

SENATE BILL NO. 366
INTRODUCED BY GRIMES, MENDENHALL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RECLAMATION REQUIREMENTS FOR METAL MINES; AMENDING SECTION 82-4-336, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 82-4-336, MCA, is amended to read:

"82-4-336. Reclamation plan and specific reclamation requirements. (1) Taking into account the site-specific conditions and circumstances, disturbed lands must be reclaimed consistent with the requirements and standards set forth in this section.

(2) The reclamation plan must provide that reclamation activities, particularly those relating to control of erosion, to the extent feasible, must be conducted simultaneously with the operation and in any case must be initiated promptly after completion or abandonment of the operation on those portions of the complex that will not be subject to further disturbance.

(3) In the absence of an order by the department providing a longer period, the plan must provide that reclamation activities must be completed not more than 2 years after completion or abandonment of the operation on that portion of the complex.

(4) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not depart from an approved plan without previously obtaining from the department written approval for the proposed change.

(5) Provision must be made to avoid accumulation of stagnant water in the development area to the extent that it serves as a host or breeding ground for mosquitoes or other disease-bearing or noxious insect life.

(6) All final grading must be made with nonnoxious, nonflammable, noncombustible solids unless approval has been granted by the department for a supervised sanitary fill.

(7) When mining has left an open pit exceeding 2 acres of surface area and the composition of the floor or walls of the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions ("objectionable effluents") on exposure to moisture, the reclamation plan must include provisions that adequately provide for:

(a) insulation of all faces from moisture or water contact by covering the faces with material or fill not

susceptible itself to generation of objectionable effluents in order to mitigate the generation of objectionable effluents; ~~or~~

(b) processing of any objectionable effluents in the pit before they are allowed to flow or be pumped out of the pit to reduce toxic or other objectionable ratios to a level considered safe to humans and the environment by the department; ~~or~~

(c) drainage of any objectionable effluents to settling or treatment basins when the objectionable effluents must be reduced to levels considered safe by the department before release from the settling basin; or

(d) absorption or evaporation of objectionable effluents in the open pit itself; and

(e) prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by fencing, warning signs, and other devices that may reasonably be required by the department.

(8) Provisions for vegetative cover must be required in the reclamation plan if appropriate to the future use of the land as specified in the reclamation plan. The reestablished vegetative cover must meet county standards for noxious weed control.

(9) (a) With regard to disturbed land other than open pits and rock faces, the reclamation plan must provide for the reclamation of all disturbed land to comparable utility and stability as that of adjacent areas.

(b) With regard to open pits and rock faces, the reclamation plan must provide SUFFICIENT MEASURES for reclamation to a condition:

~~(i) of stability structurally that provides structural stability competent to withstand geologic and climatic conditions without significant failure that would be a threat to public safety and the environment; and~~

~~—— (ii) that affords some a reasonable degree of utility to humans or and the environment; and the reasonable mitigation of~~

~~—— (iii) that mitigates postreclamation visual contrasts between reclamation lands and adjacent lands based on the site-specific consideration of each purpose in 82-4-302 and consistent with the requirements and standards of this section.~~

~~—— (c) The reclamation of open pits and rock faces does not require backfilling, in whole or in part, except and only to the extent necessary to meet the requirements of Partial or total backfilling may be utilized as a reclamation measure based on a site-specific consideration of each purpose specified in 82-4-302 and consistent with the applicable provisions of Title 75, chapters 2 and 5, and all of the requirements and standards in this section~~

~~(I) OF STABILITY STRUCTURALLY COMPETENT TO WITHSTAND GEOLOGIC AND CLIMATIC CONDITIONS WITHOUT SIGNIFICANT FAILURE THAT WOULD BE A THREAT TO PUBLIC SAFETY AND THE ENVIRONMENT;~~

(II) THAT AFFORDS SOME UTILITY TO HUMANS OR THE ENVIRONMENT;

(III) THAT MITIGATES POSTRECLAMATION VISUAL CONTRASTS BETWEEN RECLAMATION LANDS AND ADJACENT LANDS; AND

(IV) THAT MITIGATES OR PREVENTS UNDESIRABLE OFFSITE ENVIRONMENTAL IMPACTS.

(C) THE USE OF BACKFILLING AS A RECLAMATION MEASURE IS NEITHER REQUIRED NOR PROHIBITED IN ALL CASES. A DEPARTMENT DECISION TO REQUIRE ANY BACKFILL MEASURE MUST BE BASED ON WHETHER AND TO WHAT EXTENT THE BACKFILLING IS APPROPRIATE UNDER THE SITE-SPECIFIC CIRCUMSTANCES AND CONDITIONS IN ORDER TO ACHIEVE THE STANDARDS DESCRIBED IN SUBSECTION (9)(B).

(10) The reclamation plan must provide sufficient measures to ensure public safety and to prevent the pollution of air or water and the degradation of adjacent lands.

(11) A reclamation plan must be approved by the department if it adequately provides for the accomplishment of the requirements and standards set forth in this section.

(12) The reclamation plan must provide for permanent landscaping and contouring to minimize the amount of precipitation that infiltrates into disturbed areas that are to be graded, covered, or vegetated, including but not limited to tailings impoundments and waste rock dumps. The plan must also provide measures to prevent objectionable postmining ground water discharges."

NEW SECTION. **SECTION 2. SEVERABILITY.** IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to permits and permit amendments approved by the department of environmental quality after September 30, 1995.

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