

1 ^H BILL NO. 197
 2 INTRODUCED BY Quilisa Lynch Harrington
 3 BY REQUEST OF DEPARTMENT OF STATE LANDS
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME FOR
 6 ACTING ON OPERATING PERMIT APPLICATIONS UNDER THE HARD-ROCK
 7 MINE RECLAMATION LAW; DEFINING TERMS; AMENDING SECTION
 8 50-1210, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE
 9 DATE."
 10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 50-1210, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-1210. Inspection of mining site -- issuance of
 15 operating permit -- modification of reclamation plan --
 16 succession to interest in uncompleted mining operation. Upon
 17 receipt of an application for an operating permit the mining
 18 site shall be inspected by the department within sixty (60)
 19 days of receipt of the complete application and reclamation
 20 plan by the board and receipt of the permit fee the board
 21 shall either issue an operating permit to the applicant or
 22 return any incomplete or inadequate application to the
 23 applicant along with a description of the deficiencies.
 24 Failure of the board to so act within that period shall
 25 constitute approval of the application and the permit shall

1 ~~be issued promptly thereafter. (1) Within 60 days of receipt~~
 2 ~~of a complete application, the department shall determine~~
 3 ~~whether a draft environmental impact statement is required~~
 4 ~~under the Montana Environmental Policy Act. If an impact~~
 5 ~~statement is not required, the board shall, within 120 days~~
 6 ~~of receipt of a complete application, grant the permit or~~
 7 ~~inform the applicant of the deficiencies in the application.~~
 8 ~~If an impact statement is required, the board must either~~
 9 ~~grant a permit or deny the permit within 365 days of receipt~~
 10 ~~of a complete application. Prior to issuance of a permit,~~
 11 ~~the department shall inspect the site. If the site is not~~
 12 ~~accessible due to extended adverse weather conditions, the~~
 13 ~~department may extend the time periods to allow inspection~~
 14 ~~of the site and reasonable review. The department must serve~~
 15 ~~written notice of extension upon the applicant in person or~~
 16 ~~by certified mail, and any such extension is subject to~~
 17 ~~appeal to the board in accordance with the Montana~~
 18 ~~Administrative Procedure Act. Failure of the board to act~~
 19 ~~upon a complete application within the period prescribed or~~
 20 ~~any extension thereof constitutes approval of the~~
 21 ~~application and the permit shall be issued promptly~~
 22 ~~thereafter.~~

23 (2) The operating permit shall be granted for the
 24 period required to mine the land covered by the plan and
 25 shall be valid until the surface or underground mining

1 authorized by the permit is completed or abandoned, unless
 2 the permit is suspended or revoked by the board as provided
 3 in this act. The operating permit shall provide that the
 4 reclamation plan may be modified by the board, upon proper
 5 application of the permittee, or department, after timely
 6 notice and opportunity for hearing, at any time during the
 7 term of the permit and for any of the following reasons:

8 (a) To ~~to~~ modify the requirements so they will not
 9 conflict with existing laws;

10 (b) ~~The when the~~ previously adopted reclamation plan
 11 is impossible or impracticable to implement and maintain;

12 (c) ~~When when~~ significant environmental problem
 13 situations are revealed by field inspection.

14 ~~(3)~~ When one ~~(1)~~ operator succeeds to the interest of
 15 another in any uncompleted mining operation by sale,
 16 assignment, lease, or otherwise, the board may release the
 17 first operator from the duties imposed upon him by this act
 18 as to such operation~~s~~, provided~~y~~ that both operators have
 19 complied with the requirements of this act and the successor
 20 operator assumes the duty of the former operator to complete
 21 the reclamation of the land, in which case the board shall
 22 transfer the permit to the successor operator upon approval
 23 of the successor operator's bond as required under this
 24 act.*

25 Section 2. Effective date. This act is effective upon

1 its passage and approval.

-End-

Approved by Committee
on Natural Resources

HOUSE BILL NO. 197

INTRODUCED BY QUILICI, LYNCH, HARRINGTON
BY REQUEST OF DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME FOR
ACTING ON OPERATING PERMIT APPLICATIONS UNDER THE HARD-ROCK
MINE RECLAMATION LAW; DEFINING TERMS; AMENDING SECTION
50-1210, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE."

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

Section 1. Section 50-1210, R.C.M. 1947, is amended to
read as follows:

"50-1210. Inspection of mining site -- issuance of
operating permit -- modification of reclamation plan --
succession to interest in uncompleted mining operation. Upon
~~receipt of an application for an operating permit the mining
site shall be inspected by the department within sixty (60)
days of receipt of the complete application and reclamation
plan by the board and receipt of the permit fee the board
shall either issue an operating permit to the applicant or
return any incomplete or inadequate application to the
applicant along with a description of the deficiencies.
Failure of the board to so act within that period shall
constitute approval of the application and the permit shall~~

~~be issued promptly thereafter. (1) Within 60 days of receipt
of a complete application, the department shall determine
whether a draft environmental impact statement is required
under the Montana Environmental Policy Act. If an impact
statement is not required, the board shall, within 120 days
of receipt of a complete application, grant the permit or
inform the applicant of the deficiencies in the application.
If an impact statement is required, the board must either
grant a permit or deny the permit within 365 days of receipt
of a complete application. Prior to issuance of a permit,
the department shall inspect the site. If the site is not
accessible due to extended adverse weather conditions, the
department may extend the time periods to allow inspection
of the site and reasonable review. The department must serve
written notice of extension upon the applicant in person or
by certified mail, and any such extension is subject to
appeal to the board in accordance with the Montana
Administrative Procedure Act. Failure of the board to act
upon a complete application within the period prescribed or
any extension thereof constitutes approval of the
application and the permit shall be issued promptly
thereafter.~~

(2) The operating permit shall be granted for the
period required to mine the land covered by the plan and
shall be valid until the surface or underground mining

1 authorized by the permit is completed or abandoned, unless
 2 the permit is suspended or revoked by the board as provided
 3 in this act. The operating permit shall provide that the
 4 reclamation plan may be modified by the board, upon proper
 5 application of the permittee, or department, after timely
 6 notice and opportunity for hearing, at any time during the
 7 term of the permit and for any of the following reasons:

8 (a) ~~To~~ ~~to~~ modify the requirements so they will not
 9 conflict with existing laws;

10 (b) ~~The~~ ~~when~~ ~~the~~ previously adopted reclamation plan
 11 is impossible or impracticable to implement and maintain;

12 (c) ~~When~~ ~~when~~ significant environmental problem
 13 situations are revealed by field inspection.

14 (3) When one ~~(1)~~ operator succeeds to the interest of
 15 another in any uncompleted mining operation by sale,
 16 assignment, lease, or otherwise, the board may release the
 17 first operator from the duties imposed upon him by this act
 18 as to such operation~~s~~, provided, that both operators have
 19 complied with the requirements of this act and the successor
 20 operator assumes the duty of the former operator to complete
 21 the reclamation of the land, in which case the board shall
 22 transfer the permit to the successor operator upon approval
 23 of the successor operator's bond as required under this act.

24 ~~(4) THIS ACT SHALL NOT APPLY TO APPLICATIONS FILED~~
 25 ~~WITH THE DEPARTMENT PRIOR TO JANUARY 1, 1977, AND FOR WHICH~~

1 ~~AN AGREEMENT HAS BEEN SIGNED, AND FOR SO LONG AS IT~~
 2 ~~CONTINUES, EXTENDING THE 60-DAY REVIEW PERIOD PRESENTLY~~
 3 ~~CONTAINED IN 50-1210."~~

4 Section 2. Effective date. This act is effective upon
 5 its passage and approval.

-End-

HOUSE BILL NO. 197

INTRODUCED BY QUILICI, LYNCH, HARRINGTON
 BY REQUEST OF DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME FOR
 ACTING ON OPERATING PERMIT APPLICATIONS UNDER THE HARD-ROCK
 MINE RECLAMATION LAW; DEFINING TERMS; AMENDING SECTION
 50-1210, R.C.M. 1947; AND PROVIDING AN IMMEDIATE EFFECTIVE
 DATE."

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

Section 1. Section 50-1210, R.C.M. 1947, is amended to
 read as follows:

~~"50-1210. Inspection of mining site -- issuance of
 operating permit -- modification of reclamation plan --
 succession to interest in uncompleted mining operation. Upon
 receipt of an application for an operating permit the mining
 site shall be inspected by the department. Within sixty (60)
 days of receipt of the complete application and reclamation
 plan by the board and receipt of the permit fees the board
 shall either issue an operating permit to the applicant or
 return any incomplete or inadequate application to the
 applicant along with a description of the deficiencies.
 Failure of the board to so act within that period shall
 constitute approval of the application and the permit shall~~

~~be issued promptly thereafter. (1) Within 60 days of receipt
 of a complete application, the department shall determine
 whether a draft environmental impact statement is required
 under the Montana Environmental Policy Act. If an impact
 statement is not required, the board shall, within 120 days
 of receipt of a complete application, grant the permit or
 inform the applicant of the deficiencies in the application.
 If an impact statement is required, the board must either
 grant a permit or deny the permit within 365 days of receipt
 of a complete application. Prior to issuance of a permit,
 the department shall inspect the site. If the site is not
 accessible due to extended adverse weather conditions, the
 department may extend the time periods to allow inspection
 of the site and reasonable review. The department must serve
 written notice of extension upon the applicant in person or
 by certified mail, and any such extension is subject to
 appeal to the board in accordance with the Montana
 Administrative Procedure Act. Failure of the board to act
 upon a complete application within the period prescribed or
 any extension thereof constitutes approval of the
 application and the permit shall be issued promptly
 thereafter.~~

(2) The operating permit shall be granted for the
 period required to mine the land covered by the plan and
 shall be valid until the surface or underground mining

1 authorized by the permit is completed or abandoned, unless
 2 the permit is suspended or revoked by the board as provided
 3 in this act. The operating permit shall provide that the
 4 reclamation plan may be modified by the board, upon proper
 5 application of the permittee, or department, after timely
 6 notice and opportunity for hearing, at any time during the
 7 term of the permit and for any of the following reasons:

8 (a) To ~~to~~ modify the requirements so they will not
 9 conflict with existing laws;

10 (b) ~~The~~ ~~when the~~ previously adopted reclamation plan
 11 is impossible or impracticable to implement and maintain;

12 (c) ~~When~~ ~~when~~ significant environmental problem
 13 situations are revealed by field inspection.

14 (3) When one ~~{}~~ operator succeeds to the interest of
 15 another in any uncompleted mining operation by sale,
 16 assignment, lease, or otherwise, the board may release the
 17 first operator from the duties imposed upon him by this act
 18 as to such operation~~s~~, provided, that both operators have
 19 complied with the requirements of this act and the successor
 20 operator assumes the duty of the former operator to complete
 21 the reclamation of the land, in which case the board shall
 22 transfer the permit to the successor operator upon approval
 23 of the successor operator's bond as required under this act.

24 (4) ~~THIS ACT SHALL NOT APPLY TO APPLICATIONS FILED~~
 25 ~~WITH THE DEPARTMENT PRIOR TO JANUARY 1, 1977, AND FOR WHICH~~

1 ~~AN AGREEMENT HAS BEEN SIGNED, AND FOR SO LONG AS IT~~
 2 ~~CONTINUES, EXTENDING THE 60-DAY REVIEW PERIOD PRESENTLY~~
 3 ~~CONTAINED IN 50-1210."~~

4 Section 2. Effective date. This act is effective upon
 5 its passage and approval.

-End-

April 5, 1977

SENATE
STANDING COMMITTEE REPORT
Natural Resources

That House Bill No. 197, third reading, be amended as follows:

1. Amend title, lines 7 and 8.

Following: "TERMS;"

Insert: "PROVIDING FOR NOTICE;"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "50-1210"

Insert: "AND 50-1216"

2. Amend page 2, section 1, lines 1 through 9.

Following: "(1)"

Strike: line 1 through line 9 in their entirety.

3. Amend page 2, section 1, line 10.

Following: line 9

Strike: "of a complete application."

Insert: "(a) Unless the time period is extended under the provisions of [subsection (1) (b) of this section], the board shall either issue an operating permit to the applicant or return any incomplete or inadequate application, along with a description of the deficiencies, within 60 days of receipt of the complete application and reclamation plan by the board and receipt of the permit fee. (b) (i)"

4. Amend page 2, section 1, line 13.

Following: "extend the"

Insert: "60-day"

Following: "time"

Strike: "periods"

Insert: "period, by not more than 180 days,"

5. Amend page 2, section 1, line 18.

Following: "Act."

Insert: "(ii) If the department determines that additional time is needed to review the application and reclamation plan for a major operation, the department and the applicant shall negotiate to extend the 60-day period by not more than 365 days in order to permit reasonable review. (c)"

6. Amend page 4, section 1, line 4.

Following: line 3

Insert: "Section 2. Section 50-1216, R.C.M. 1947, is amended to read as follows:

"50-1216. Administrative remedies--notice--parties. (1) Upon receipt of an application for an operating permit, the department shall provide notice of the application by publication in a newspaper of general circulation in the area to be affected by the operation. The notice shall be published once a week for 3 successive weeks.

April 5, 1977
Page 2
House Bill No. 197

(2) All hearings and appeal procedures shall be in accordance with the Administrative Procedure Act. Any person whose interests may be adversely affected as a result of an action taken pursuant to this act may become a party to any proceeding held hereunder upon a showing that such person is capable of adequately representing the interests claimed.

(3) As used in this section, "person" means any individual, corporation, partnership, or other legal entity.

Renumber: subsequent section.

1 HOUSE BILL NO. 197

2 INTRODUCED BY QUILICI, LYNCH, HARRINGTON

3 BY REQUEST OF DEPARTMENT OF STATE LANDS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE TIME FOR
6 ACTING ON OPERATING PERMIT APPLICATIONS UNDER THE HARD-ROCK
7 MINE RECLAMATION LAW; DEFINING TERMS; PROVIDING FOR NOTICE;
8 AMENDING ~~SECTION~~ SECTIONS 50-1210 AND 50-1216, R.C.M. 1947;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 Section 1. Section 50-1210, R.C.M. 1947, is amended to
13 read as follows:

14 "50-1210. Inspection of mining site -- issuance of
15 operating permit -- modification of reclamation plan --
16 succession to interest in uncompleted mining operation. Upon
17 ~~receipt of an application for an operating permit the mining~~
18 ~~site shall be inspected by the department within sixty (60)~~
19 ~~days of receipt of the complete application and reclamation~~
20 ~~plan by the board and receipt of the permit fees the board~~
21 ~~shall either issue an operating permit to the applicant or~~
22 ~~return any incomplete or inadequate application to the~~
23 ~~applicant along with a description of the deficiencies.~~
24 ~~Failure of the board to so act within that period shall~~
25 ~~constitute approval of the application and the permit shall~~

1 ~~be issued promptly thereafter. (1) Within 60 days of receipt~~
2 ~~of a complete application, the department shall determine~~
3 ~~whether a draft environmental impact statement is required~~
4 ~~under the Montana Environmental Policy Act. If an impact~~
5 ~~statement is not required, the board shall, within 120 days~~
6 ~~of receipt of a complete application, grant the permit or~~
7 ~~inform the applicant of the deficiencies in the application.~~
8 ~~If an impact statement is required, the board must either~~
9 ~~grant a permit or deny the permit within 365 days of receipt~~
10 ~~of a complete application. (A) UNLESS THE TIME PERIOD IS~~
11 ~~EXTENDED UNDER THE PROVISIONS OF [SUBSECTION (1)(B) OF THIS~~
12 ~~SECTION], THE BOARD SHALL EITHER ISSUE AN OPERATING PERMIT~~
13 ~~TO THE APPLICANT OR RETURN ANY INCOMPLETE OR INADEQUATE~~
14 ~~APPLICATION, ALONG WITH A DESCRIPTION OF THE DEFICIENCIES,~~
15 ~~WITHIN 60 DAYS OF RECEIPT OF THE COMPLETE APPLICATION AND~~
16 ~~RECLAMATION PLAN BY THE BOARD AND RECEIPT OF THE PERMIT FEE.~~
17 (B) (1) Prior to issuance of a permit, the department
18 shall inspect the site. If the site is not accessible due to
19 extended adverse weather conditions, the department may
20 extend the 60-DAY time period, BY NOT MORE THAN 180
21 DAYS, to allow inspection of the site and reasonable review.
22 The department must serve written notice of extension upon
23 the applicant in person or by certified mail, and any such
24 extension is subject to appeal to the board in accordance
25 with the Montana Administrative Procedure Act.

1 (1) IF THE DEPARTMENT DETERMINES THAT ADDITIONAL TIME
 2 IS NEEDED TO REVIEW THE APPLICATION AND RECLAMATION PLAN FOR
 3 A MAJOR OPERATION, THE DEPARTMENT AND THE APPLICANT SHALL
 4 NEGOTIATE TO EXTEND THE 60-DAY PERIOD BY NOT MORE THAN 365
 5 DAYS IN ORDER TO PERMIT REASONABLE REVIEW.

6 (C) Failure of the board to act upon a complete
 7 application within the period prescribed or any extension
 8 thereof constitutes approval of the application and the
 9 permit shall be issued promptly thereafter.

10 (2) The operating permit shall be granted for the
 11 period required to mine the land covered by the plan and
 12 shall be valid until the surface or underground mining
 13 authorized by the permit is completed or abandoned, unless
 14 the permit is suspended or revoked by the board as provided
 15 in this act. The operating permit shall provide that the
 16 reclamation plan may be modified by the board, upon proper
 17 application of the permittee, or department, after timely
 18 notice and opportunity for hearing, at any time during the
 19 term of the permit and for any of the following reasons:

20 (a) To modify the requirements so they will not
 21 conflict with existing laws;

22 (b) The when the previously adopted reclamation plan
 23 is impossible or impracticable to implement and maintain;

24 (c) When when significant environmental problem
 25 situations are revealed by field inspection.

1 (3) When one operator succeeds to the interest of
 2 another in any uncompleted mining operation by sale,
 3 assignment, lease, or otherwise, the board may release the
 4 first operator from the duties imposed upon him by this act
 5 as to such operation, provided that both operators have
 6 complied with the requirements of this act and the successor
 7 operator assumes the duty of the former operator to complete
 8 the reclamation of the land, in which case the board shall
 9 transfer the permit to the successor operator upon approval
 10 of the successor operator's bond as required under this act.

11 (4) THIS ACT SHALL NOT APPLY TO APPLICATIONS FILED
 12 WITH THE DEPARTMENT PRIOR TO JANUARY 1, 1977, AND FOR WHICH
 13 AN AGREEMENT HAS BEEN SIGNED, AND FOR SO LONG AS IT
 14 CONTINUES, EXTENDING THE 60-DAY REVIEW PERIOD PRESENTLY
 15 CONTAINED IN 50-1210."

16 SECTION 2. SECTION 50-1216, R.C.M. 1947, IS AMENDED TO
 17 READ AS FOLLOWS:

18 *50-1216. Administrative remedies -- notice --
 19 parties. (1) Upon receipt of an application for an operating
 20 permit, the department shall provide notice of the
 21 application by publication in a newspaper of general
 22 circulation in the area to be affected by the operation. The
 23 notice shall be published once a week for 3 successive
 24 weeks.

25 (2) All hearings and appeal procedures shall be in

1 accordance with the Administrative Procedure Act. Any
2 person whose interests may be adversely affected as a
3 result of an action taken pursuant to this act may become a
4 party to any proceeding held hereunder upon a showing that
5 such person is capable of adequately representing the
6 interests claimed.

7 ~~(3) As used in this section, "person" means any~~
8 ~~individual, corporation, partnership, or other legal~~
9 ~~entity."~~

10 Section 3. Effective date. This act is effective upon
11 its passage and approval.