

HOUSE BILL NO. 147

INTRODUCED BY CLARK

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE TERM "ROCK PRODUCTS"; ALLOWING A PERSON MINING ROCK PRODUCTS TO OPERATE MULTIPLE SITES MEETING SPECIFIED CRITERIA UNDER A SINGLE PERMIT; AUTHORIZING A LANDOWNER WHO ALLOWS ROCK PRODUCT MINING TO OBTAIN A MULTIPLE-SITE PERMIT; AMENDING SECTIONS 82-4-303, 82-4-305, 82-4-335, 82-4-337, AND 82-4-339, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 82-4-303, MCA, is amended to read:

**"82-4-303. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

(2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.

(3) "Board" means the board of environmental review provided for in 2-15-3502.

(4) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.

(5) "Department" means the department of environmental quality provided for in 2-15-3501.

(6) "Disturbed land" means the area of land or surface water that has been disturbed, beginning at the date of the issuance of the permit. The term includes the area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, load-out facilities, leach dumps, and all similar excavations or coverings that result from the operation and that have not been previously reclaimed under the reclamation plan.

(7) "Exploration" means:

1 (a) all activities that are conducted on or beneath the surface of lands and that result in material  
2 disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and  
3 economic viability of mineralization in those lands, if any, other than mining for production and economic  
4 exploitation; and

5 (b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

6 (8) "Mineral" means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel,  
7 peat, soil materials, or uranium, that is taken from below the surface or from the surface of the earth for the  
8 purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing  
9 or for stockpiling for future use, refinement, or smelting.

10 (9) "Mining" commences when the operator first mines ores or minerals in commercial quantities for  
11 sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing  
12 in excess of the aggregate of 10,000 short tons.

13 (10) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock  
14 mineral concentration processes.

15 (11) "Person" means any person, corporation, firm, association, partnership, or other legal entity  
16 engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings  
17 or waste materials, or operation of a hard-rock mill.

18 (12) "Placer deposit" means:

19 (a) naturally occurring, scattered, or unconsolidated valuable minerals in gravel, glacial, eolian, colluvial,  
20 or alluvial deposits lying above bedrock; or

21 (b) all forms of deposit except veins of quartz and other rock in place.

22 (13) "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or  
23 persons.

24 (14) "Reclamation plan" means the operator's written proposal, as required and approved by the  
25 department, for reclamation of the land that will be disturbed. The proposal must include, to the extent practical  
26 at the time of application for an operating permit:

27 (a) a statement of the proposed subsequent use of the land after reclamation, which may include use  
28 of the land as an industrial site not necessarily related to mining;

29 (b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the  
30 land after reclamation is completed and the proposed method of accomplishment;

- 1 (c) the manner and type of revegetation or other surface treatment of disturbed areas;
- 2 (d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public  
3 safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area;
- 4 (e) the method of disposal of mining debris;
- 5 (f) the method of diverting surface waters around the disturbed areas when necessary to prevent  
6 pollution of those waters or unnecessary erosion;
- 7 (g) the method of reclamation of stream channels and stream banks to control erosion, siltation, and  
8 pollution;
- 9 (h) maps and other supporting documents that may be reasonably required by the department; and
- 10 (i) a time schedule for reclamation that meets the requirements of 82-4-336.
- 11 (15) "Rock products" means decorative rock, building stone, riprap, MINERAL aggregates, and other  
12 products MINERALS produced by typical quarrying activities or collected from or just below the ground surface.
- 13 ~~(15)(16)~~ (a) "Small miner" means a person, firm, or corporation that engages in mining activity that is  
14 not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste  
15 materials, that, except as provided in 82-4-310, knowingly allows other persons to engage in mining activities  
16 on land owned or controlled by the person, firm, or corporation, that does not hold an operating permit under  
17 82-4-335 except for a permit issued under 82-4-335~~(2)~~(3) or a permit that meets the criteria of subsection ~~(15)(e)~~  
18 (16)(c) of this section, and that conducts:
- 19 (i) an operation that results in not more than 5 acres of the earth's surface being disturbed and  
20 unreclaimed; or
- 21 (ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the  
22 respective mining properties are:
- 23 (A) the only operations engaged in by the person, firm, or corporation; and
- 24 (B) at least 1 mile apart at their closest point.
- 25 (b) For the purpose of this definition only, the department shall, in computing the area covered by the  
26 operation:
- 27 (i) exclude access or haulage roads that are required by a local, state, or federal agency having  
28 jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department  
29 in writing that it desires to have the road remain in use and will maintain it after mining ceases; and
- 30 (ii) exclude access roads for which the person, firm, or corporation submits a bond to the department

1 in the amount of the estimated total cost of reclamation along with a description of the location of the road and  
2 the specifications to which it will be constructed.

3 (c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit  
4 may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed  
5 100 acres at any time.

6 ~~(16)~~(17) "Soil materials" means earth material found in the upper soil layers that will support plant  
7 growth.

8 ~~(17)~~(18) (a) "Surface mining" means all or any part of the process involved in mining of minerals by  
9 removing the overburden and mining directly from the mineral deposits exposed, including but not limited to  
10 open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all  
11 similar methods by which earth or minerals exposed at the surface are removed in the course of mining.

12 (b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, peat,  
13 soil materials, or uranium or excavation or grading conducted for onsite farming, onsite road construction, or  
14 other onsite building construction.

15 ~~(18)~~(19) "Underground mining" means all methods of mining other than surface mining.

16 ~~(19)~~(20) "Unit of surface-mined area" means that area of land and surface water included within an  
17 operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date  
18 of the issuance of the permit. The term includes the area from which overburden or minerals have been  
19 removed, the area covered by mining debris, and all additional areas used in surface mining or underground  
20 mining operations that by virtue of mining use are susceptible to erosion in excess of the surrounding  
21 undisturbed portions of land.

22 ~~(20)~~(21) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of  
23 natural cover considered suitable at time of reclamation."  
24

25 **Section 2.** Section 82-4-305, MCA, is amended to read:

26 **"82-4-305. Exemption -- small miners -- written agreement.** (1) Except as provided in subsections  
27 (3) through (10), the provisions of this part do not apply to a small miner if the small miner annually agrees in  
28 writing:

29 (a) that the small miner will not pollute or contaminate any stream;

30 (b) that the small miner will provide protection for human and animal life through the installation of

1 bulkheads installed over safety collars and the installation of doors on tunnel portals;

2 (c) that the small miner will provide a map locating the miner's mining operations. The map must be of  
3 a size and scale determined by the department.

4 (d) if the small miner's operations are placer or dredge mining, that the small miner shall salvage and  
5 protect all soil materials for use in reclamation of that site and shall reclaim all land disturbed by the operations  
6 to comparable utility and stability as that of adjacent areas.

7 (2) For small-miner exemptions obtained after September 30, 1985, a small miner may not obtain or  
8 continue an exemption under subsection (1) unless the small miner annually certifies in writing:

9 (a) if the small miner is an individual, that:

10 (i) no business association or partnership of which the small miner is a member or partner has a  
11 small-miner exemption; and

12 (ii) no corporation of which the small miner is an officer, director, or owner of record of 25% or more of  
13 any class of voting stock has a small-miner exemption; or

14 (b) if the small miner is a partnership or business association, that:

15 (i) none of the associates or partners holds a small-miner exemption; and

16 (ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class of  
17 voting stock of a corporation that has a small-miner exemption; or

18 (c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any  
19 class of voting stock of the corporation:

20 (i) holds a small-miner exemption;

21 (ii) is a member or partner in a business association or partnership that holds a small-miner exemption;

22 (iii) is an officer, director, or owner of record of 25% or more of any class of voting stock of another  
23 corporation that holds a small-miner exemption.

24 (3) A small miner whose operations are placer or dredge mining shall post a performance bond equal  
25 to the state's documented cost estimate of reclaiming the disturbed land, although the bond may not exceed  
26 \$10,000 for each operation. If the small miner has posted a bond for reclamation with another government  
27 agency, the small miner is exempt from the requirement of this subsection.

28 (4) If a small miner who conducts a placer or dredge mining operation fails to reclaim the operation, the  
29 small miner is liable to the department for all its reasonable costs of reclamation, including a reasonable charge  
30 for services performed by state personnel and for state materials and equipment used. If the small miner posts

1 a surety bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for  
2 the remainder of the reasonable costs to the state of reclaiming the operation.

3 (5) If a small miner who conducts a placer or dredge mining operation fails to commence reclamation  
4 of the operation within 6 months after cessation of mining or within an extended period allowed by the  
5 department for good cause shown or if the small miner fails to diligently complete reclamation, the department  
6 shall notify the small miner by certified mail that it intends to reclaim the operation unless the small miner  
7 commences reclamation within 30 days and diligently completes the reclamation. The notice must be mailed  
8 to the address stated on the small miner exclusion statement or, if the small miner has notified the department  
9 of a different address by letter or in the annual certification form, to the most recent address given to the  
10 department. If the small miner fails to commence reclamation within 30 days or to diligently complete  
11 reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been  
12 posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with  
13 the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may  
14 also collect additional reclamation costs, as set forth in subsection (6), before or after it incurs those costs.

15 (6) To collect additional reclamation costs, the department shall notify the small miner by certified mail,  
16 at the address determined under subsection (5), of the additional reasonable reclamation costs and request  
17 payment within 30 days. If the small miner does not pay the additional reclamation costs within 30 days, the  
18 department may bring an action in district court for payment of the estimated future costs and, if the department  
19 has performed any reclamation, of its reasonable actual costs. The court shall order payment of costs that it  
20 determines to be reasonable and shall retain jurisdiction until reclamation of the operation is completed. Upon  
21 completion of reclamation, the court shall order payment of any additional costs that it considers reasonable or  
22 the refund of any portion of any payment for estimated costs that exceeds the actual reasonable costs incurred  
23 by the department.

24 (7) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents  
25 or reagents shall obtain an operating permit for that part of the small miner's operation in which the cyanide  
26 ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of. The acreage  
27 disturbed by the operation using cyanide ore-processing reagents or other metal leaching solvents or reagents  
28 and covered by the operating permit is excluded from the 5-acre limit specified in ~~82-4-303(15)(a)(i) and~~  
29 ~~(15)(a)(ii)~~ 82-4-303(16)(a)(i) and (16)(a)(ii).

30 (8) The exemption provided in this section does not apply to a person:

1 (a) whose failure to comply with the provisions of this part, the rules adopted under this part, or a permit  
2 or license issued under this part has resulted in the forfeiture of a bond, unless that person meets the conditions  
3 described under 82-4-360;

4 (b) who has not paid a penalty for which the department has obtained a judgment pursuant to 82-4-361;

5 (c) who has failed to post a reclamation bond required by this section, unless the department has  
6 certified that the area for which the bond should have been posted has been reclaimed by that person or  
7 reclaimed by the department and the person has reimbursed the department for the cost of the reclamation; or

8 (d) who has failed to comply with an abatement order issued pursuant to 82-4-362, unless the  
9 department has completed the abatement and the person has reimbursed the department for the cost of  
10 abatement.

11 (9) The exemption provided in this section does not apply to an area:

12 (a) under permit pursuant to 82-4-335;

13 (b) that has been permitted pursuant to 82-4-335 and reclaimed by the permittee, the department, or  
14 any other state or federal agency; or

15 (c) that has been reclaimed by or has been subject to remediation of contamination or pollution by a  
16 public agency, under supervision of a public agency, or using public funds.

17 (10) A small miner may not use mercury except in a contained facility that prevents the escape of any  
18 mercury into the environment."  
19

20 **Section 3.** Section 82-4-335, MCA, is amended to read:

21 **"82-4-335. Operating permit -- limitation -- fees.** (1) A person may not engage in mining, ore  
22 processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide  
23 ore-processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of those  
24 activities in the state without first obtaining an operating permit from the department. ~~A~~ Except as provided in  
25 subsection (2), a separate operating permit is required for each complex.

26 (2) (a) A person who engages in the mining of rock products or a landowner who allows another person  
27 to engage in the mining of rock products from the landowner's land may obtain an operating permit for multiple  
28 sites if each of the multiple sites does not:

29 (i) operate within 100 feet of surface water or in ground water or impact any wetland, surface water, or  
30 ground water;

- 1           (ii) have any water impounding structures other than for storm water control;  
2           (iii) have the potential to produce acid, toxic, or otherwise pollutive solutions;  
3           (iv) adversely impact a member of or the critical habitat of a member of a wildlife species that is listed  
4 as threatened or endangered under the Endangered Species Act of 1973; or  
5           (v) impact significant historic or archaeological features.
- 6           (b) A landowner who is a permittee and who allows another person to mine on the landowner's land  
7 remains responsible for compliance with this part, the rules adopted pursuant to this part, and the permit for all  
8 mining activities conducted on sites permitted pursuant to this subsection (2) with the landowner's permission.  
9 The performance bond required under this part is and must be conditioned upon compliance with this part, the  
10 rules adopted pursuant to this part, and the permit of the landowner and any person who mines with the  
11 landowner's consent.
- 12           ~~(2)~~(3) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching  
13 solvents or reagents shall obtain an operating permit for that part of the small miner's operation where the  
14 cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.
- 15           ~~(3)~~(4) Prior to receiving an operating permit from the department, a person shall pay the basic permit  
16 fee of \$500. The department may require a person who is applying for a permit pursuant to subsection (1) to pay  
17 an additional fee not to exceed the actual amount of contractor and employee expenses beyond the normal  
18 operating expenses of the department whenever those expenses are reasonably necessary to provide for timely  
19 and adequate review of the application, including any environmental review conducted under Title 75, chapter  
20 1, parts 1 and 2. The board may further define these expenses by rule. Whenever the department determines  
21 that an additional fee is necessary and the additional fee will exceed \$5,000, the department shall notify the  
22 applicant that a fee must be paid and submit to the applicant an itemized estimate of the proposed expenses.  
23 The department shall provide the applicant an opportunity to review the department's estimated expenses. The  
24 applicant may indicate which proposed expenses the applicant considers duplicative or excessive, if any.
- 25           ~~(4)~~(5) The person shall submit an application on a form provided by the department, which must contain  
26 the following information and any other pertinent data required by rule:
- 27           (a) the name and address of the operator and, if a corporation or other business entity, the name and  
28 address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like and  
29 its resident agent for service of process, if required by law;
- 30           (b) the minerals expected to be mined;

- 1 (c) a proposed reclamation plan;
- 2 (d) the expected starting date of operations;
- 3 (e) a map showing the specific area to be mined and the boundaries of the land that will be disturbed,  
4 the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or immediately  
5 adjacent to the area, and the location of proposed access roads to be built;
- 6 (f) the names and addresses of the owners of record and any purchasers under contracts for deed of  
7 the surface of the land within the permit area and the owners of record and any purchasers under contracts for  
8 deed of all surface area within one-half mile of any part of the permit area, provided that the department is not  
9 required to verify this information;
- 10 (g) the names and addresses of the present owners of record and any purchasers under contracts for  
11 deed of all minerals in the land within the permit area, provided that the department is not required to verify this  
12 information;
- 13 (h) the source of the applicant's legal right to mine the mineral on the land affected by the permit,  
14 provided that the department is not required to verify this information;
- 15 (i) the types of access roads to be built and manner of reclamation of road sites on abandonment;
- 16 (j) a plan that will provide, within limits of normal operating procedures of the industry, for completion  
17 of the operation;
- 18 (k) ground water and surface water hydrologic data gathered from a sufficient number of sources and  
19 length of time to characterize the hydrologic regime;
- 20 (l) a plan detailing the design, operation, and monitoring of impounding structures, including but not  
21 limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe and stable;
- 22 (m) a plan identifying methods to be used to monitor for the accidental discharge of objectionable  
23 materials and remedial action plans to be used to control and mitigate discharges to surface or ground water;
- 24 (n) an evaluation of the expected life of any tailings impoundment or waste area and the potential for  
25 expansion of the tailings impoundment or waste site; and
- 26 (o) an assessment of the potential for the postmining use of mine-related facilities for other industrial  
27 purposes, including evidence of consultation with the county commission of the county or counties where the  
28 mine or mine-related facilities will be located.
- 29 ~~(5)(6)~~ Except as provided in subsection ~~(7)~~ (8), the permit provided for in subsection (1) for a large-scale  
30 mineral development, as defined in 90-6-302, must be conditioned to provide that activities under the permit may

1 not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written  
2 guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule  
3 with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not  
4 comply with that commitment within the time scheduled, the department, upon receipt of written notice from the  
5 hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining  
6 impact board that the permittee is in compliance.

7 ~~(6)~~(7) When the department determines that a permittee has become or will become a large-scale  
8 mineral developer pursuant to 82-4-339 and 90-6-302 and provides notice as required under 82-4-339, within  
9 6 months of receiving the notice, the permittee shall provide the department with proof that the permittee has  
10 obtained a waiver of the impact plan requirement from the hard-rock mining impact board or that the permittee  
11 has filed an impact plan with the hard-rock mining impact board and the appropriate county or counties. If the  
12 permittee does not file the required proof or if the hard-rock mining impact board certifies to the department that  
13 the permittee has failed to comply with the hard-rock mining impact review and implementation requirements  
14 in Title 90, chapter 6, parts 3 and 4, the department shall suspend the permit until the permittee files the required  
15 proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock  
16 mining impact review and implementation requirements.

17 ~~(7)~~(8) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical  
18 testing when the aggregate samples are less than 10,000 tons.

19 ~~(8)~~(9) A person may not be issued an operating permit if:

20 (a) that person's failure, or the failure of any firm or business association of which that person was a  
21 principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or  
22 a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department  
23 or the completion of reclamation by the person's surety or by the department, unless that person meets the  
24 conditions described in 82-4-360;

25 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant to  
26 82-4-361;

27 (c) that person has failed to post a reclamation bond required by 82-4-305; or

28 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless the  
29 department has completed the abatement and the person has reimbursed the department for the cost of  
30 abatement.

1           ~~(9)(10)~~ A person may not be issued a permit under this part unless, at the time of submission of a bond,  
2 the person provides the current information required in subsection ~~(4)(a)~~ (5)(a) and:

3           (a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation of  
4 this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

5           (ii) presents a certification by the administering agency that the violation is in the process of being  
6 corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

7           (b) if the person is a partnership, corporation, or other business association, provides the certification  
8 required by subsection ~~(9)(a)(i) or (9)(a)(ii)~~ (10)(a)(i) or (10)(a)(ii), as applicable, for any partners, officers,  
9 directors, owners of 10% or more of any class of voting stock, and business association members."  
10

10

11           **Section 4.** Section 82-4-337, MCA, is amended to read:

12           **"82-4-337. Inspection -- issuance of operating permit -- modification, amendment, or revision.**

13 (1) (a) The department shall review all applications for operating permits for completeness within 60 days of  
14 receipt of the initial application and within 30 days of receipt of responses to notices of deficiencies. The initial  
15 completeness notice must note all deficiency issues, and the department may not in a later completeness notice  
16 raise an issue pertaining to the initial application that was not raised in the initial notice. The department may,  
17 however, raise any deficiency during the adequacy review pursuant to subsection (1)(b). The department shall  
18 notify the applicant concerning completeness as soon as possible. An application is considered complete unless  
19 the applicant is notified of any deficiencies within the appropriate review period.

20           (b) Except as provided in 75-1-208(4)(b), unless the review period is extended as provided in this  
21 section, the department shall review the adequacy of the proposed reclamation plan and plan of operation within  
22 30 days of the determination that the application is complete or within 60 days of receipt of the application if the  
23 department does not notify the applicant of any deficiencies in the application. If the applicant is not notified of  
24 deficiencies or inadequacies in the proposed reclamation plan and plan of operation within the time period, the  
25 operating permit must be issued upon receipt of the bond as required in 82-4-338 and pursuant to the  
26 requirements of subsection (1)(c) of this section. The department shall promptly notify the applicant of the form  
27 and amount of bond that will be required.

28           (c) A permit may not be issued until:

29           (i) sufficient bond has been submitted pursuant to 82-4-338;

30           (ii) the information and certification have been submitted pursuant to ~~82-4-335(9)~~ 82-4-335(10); and

1 (iii) the department has found that permit issuance is not prohibited by ~~82-4-335(8)~~ 82-4-335(9) or  
2 82-4-341(7).

3 (d) (i) Prior to issuance of a permit, the department shall inspect the site, unless the department has  
4 failed to act on the application within the time prescribed in subsection (1)(b). If the site is not accessible because  
5 of extended adverse weather conditions, the department may extend the time period prescribed in subsection  
6 (1)(b) by not more than 180 days to allow inspection of the site and reasonable review. The department shall  
7 serve written notice of extension upon the applicant in person or by certified mail, and any extension is subject  
8 to appeal to the board in accordance with the Montana Administrative Procedure Act.

9 (ii) Except as provided in 75-1-208(4)(b), if the department determines that additional time is needed  
10 for analysis to determine whether a detailed environmental impact statement is necessary under 75-1-201, the  
11 department and the applicant shall negotiate to extend the period prescribed in subsection (1)(b) of this section  
12 by not more than 75 days to permit reasonable analysis. The applicant may by written waiver extend this period.

13 (iii) Except as provided in 75-1-208(4)(b), if the department determines that additional time is needed  
14 to review the application and reclamation plan for a major operation, the department and the applicant shall  
15 negotiate to extend the period prescribed in subsection (1)(b) of this section by not more than 365 days in order  
16 to permit reasonable review. The applicant may by written waiver extend this time period.

17 (iv) If the department decides to hire a third-party contractor to prepare an environmental impact  
18 statement on the application, the department shall prepare a list of no fewer than four contractors acceptable  
19 to the department and shall provide the applicant with a copy of the list. The applicant shall provide the  
20 department with a list of at least 50% of the contractors from the department's list. The department shall select  
21 its contractor from the list provided by the applicant.

22 (v) Failure of the department to act upon a complete application within the extension period constitutes  
23 approval of the application, and the permit must be issued promptly upon receipt of the bond as required in  
24 82-4-338.

25 (2) The operating permit must be granted for the period required to complete the operation and is valid  
26 until the operation authorized by the permit is completed or abandoned, unless the permit is suspended or  
27 revoked by the department as provided in this part.

28 (3) The operating permit must provide that the reclamation plan may be modified by the department,  
29 upon proper application of the permittee or after timely notice and opportunity for hearing, at any time during the  
30 term of the permit and for any of the following reasons:

- 1 (a) to modify the requirements so that they will not conflict with existing laws;
- 2 (b) when the previously adopted reclamation plan is impossible or impracticable to implement and  
3 maintain;
- 4 (c) when significant environmental problem situations are revealed by field inspection.
- 5 (4) (a) The modification of an operating permit may be a major or minor permit amendment or a permit  
6 revision. A modification of the operating permit, including a modification necessary to conform to the  
7 requirements of existing law as interpreted by a court of competent jurisdiction, must be processed in  
8 accordance with the procedures for an application for a permit amendment or revision that are established  
9 pursuant to 82-4-342 and this section, including any environmental analysis required by Title 75, chapter 1, part  
10 2.
- 11 (b) The modification of an operating permit may not be finalized and an existing bond amount may not  
12 be increased until the permit modification procedures and analysis described in subsection (4)(a) are completed.
- 13 (5) During the term of an operating permit, an operator may apply for an amendment or revision to the  
14 permit. The operator may not apply for an amendment to delete disturbed acreage from the permit.
- 15 (6) Applications for major amendments must be processed in the same manner as applications for new  
16 permits.
- 17 (7) Major amendments are those that may significantly affect the environment. Minor amendments are  
18 those that will not significantly affect the environment. The board may by rule establish criteria for classification  
19 of amendments as major or minor. The rules must establish requirements for the content of applications for  
20 amendments and revisions and procedures for processing of minor amendments.
- 21 (8) If the department demonstrates that a revision may result in a significant environmental impact that  
22 was not previously and substantially evaluated in an environmental impact statement, the application must be  
23 processed in the same manner as is provided for new permits. Except as provided in 75-1-208(4)(b),  
24 applications for minor amendments and other revisions must be processed within 30 days of receipt of an  
25 application."

26

27 **Section 5.** Section 82-4-339, MCA, is amended to read:

28 **"82-4-339. Annual report of activities by permittee -- fee -- notice of large-scale mineral developer**  
29 **status.** (1) Within 30 days after completion or abandonment of operations on an area under permit or within 30  
30 days after each anniversary date of the permit, whichever is earlier, or at a later date that may be provided by

1 rules of the board and each year after that date until reclamation is completed and approved, the permittee shall  
2 pay the annual fee of \$100 and shall file a report of activities completed during the preceding year on a form  
3 prescribed by the department. The report must:

4 (a) identify the permittee and the permit number;  
5 (b) locate the operation by subdivision, section, township, and range and with relation to the nearest  
6 town or other well-known geographic feature;

7 (c) estimate acreage to be newly disturbed by operation in the next 12-month period;

8 (d) include the number of persons on the payroll for the previous permit year and for the next permit  
9 year at intervals that the department considers sufficient to enable a determination of the permittee's status  
10 under 90-6-302(4);

11 (e) update the information required in ~~82-4-335(4)(a)~~ 82-4-335(5)(a); and

12 (f) update any maps previously submitted or specifically requested by the department. The maps must  
13 show:

14 (i) the permit area;

15 (ii) the unit of disturbed land;

16 (iii) the area to be disturbed during the next 12-month period;

17 (iv) if completed, the date of completion of operations;

18 (v) if not completed, the additional area estimated to be further disturbed by the operation within the  
19 following permit year; and

20 (vi) the date of beginning, amount, and current status of reclamation performed during the previous 12  
21 months.

22 (2) Whenever the department determines that the permittee has become or will, during the next permit  
23 year, become a large-scale mineral developer, it shall immediately serve written notice of that fact on the  
24 permittee, the hard-rock mining impact board, and the county or counties in which the operation is located."  
25

26 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

27 - END -