiated Measure No. 2, approved November 3, 1992, effective November 19, 1992.

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#### **45-6B-98. Submission of reclamation plan--Contents.**

The operator of an existing permitted large-scale gold or silver surface mining operation shall submit for board approval, a plan for conducting reclamation activities on lands to be reclaimed for reclamation acreage credit if those lands are not otherwise covered by an existing surety and reclamation plan authorized under this chapter. The plan for conducting reclamation shall include a detailed description of those activities to be conducted to reclaim the lands proposed for reclamation credit, a time schedule for conducting those activities, the post-reclamation land use of the lands, a post-reclamation map, and the estimated cost of conducting the reclamation. The plan shall be submitted as part of the application for any new permit or amendment to any existing permit that would cause an increase in an existing operator's permitted affected lands and shall be considered a procedural completeness requirement.

**Source:** Initiated Measure No. 2, approved November 3, 1992, effective November 19, 1992.

**45-6B-99. Exclusion of underground mining operations.**

Presently operating or new underground mining operations are not subject to the provisions of §§ [45-6B-94](#) to [45-6B-99](#), inclusive.

**Source:** Initiated Measure No. 2, approved November 3, 1992, effective November 19, 1992; SL 2011, ch 165, § 210.

45-6B-100 to 45-6B-103. Repealed by SL 2005, ch 237, §§ 9 to 12.

**45-6B-104. New surface mining permits prohibited for private land in Spearfish Canyon.**

The board may issue no new permit for any surface mining operation on private land in Spearfish Canyon.

**Source:** SL 1995, ch 249, § 1.

**45-6B-105. Location of Spearfish Canyon.**

For the purposes of § [45-6B-104](#), Spearfish Canyon is the area located within Lawrence County that is described as follows:

Quarter Section(s)	Section	Township	Range
N1/2NE1/4, SW1/4NE1/4, W1/2SE1/4NE1/4, N1/2NW1/4SE1/4, N1/2SE1/4NW1/4SE1/4, SW1/4NW1/4SE1/4, NW1/4SW1/4SE1/4, SW1/4, NE1/4NW1/4, S1/2NW1/4	27	6 NORTH	2 EAST
S1/2SE1/4, S1/2NE1/4SE1/4	28	6 NORTH	2 EAST
E1/2NE1/4, SE1/4, NE1/4NW1/4NE1/4, E1/2SW1/4NE1/4, SW1/4SW1/4NE1/4, SE1/4SE1/4NW1/4,	33	6 NORTH	2 EAST
E1/2NE1/4SW1/4, E1/2SE1/4SW1/4	34	6 NORTH	2 EAST
N1/2NW1/4, W1/2SW1/4NW1/4, SE1/4SW1/4NW1/4, NW1/4SW1/4, N1/2SW1/4SW1/4	34	6 NORTH	2 EAST
NW1/4NW1/4, SW1/4NW1/4, SW1/4NE1/4NW1/4 NW1/4SE1/4NW1/4	3	5 NORTH	2 EAST
NE1/4, N1/2SE1/4, SW1/4SE1/4, W1/2SE1/4SE1/4, NE1/4SE1/4SE1/4,	4	5 NORTH	2 EAST
NE1/4NE1/4NW1/4, S1/2SE1/4NW1/4, SW1/4 E1/2, S1/2NE1/4NW1/4, NE1/4NE1/4NW1/4,	4	5 NORTH	2 EAST

E1/2SE1/4SW1/4, E1/2NE1/4SW1/4, E1/2SE1/4NW1/4	8	5 NORTH	2 EAST
NW1/4, NW1/4SW1/4, SW1/4SW1/4, N1/2NE1/4SW1/4, SW1/4NE1/4SW1/4, N1/2NE1/4, NW1/4SW1/4NE1/4	9	5 NORTH	2 EAST
NW1/4NW1/4, N1/2SW1/4NW1/4, SW1/4SW1/4NW1/4, NW1/4NW1/4SW1/4	16	5 NORTH	2 EAST
NE1/4, E1/2NW1/4, SW1/4NW1/4, S1/2NW1/4NW1/4, NE1/4NW1/4NW1/4, N1/2SE1/4, N1/2SW1/4, SW1/4SW1/4, N1/2SE1/4SW1/4, SW1/4SE1/4SW1/4	17	5 NORTH	2 EAST
E1/2SE1/4, NW1/4SE1/4, N1/2SW1/4SE1/4, SE1/4SW1/4SE1/4, S1/2SE1/4NE1/4, NW1/4SE1/4NE1/4, S1/2SW1/4NE1/4, NE1/4SW1/4NE1/4	18	5 NORTH	2 EAST
SE1/4, N1/2NE1/4, SE1/4NE1/4, N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, S1/2SW1/4, SE1/4NE1/4SW1/4	19	5 NORTH	2 EAST
W1/2W1/2NW1/4, SE1/4NW1/4NW1/4, W1/2E1/2SW1/4NW1/4, W1/2SW1/4SW1/4, NW1/4NW1/4SW1/4, W1/2NE1/4NW1/4SW1/4, W1/2SW1/4NW1/4SW1/4	20	5 NORTH	2 EAST
W1/2NW1/4NW1/4, S1/2SW1/4NW1/4, NW1/4NW1/4SW1/4	29	5 NORTH	2 EAST
W1/2SE1/4SW1/4, N1/2SW1/4, SW1/4SW1/4, NW1/4SE1/4, N1/2SW1/4SE1/4, NW1/4, N1/2NE1/4, SW1/4NE1/4, W1/2SE1/4NE1/4, SE1/4SE1/4NE1/4, S1/2NE1/4SE1/4NE1/4	30	5 NORTH	2 EAST
N1/2SW1/4, SE1/4SW1/4, E1/2SW1/4SW1/4, NW1/4SW1/4SW1/4, W1/2NW1/4, W1/2NE1/4NW1/4, SW1/4SE1/4NW1/4, S1/2SE1/4SE1/4NW1/4, NW1/4SE1/4SE1/4NW1/4, S1/2NW1/4SE1/4NW1/4, NW1/4NW1/4SE1/4NW1/4, W1/2SW1/4SE1/4, SW1/4NW1/4SE1/4, W1/2NW1/4NW1/4SE1/4	31	5 NORTH	2 EAST

SE1/4SE1/4, S1/2NE1/4SE1/4, NE1/4NE1/4SE1/4	25	5 NORTH	1 EAST
S1/2SE1/4SE1/4, NE1/4SE1/4,SE1/4	35	5 NORTH	1 EAST
S1/2NE1/4NE1/4, NE1/4NE1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, N1/2SE1/4SE1/4, SW1/4SE1/4SE1/4, E1/2SW1/4SE1/4, NW1/4SW1/4SE1/4, NW1/4SE1/4, S1/2SW1/4NE1/4, NW1/4SW1/4NE1/4, S1/2SE1/4NW1/4, NE1/4SE1/4NW1/4, NE1/4SW1/4, NW1/4SW1/4, SE1/4SW1/4NW1/4, SW1/4SW1/4, N1/2SE1/4SW1/4, SW1/4SE1/4SW1/4	36	5 NORTH	1 EAST
S1/2SE1/4, S1/2NW1/4SE1/4, SE1/4SW1/4, SW1/4SW1/4, SW1/4NW1/4SW1/4, SW1/4SW1/4NW1/4	4	4 NORTH	2 EAST
S1/2, W1/2NW1/4, S1/2SE1/4NW1/4, NW1/4SE1/4NW1/4, NW1/4NE1/4NW1/4, S1/2SE1/4NE1/4, SW1/4NE1/4NE1/4, SE1/4NW1/4NE1/4, E1/2SW1/4NE1/4, NW1/4SE1/4NE1/4	5	4 NORTH	2 EAST
N1/2NE1/4, SE1/4NE1/4, N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, NE1/4SE1/4, N1/2SE1/4SE1/4, SW1/4SE1/4SE1/4, E1/2SW1/4SE1/4, E1/2NE1/4NW1/4, NE1/4SE1/4NW1/4, NW1/4NW1/4NW1/4	6	4 NORTH	2 EAST
E1/2E1/2, NW1/4NE1/4, N1/2SW1/4NE1/4, NE1/4NW1/4, N1/2SE1/4NW1/4, SE1/4NW1/4SE1/4, E1/2SW1/4SE1/4	8	4 NORTH	2 EAST
W1/2W1/2, NE1/4NW1/4, W1/2SE1/4NW1/4, NE1/4SE1/4NW1/4, W1/2NE1/4SW1/4, SE1/4NE1/4SW1/4, SE1/4SW1/4, S1/2SE1/4, S1/2NW1/4SE1/4, S1/2NE1/4SE1/4	9	4 NORTH	2 EAST
SW1/4SW1/4, S1/2NW1/4SW1/4, SW1/4NE1/4SW1/4, NW1/4SE1/4SW1/4 SW1/4, N1/2SE1/4, W1/2SW1/4SE1/4, NE1/4SW1/4SE1/4, W1/2NW1/4,	10	4 NORTH	2 EAST

SE1/4NW1/4, S1/2NE1/4NW1/4	15	4 NORTH	2 EAST
N1/2N1/2, SW1/4NW1/4, N1/2SE1/4NW1/4, SW1/4SE1/4NW1/4, N1/2NW1/4SW1/4, SE1/4NE1/4, NE1/4SE1/4, N1/2SW1/4NE1/4, SE1/4SW1/4NE1/4, E1/2SE1/4,SE1/4	16	4 NORTH	2 EAST
NE1/4NE1/4	17	4 NORTH	2 EAST
S1/2SE1/4SW1/4, SW1/4SW1/4SE1/4, SE1/4SE1/4, E1/2NE1/4SE1/4, SE1/4SE1/4NE1/4	20	4 NORTH	2 EAST
W1/2SW1/4, N1/2NE1/4SW1/4, N1/2N1/2SE1/4, SE1/4NW1/4, E1/2SW1/4NW1/4, SW1/4SW1/4NW1/4, SE1/4NE1/4NW1/4, S1/2NE1/4, S1/2NW1/4NE1/4, S1/2NE1/4NE1/4, NE1/4NE1/4NE1/4	21	4 NORTH	2 EAST
W1/2, N1/2NE1/4, N1/2SW1/4NE1/4, N1/2SE1/4NE1/4	22	4 NORTH	2 EAST
SW1/4, W1/2SW1/4SE1/4, NE1/4SW1/4SE1/4, NW1/4SE1/4SE1/4, SW1/4NE1/4SE1/4, S1/2NW1/4SE1/4, SE1/4NW1/4, E1/2SW1/4NW1/4	26	4 NORTH	2 EAST
S1/2, N1/2NW1/4, SE1/4NW1/4, SW1/4NE1/4, W1/2SE1/4NE1/4	27	4 NORTH	
W1/2NW1/4NW1/4, W1/2SW1/4NW1/4, NW1/4NW1/4SW1/4	28	4 NORTH	2 EAST
NE1/4, SE1/4NW1/4, E1/2NE1/4NW1/4, W1/2SE1/4, W1/2NE1/4SE1/4, NE1/4NE1/4SE1/4, W1/2SE1/4SE1/4, S1/2SW1/4, NE1/4SW1/4, S1/2NW1/4SW1/4	29	4 NORTH	2 EAST
E1/2SE1/4SE1/4, SE1/4NE1/4SE1/4	30	4 NORTH	2 EAST
S1/2NE1/4, E1/2SE1/4, E1/2NW1/4SE1/4, S1/2SW1/4SE1/4, NE1/4SW1/4SE1/4	31	4 NORTH	2 EAST
N1/2NW1/4, SW1/4NW1/4, W1/2SE1/4NW1/4, SE1/4SE1/4NW1/4, NW1/4NW1/4SW1/4	32	4 NORTH	2 EAST
N1/2NE1/4NE1/4	34	4 NORTH	2 EAST
E1/2NW1/4NW1/4, E1/2SW1/4NW1/4, E1/2NW1/4, W1/2NW1/4NE1/4, W1/2SW1/4NE1/4, W1/2NW1/4SE1/4,			

NE1/4SW1/4, NE1/4NW1/4SW1/4	35	4 NORTH	2 EAST
NE1/4NE1/4, N1/2NW1/4NE1/4, SE1/4NW1/4NE1/4	6	3 NORTH	2 EAST
E1/2NE1/4NE1/4, N1/2NW1/4, NW1/4NW1/4NE1/4, N1/2SW1/4NW1/4, W1/2SE1/4NW1/4	1	4 NORTH	1 EAST
NE1/4, N1/2NW1/4SE1/4, N1/2NE1/4SE1/4, SW1/4NW1/4SE1/4, NW1/4SW1/4SE1/4, SE1/4NW1/4, SE1/4SW1/4NW1/4, N1/2SW1/4, SW1/4SW1/4, W1/2SE1/4SW1/4, NE1/4SE1/4SW1/4	2	4 NORTH	1 EAST
S1/2SE1/4, S1/2SE1/4SW1/4	3	4 NORTH	1 EAST
NE1/4NW1/4, W1/2NW1/4NE1/4, NE1/4NW1/4NE1/4, N1/2NE1/4NE1/4	10	4 NORTH	1 EAST
N1/2NW1/4NW1/4	11	4 NORTH	1 EAST

**Source:** SL 1995, ch 249, § 2.

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**45-6B-106. Lake dredging activities license.**

An operator shall obtain a license to conduct lake dredging activities in accordance with the provisions of chapter [45-6](#), if soils, sediments, or organic materials are to be extracted for sale or for processing for sale as potting soil, soil material, soil amendment, or soil conditioner. If licensed under chapter [45-6](#), such activities do not require permitting under chapter [45-6B](#).

**Source:** SL 1996, ch 262, § 1.