

1 HOUSE BILL NO. 460  
2 INTRODUCED BY S. GUNDERSON

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS FOR TRANSFERRING HARD ROCK  
5 MINING PERMITS UNDER CERTAIN CONDITIONS; CLARIFYING TIMELINES; AMENDING SECTION 82-4-  
6 341, MCA; REPEALING SECTION 6, CHAPTER 458, LAWS OF 2019; AND PROVIDING AN IMMEDIATE  
7 EFFECTIVE DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 **Section 1.** Section 82-4-341, MCA, is amended to read:

12 **"82-4-341. (Temporary) Compliance -- reclamation by department.** (1) The department shall  
13 cause the permit area to be inspected at least annually to determine whether the permittee has complied with  
14 this part, the rules adopted under this part, or the permit.

15 (2) The permittee shall proceed with reclamation as scheduled in the approved reclamation plan or  
16 as required pursuant to subsection (9). Following written notice by the department noting deficiencies, the  
17 permittee shall commence action within 30 days to rectify these deficiencies and shall diligently proceed until  
18 the deficiencies are corrected. Deficiencies that also violate other laws that require earlier rectification must be  
19 corrected in accordance with the applicable time provisions of those laws. The department may extend  
20 performance periods referred to in 82-4-336 and in this section for delays clearly beyond the permittee's control,  
21 but only when the permittee is, in the opinion of the department, making every reasonable effort to comply.

22 (3) Within 30 days after notification by the permittee and when, in the judgment of the department,  
23 reclamation of a unit of disturbed land area is properly completed, the department shall provide the public  
24 notice and conduct any hearing requested pursuant to 82-4-338. As soon as practicable after notice and  
25 hearing, the permittee must be notified in writing and the bond on the area must be released or decreased  
26 proportionately to the acreage included within the bond coverage.

27 (4) The department shall cause the bond to be forfeited if:

28 (a) reclamation of disturbed land is not pursued in accordance with the reclamation plan and the

1 permittee has not commenced action to rectify deficiencies within 30 days after notification by the department;

2 (b) reclamation is not properly completed in conformance with the reclamation plan within 2 years  
3 after completion or abandonment of operation on any fraction of the permit area or within a longer period that  
4 may have been authorized under this part; or

5 (c) after default by the permittee, the surety either refuses or fails to perform the work to the  
6 satisfaction of the department within the time required.

7 (5) The department shall notify the permittee and the surety by certified mail. If the bond is not paid  
8 within 30 days after receipt of the notice, the attorney general, upon request of the department, shall bring an  
9 action on behalf of the state in district court.

10 (6) The department may, with the staff, equipment, and material under its control or by contract  
11 with others, take any necessary actions for required reclamation of the disturbed lands according to the existing  
12 reclamation plan or a modified reclamation plan if the department makes a written finding that the modifications  
13 are necessary to prevent a violation of Title 75, chapter 2 or 5, or to prevent a substantial reclamation failure.  
14 Except in an environmental emergency, work provided for in this section must be let on the basis of competitive  
15 bidding. The department shall keep a record of all necessary expenses incurred in carrying out the work or  
16 activity authorized under this section, including a reasonable charge for the services performed by the state's  
17 personnel and the state's equipment and materials used. The surety is liable to the state to the extent of the  
18 bond. The permittee is liable for the remainder of the cost. Upon completion of the reclamation, the department  
19 shall return to the surety any amount not expended, including any unexpended interest accrued on bond  
20 proceeds, unless otherwise agreed to in writing by the surety.

21 (7) In addition to the other liabilities imposed by this part, failure to commence an action to remedy  
22 specific deficiencies in reclamation within 30 days after notification by the department or failure to satisfactorily  
23 complete reclamation work on any segment of the permit area within 2 years or within a longer period that the  
24 department may permit on the permittee's application or on the department's own motion, after completion or  
25 abandonment of operations on any segment of the permit area, constitutes sufficient grounds for cancellation of  
26 a permit or license and refusal to issue another permit or license to the applicant. A cancellation action may not  
27 be effected while an appeal is pending from any ruling requiring the cancellation of a permit or license.

28 (8) (a) Except as provided in subsection (8)(e), the department may hold a permit suspended

1 pursuant to 82-4-338 for up to 5 years and place the proceeds from a cash bond forfeited under this section in  
2 an interest-bearing account if mining of the ore body identified in the permit or a permit amendment application  
3 is not complete. The 5-year period begins on the date the department takes possession of the bond proceeds.

4 (b) The department may spend bond proceeds from the account during the suspension period to:  
5 (i) perform maintenance, monitoring, and other actions required by the permit;  
6 (ii) abate imminent danger to public health, public safety, or the environment; or  
7 (iii) abate conditions that violate the provisions of Title 75, chapters 2 and 5, or conditions that may  
8 cause violations of those provisions.

9 (c) The department may transfer a permit suspended under this section as provided by 82-4-340.  
10 The balance of funds in the account must be retained as a cash bond on behalf of the successor operator.

11 (d) The department may revoke a permit suspended under this section if a transfer is not  
12 completed within 5 years of the suspension. In the case of a revoked permit, reclamation may proceed pursuant  
13 to subsection (6).

14 (e) The department may extend a suspension up to 6 months if a potential successor operator is  
15 exercising reasonable diligence to complete the transfer. If litigation precludes the transfer, the suspension is  
16 stayed until the litigation is resolved.

17 (9) (a) If at the time of bond review pursuant to 82-4-338 no mineral extraction or ore processing  
18 has occurred on a mine permit area for the past 5 years, the department shall determine whether further  
19 suspension of the operation will create conditions that will cause violations of Title 75, chapter 2 or 5, or  
20 significantly impair reclamation of disturbed areas. If the department determines in writing that violations of Title  
21 75, chapter 2 or 5, or significant impairment of reclamation will occur, the department shall notify the permittee  
22 that the permittee shall, within a reasonable time specified in the notice, abate the conditions or commence  
23 reclamation. The department may grant reasonable extensions of time for good cause shown. If the permittee  
24 does not abate the conditions or commence reclamation within the time specified in the notice and any  
25 extensions, the department shall order either that the condition be abated or that reclamation be commenced.

26 (b) The permittee may request a hearing on the order by submitting a written request for hearing  
27 within 30 days of receipt of the order. A request for hearing stays the order pending a final decision, unless the  
28 department determines in writing that the stay will create an imminent threat of significant environmental harm

1 or will significantly impair reclamation. (~~Terminates June 30, 2026--sec. 6, Ch. 458, L. 2019.~~)

2 **82-4-341. (Effective July 1, 2026) Compliance -- reclamation by department.** (1) The department  
3 shall cause the permit area to be inspected at least annually to determine whether the permittee has complied  
4 with this part, the rules adopted under this part, or the permit.

5 (2) ~~The permittee shall proceed with reclamation as scheduled in the approved reclamation plan or as~~  
6 ~~required pursuant to subsection (8). Following written notice by the department noting deficiencies, the~~  
7 ~~permittee shall commence action within 30 days to rectify these deficiencies and shall diligently proceed until~~  
8 ~~the deficiencies are corrected. Deficiencies that also violate other laws that require earlier rectification must be~~  
9 ~~corrected in accordance with the applicable time provisions of those laws. The department may extend~~  
10 ~~performance periods referred to in 82-4-336 and in this section for delays clearly beyond the permittee's control,~~  
11 ~~but only when the permittee is, in the opinion of the department, making every reasonable effort to comply.~~

12 (3) ~~Within 30 days after notification by the permittee and when, in the judgment of the department,~~  
13 ~~reclamation of a unit of disturbed land area is properly completed, the department shall provide the public~~  
14 ~~notice and conduct any hearing requested pursuant to 82-4-338. As soon as practicable after notice and~~  
15 ~~hearing, the permittee must be notified in writing and the bond on the area must be released or decreased~~  
16 ~~proportionately to the acreage included within the bond coverage.~~

17 (4) ~~The department shall cause the bond to be forfeited if:~~

18 (a) ~~reclamation of disturbed land is not pursued in accordance with the reclamation plan and the~~  
19 ~~permittee has not commenced action to rectify deficiencies within 30 days after notification by the department;~~

20 (b) ~~reclamation is not properly completed in conformance with the reclamation plan within 2 years~~  
21 ~~after completion or abandonment of operation on any fraction of the permit area or within a longer period that~~  
22 ~~may have been authorized under this part; or~~

23 (c) ~~after default by the permittee, the surety either refuses or fails to perform the work to the~~  
24 ~~satisfaction of the department within the time required.~~

25 (5) ~~The department shall notify the permittee and the surety by certified mail. If the bond is not paid~~  
26 ~~within 30 days after receipt of the notice, the attorney general, upon request of the department, shall bring an~~  
27 ~~action on behalf of the state in district court.~~

28 (6) ~~The department may, with the staff, equipment, and material under its control or by contract with~~

1 others, take any necessary actions for required reclamation of the disturbed lands according to the existing  
2 reclamation plan or a modified reclamation plan if the department makes a written finding that the modifications  
3 are necessary to prevent a violation of Title 75, chapter 2 or 5, or to prevent a substantial reclamation failure.  
4 Except in an environmental emergency, work provided for in this section must be let on the basis of competitive  
5 bidding. The department shall keep a record of all necessary expenses incurred in carrying out the work or  
6 activity authorized under this section, including a reasonable charge for the services performed by the state's  
7 personnel and the state's equipment and materials used. The surety is liable to the state to the extent of the  
8 bond. The permittee is liable for the remainder of the cost. Upon completion of the reclamation, the department  
9 shall return to the surety any amount not expended, including any unexpended interest accrued on bond  
10 proceeds, unless otherwise agreed to in writing by the surety.

11 (7) ~~In addition to the other liabilities imposed by this part, failure to commence an action to remedy  
12 specific deficiencies in reclamation within 30 days after notification by the department or failure to satisfactorily  
13 complete reclamation work on any segment of the permit area within 2 years or within a longer period that the  
14 department may permit on the permittee's application or on the department's own motion, after completion or  
15 abandonment of operations on any segment of the permit area, constitutes sufficient grounds for cancellation of  
16 a permit or license and refusal to issue another permit or license to the applicant. A cancellation action may not  
17 be effected while an appeal is pending from any ruling requiring the cancellation of a permit or license.~~

18 (8) ~~(a) If at the time of bond review pursuant to 82-4-338 no mineral extraction or ore processing has  
19 occurred on a mine permit area for the past 5 years, the department shall determine whether further  
20 suspension of the operation will create conditions that will cause violations of Title 75, chapter 2 or 5, or  
21 significantly impair reclamation of disturbed areas. If the department determines in writing that violations of Title  
22 75, chapter 2 or 5, or significant impairment of reclamation will occur, the department shall notify the permittee  
23 that the permittee shall, within a reasonable time specified in the notice, abate the conditions or commence  
24 reclamation. The department may grant reasonable extensions of time for good cause shown. If the permittee  
25 does not abate the conditions or commence reclamation within the time specified in the notice and any  
26 extensions, the department shall order either that the condition be abated or that reclamation be commenced.~~

27 (b) ~~The permittee may request a hearing on the order by submitting a written request for hearing  
28 within 30 days of receipt of the order. A request for hearing stays the order pending a final decision, unless the~~

1 ~~department determines in writing that the stay will create an imminent threat of significant environmental harm~~  
2 ~~or will significantly impair reclamation."~~

3

4 NEW SECTION. **Section 2. Repealer.** Section 6, Chapter 458, Laws of 2019, is repealed.

5

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

7

- END -