

HB 629 INTRODUCED BY REAM, ET AL.
GENERALLY REVISES THE METAL MINE RECLAMATION LAWS
BY REQUEST OF DEPARTMENT OF STATE LANDS

2/06	INTRODUCED		
2/06	REFERRED TO NATURAL RESOURCES		
2/11	HEARING		
2/14	COMMITTEE REPORT--BILL PASSED		
2/17	2ND READING PASSED	87	5
2/18	3RD READING PASSED	81	5
	TRANSMITTED TO SENATE		
2/19	REFERRED TO NATURAL RESOURCES		
3/23	HEARING		
3/27	ADVERSE COMMITTEE REPORT ADOPTED	29	6
3/28	RETURNED TO HOUSE NOT CONCURRED		

1 House BILL NO. 629
 2 INTRODUCED BY Bob Ream
 3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO METAL MINE RECLAMATION; AND AMENDING
 7 SECTIONS 82-4-303, 82-4-305, AND 82-4-335, MCA."
 8

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

10 Section 1. Section 82-4-303, MCA, is amended to read:
 11 "82-4-303. Definitions. As used in this part, unless
 12 the context indicates otherwise, the following definitions
 13 apply:

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

17 (2) "Board" means the board of land commissioners or
 18 such state employee or state agency as may succeed to its
 19 powers and duties under this part.

20 (3) "Department" means the department of state lands.

21 (4) "Disturbed land" means that area of land or
 22 surface water disturbed, beginning at the date of the
 23 issuance of the permit, and it comprises that area from
 24 which the overburden, tailings, waste materials, or minerals
 25 have been removed and tailings ponds, waste dumps, roads,

1 conveyor systems, leach dumps, and all similar excavations
 2 or covering resulting from the operation and which have not
 3 been previously reclaimed under the reclamation plan.

4 (5) "Exploration" means all activities conducted on or
 5 beneath the surface of lands resulting in material
 6 disturbance of the surface for the purpose of determining
 7 the presence, location, extent, depth, grade, and economic
 8 viability of mineralization in those lands, if any, other
 9 than mining for production and economic exploitation, as
 10 well as all roads made for the purpose of facilitating
 11 exploration, except as noted in 82-4-305--and 82-4-310 and
 12 work performed by prospectors.

13 (6) "Mineral" means any ore, rock, or substance, other
 14 than oil, gas, bentonite, clay, coal, sand, gravel,
 15 phosphate rock, or uranium, taken from below the surface or
 16 from the surface of the earth for the purpose of milling,
 17 concentration, refinement, smelting, manufacturing, or other
 18 subsequent use or processing or for stockpiling for future
 19 use, refinement, or smelting.

20 (7) "Mineral processing reagents" means:

21 (a) those chemical reagents used in mineral flotation
 22 processes, including but not limited to frothers,
 23 collectors, and inhibitors; and

24 (b) chemical reagents used in leaching operations,
 25 including but not limited to cyanide compounds, acids, and

1 thiourea.

2 ~~{7}~~{8} "Mining" commences at such time as the operator
3 first mines ores or minerals in commercial quantities for
4 sale, beneficiation, refining, or other processing or
5 disposition or first takes bulk samples for metallurgical
6 testing in excess of aggregate of 10,000 short tons.

7 {9} "Mining claim group" means two or more contiguous
8 unpatented mining claims.

9 ~~{8}~~{10} "Ore processing" means milling, heap leaching,
10 flotation, vat leaching, or other standard hard-rock mineral
11 concentration processes.

12 ~~{9}~~{11} "Person" means any person, corporation, firm,
13 association, partnership, or other legal entity engaged in
14 exploration for or mining of minerals on or below the
15 surface of the earth, reprocessing of tailings or waste
16 materials, or operation of a hard-rock mill.

17 {12} "Prospector" means an individual, firm, or
18 corporation that performs discovery or annual assessment
19 work valued at \$100 or less a year for an unpatented mining
20 claim or assessment work valued at \$1,000 or less a year for
21 a mining claim group.

22 ~~{10}~~{13} "Reclamation plan" means the operator's
23 written proposal, as required and approved by the board, for
24 reclamation of the land that will be disturbed, which
25 proposal shall include, to the extent practical at the time

1 of application for an operating permit:

2 (a) a statement of the proposed subsequent use of the
3 land after reclamation;

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

8 (c) the manner and type of revegetation or other
9 surface treatment of disturbed areas;

10 (d) procedures proposed to avoid foreseeable
11 situations of public nuisance, endangerment of public
12 safety, damage to human life or property, or unnecessary
13 damage to flora and fauna in or adjacent to the area;

14 (e) the method of disposal of mining debris;

15 (f) the method of diverting surface waters around the
16 disturbed areas where necessary to prevent pollution of
17 those waters or unnecessary erosion;

18 (g) the method of reclamation of stream channels and
19 stream banks to control erosion, siltation, and pollution;

20 (h) such maps and other supporting documents as may be
21 reasonably required by the department; and

22 (i) a time schedule for reclamation that meets the
23 requirements of 82-4-336.

24 ~~{11}~~{14} (a) "Small miner" means a person, firm, or
25 corporation that engages in the business of mining or

1 reprocessing of tailings or waste materials that does not
 2 remove from the earth during any calendar year material in
 3 excess of 36,500 tons in the aggregate;--that--holds--no
 4 operating--permit--under-82-4-335, from a mine complex area,
 5 that does not use any mineral processing reagents, that does
 6 not conduct an operation within the boundary of an operating
 7 permit issued pursuant to 82-4-335 or within the boundary of
 8 an area previously subject to an operating permit if the
 9 permit has been revoked and the area has not been reclaimed,
 10 and that conducts:

11 (i) operations resulting in not more than 5 acres of
 12 the earth's surface being disturbed and unreclaimed; or

13 (ii) two operations which disturb and leave unreclaimed
 14 less than 5 acres per operation if the respective mining
 15 properties are:

16 ~~{A}~~--the--only--operations--engaged--in--by--the--person,
 17 firm, or corporation;

18 ~~{B}~~{A} at least 1 mile apart at their closest point;
 19 and

20 ~~{C}~~{B} not operated simultaneously except during
 21 seasonal transitional periods not to exceed 30 days.

22 (b) For the purpose of this definition only, the
 23 department shall, in computing the area covered by the
 24 operation, exclude access or haulage roads that are required
 25 by a local, state, or federal agency having jurisdiction

1 over that road to be constructed to certain specifications
 2 if that public agency notifies the department in writing
 3 that it desires to have the road remain in use and will
 4 maintain it after mining ceases.

5 ~~{12}~~{15} "Surface mining" means all or any part of the
 6 process involved in mining of minerals by removing the
 7 overburden and mining directly from the mineral deposits
 8 thereby exposed, including but not limited to open-pit
 9 mining of minerals naturally exposed at the surface of the
 10 earth, mining by the auger method, and all similar methods
 11 by which earth or minerals exposed at the surface are
 12 removed in the course of mining. Surface mining does not
 13 include the extraction of oil, gas, bentonite, clay, coal,
 14 sand, gravel, phosphate rock, or uranium or excavation or
 15 grading conducted for on-site farming, on-site road
 16 construction, or other on-site building construction.

17 ~~{13}~~{16} "Underground mining" means all methods of
 18 mining other than surface mining.

19 ~~{14}~~{17} "Unit of surface-mined area" means that area
 20 of land and surface water included within an operating
 21 permit actually disturbed by surface mining during each
 22 12-month period of time, beginning at the date of the
 23 issuance of the permit, and it comprises and includes the
 24 area from which overburden or minerals have been removed,
 25 the area covered by mining debris, and all additional areas

1 used in surface mining or underground mining operations
2 which by virtue of such use are thereafter susceptible to
3 erosion in excess of the surrounding undisturbed portions of
4 land.

5 ~~{15}~~{18} "Vegetative cover" means the type of
6 vegetation, grass, shrubs, trees, or any other form of
7 natural cover considered suitable at time of reclamation."

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

9 "82-4-305. Exemption -- small miners -- written
10 agreement. (1) No provisions of this part shall apply to any
11 small miner when the small miner annually agrees in writing:

12 (a) that he shall not pollute or contaminate any
13 stream;

14 (b) that he shall provide protection for human and
15 animal life through the installation of bulkheads installed
16 over safety collars and the installation of doors on tunnel
17 portals; and

18 (c) that he shall not use any mineral processing
19 reagents; and

20 ~~{c}~~{d} he shall provide a map locating his mining
21 operations. Such map shall be to a size and scale as
22 determined by the department.

23 (2) For small-miner exemptions obtained after
24 September 30, 1985, no small miner may obtain or continue an
25 exemption under subsection (1) unless he annually certifies

1 in writing:

2 (a) if the small miner is a natural person, that:

3 (i) no business association or partnership of which he
4 is a member or partner has a small-miner exemption; and

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

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

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

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

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

18 (i) holds a small-miner exemption;

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

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

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

25 "82-4-335. Operating permit. (1) No person shall

1 engage in mining, ore processing, or reprocessing of
 2 tailings or waste material or construct or operate a
 3 hard-rock mill or use mineral processing reagents or disturb
 4 land in anticipation of those activities in the state
 5 without first obtaining an operating permit from the board
 6 to do so. A separate operating permit shall be required for
 7 each complex. Prior to receiving an operating permit from
 8 the board, any person must pay the basic permit fee of \$25
 9 and must submit an application on a form provided by the
 10 board, which shall contain the following information and any
 11 other pertinent data required by the rules:

12 (a) name and address of the operator and, if a
 13 corporation or other business entity, the name and address
 14 of its principal officers, partners, and the like and its
 15 resident agent for service of process, if required by law;

16 (b) minerals expected to be mined;

17 (c) a proposed reclamation plan;

18 (d) expected starting date of operations;

19 (e) a map showing the specific area to be mined and
 20 the boundaries of the land which will be disturbed,
 21 topographic detail, the location and names of all streams,
 22 roads, railroads, and utility lines on or immediately
 23 adjacent to the area, location of proposed access roads to
 24 be built, and the names and addresses of the surface and
 25 mineral owners of all lands within the mining area, to the

1 extent known to applicant;

2 (f) types of access roads to be built and manner of
 3 reclamation of road sites on abandonment;

4 (g) a plan which will provide, within limits of normal
 5 operating procedures of the industry, for completion of the
 6 operation;

7 (h) ground water and surface water hydrologic data
 8 gathered from a sufficient number of sources and length of
 9 time to characterize the hydrologic regime;

10 (i) a plan detailing the design, operation, and
 11 monitoring of impounding structures, including but not
 12 limited to tailings impoundments and water reservoirs,
 13 sufficient to ensure that such structures are safe and
 14 stable;

15 (j) a plan identifying methods to be used to monitor
 16 for the accidental discharge of objectionable materials and
 17 remedial action plans to be used to control and mitigate
 18 discharges to surface or ground water; and

19 (k) an evaluation of the expected life of any tailings
 20 impoundment or waste area and the potential for expansion of
 21 the tailings impoundment or waste site.

22 (2) Except as provided in subsection (4), the permit
 23 provided for in subsection (1) for a large-scale mineral
 24 development as defined in 90-6-302 shall be conditioned to
 25 provide that activities under the permit may not commence

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

13 (3) When the department determines that a permittee
 14 has become or will become a large-scale mineral developer
 15 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
 16 required under 82-4-339, within 6 months of receiving the
 17 notice, the permittee shall provide the board with proof
 18 that he has obtained a waiver of the impact plan requirement
 19 from the hard-rock mining impact board or that he has filed
 20 an impact plan with the hard-rock mining impact board and
 21 the appropriate county or counties. If the permittee does
 22 not file the required proof or if the hard-rock mining
 23 impact board certifies to the board that the permittee has
 24 failed to comply with the hard-rock mining impact review and
 25 implementation requirements in Title 90, chapter 6, parts 3

1 and 4, the board shall suspend the permit until the
 2 permittee files the required proof or until the hard-rock
 3 mining impact board certifies that the permittee has
 4 complied with the hard-rock mining impact review and
 5 implementation requirements.

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

9 NEW SECTION. Section 4. Prospecting permit. (1)
 10 Except for subsection (2), the provisions of [this part] do
 11 not apply to a prospector who performs the discovery and
 12 minimum assessment requirements of the federal government
 13 for unpatented claims. This exclusion does not apply if the
 14 value of assessment work performed per mining claim exceeds
 15 \$100 per year or \$1,000 per mining claim group per year.
 16 Assessment work within a mining claim group may be allocated
 17 to one or more claims provided that the total cost does not
 18 exceed \$100 per claim multiplied by the number of claims in
 19 the group. In addition, the total lands that are disturbed
 20 and unreclaimed by a prospector, including roads, may not
 21 exceed 16,000 square feet per unpatented claim or 160,000
 22 square feet per mining claim group. The lands that are
 23 disturbed and unreclaimed within a mining claim group may be
 24 allocated to one or more claims provided that the total does
 25 not exceed 16,000 square feet per unpatented claim

1 multiplied by the number of claims in the group. Assessment
2 activities on unpatented claims that exceed these
3 restrictions require an appropriate permit or license as
4 defined in [this part]. All activities on patented claims
5 must qualify for a small miner's exclusion or require an
6 exploration license or an operating permit, as appropriate.

7 (2) Prior to prospecting, as set forth in subsection
8 (1), a prospector shall submit to the department a map of
9 the proposed disturbances, including roads, and a brief
10 description of the proposed operation. The department shall
11 issue a prospecting permit if the proposed operation
12 complies with [this part].

13 NEW SECTION. Section 5. Extension of authority. Any
14 existing authority of the department of state lands or the
15 board of land commissioners to make rules on the subject of
16 the provisions of this act is extended to the provisions of
17 this act.

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1 thiourea.

2 ~~(7)~~(8) "Mining" commences at such time as the operator
3 first mines ores or minerals in commercial quantities for
4 sale, beneficiation, refining, or other processing or
5 disposition or first takes bulk samples for metallurgical
6 testing in excess of aggregate of 10,000 short tons.

7 (9) "Mining claim group" means two or more contiguous
8 unpatented mining claims.

9 ~~(8)~~(10) "Ore processing" means milling, heap leaching,
10 flotation, vat leaching, or other standard hard-rock mineral
11 concentration processes.

12 ~~(9)~~(11) "Person" means any person, corporation, firm,
13 association, partnership, or other legal entity engaged in
14 exploration for or mining of minerals on or below the
15 surface of the earth, reprocessing of tailings or waste
16 materials, or operation of a hard-rock mill.

17 (12) "Prospector" means an individual, firm, or
18 corporation that performs discovery or annual assessment
19 work valued at \$100 or less a year for an unpatented mining
20 claim or assessment work valued at \$1,000 or less a year for
21 a mining claim group.

22 ~~(10)~~(13) "Reclamation plan" means the operator's
23 written proposal, as required and approved by the board, for
24 reclamation of the land that will be disturbed, which
25 proposal shall include, to the extent practical at the time

1 of application for an operating permit:

2 (a) a statement of the proposed subsequent use of the
3 land after reclamation;

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

8 (c) the manner and type of revegetation or other
9 surface treatment of disturbed areas;

10 (d) procedures proposed to avoid foreseeable
11 situations of public nuisance, endangerment of public
12 safety, damage to human life or property, or unnecessary
13 damage to flora and fauna in or adjacent to the area;

14 (e) the method of disposal of mining debris;

15 (f) the method of diverting surface waters around the
16 disturbed areas where necessary to prevent pollution of
17 those waters or unnecessary erosion;

18 (g) the method of reclamation of stream channels and
19 stream banks to control erosion, siltation, and pollution;

20 (h) such maps and other supporting documents as may be
21 reasonably required by the department; and

22 (i) a time schedule for reclamation that meets the
23 requirements of 82-4-336.

24 ~~(11)~~(14) (a) "Small miner" means a person, firm, or
25 corporation that engages in the business of mining or

1 reprocessing of tailings or waste materials that does not
 2 remove from the earth during any calendar year material in
 3 excess of 36,500 tons in the aggregate, ~~that holds no~~
 4 operating permit under 82-4-335, from a mine complex area,
 5 that does not use any mineral processing reagents, that does
 6 not conduct an operation within the boundary of an operating
 7 permit issued pursuant to 82-4-335 or within the boundary of
 8 an area previously subject to an operating permit if the
 9 permit has been revoked and the area has not been reclaimed,
 10 and that conducts:

11 (i) operations resulting in not more than 5 acres of
 12 the earth's surface being disturbed and unreclaimed; or

13 (ii) two operations which disturb and leave unreclaimed
 14 less than 5 acres per operation if the respective mining
 15 properties are:

16 ~~(A) the only operations engaged in by the person,~~
 17 ~~firm, or corporation;~~

18 ~~(B)(A)~~ at least 1 mile apart at their closest point;
 19 and

20 ~~(C)(B)~~ not operated simultaneously except during
 21 seasonal transitional periods not to exceed 30 days.

22 (b) For the purpose of this definition only, the
 23 department shall, in computing the area covered by the
 24 operation, exclude access or haulage roads that are required
 25 by a local, state, or federal agency having jurisdiction

1 over that road to be constructed to certain specifications
 2 if that public agency notifies the department in writing
 3 that it desires to have the road remain in use and will
 4 maintain it after mining ceases.

5 ~~(12)(15)~~ "Surface mining" means all or any part of the
 6 process involved in mining of minerals by removing the
 7 overburden and mining directly from the mineral deposits
 8 thereby exposed, including but not limited to open-pit
 9 mining of minerals naturally exposed at the surface of the
 10 earth, mining by the auger method, and all similar methods
 11 by which earth or minerals exposed at the surface are
 12 removed in the course of mining. Surface mining does not
 13 include the extraction of oil, gas, bentonite, clay, coal,
 14 sand, gravel, phosphate rock, or uranium or excavation or
 15 grading conducted for on-site farming, on-site road
 16 construction, or other on-site building construction.

17 ~~(13)(16)~~ "Underground mining" means all methods of
 18 mining other than surface mining.

19 ~~(14)(17)~~ "Unit of surface-mined area" means that area
 20 of land and surface water included within an operating
 21 permit actually disturbed by surface mining during each
 22 12-month period of time, beginning at the date of the
 23 issuance of the permit, and it comprises and includes the
 24 area from which overburden or minerals have been removed,
 25 the area covered by mining debris, and all additional areas

1 used in surface mining or underground mining operations
2 which by virtue of such use are thereafter susceptible to
3 erosion in excess of the surrounding undisturbed portions of
4 land.

5 ~~{15}~~(18) "Vegetative cover" means the type of
6 vegetation, grass, shrubs, trees, or any other form of
7 natural cover considered suitable at time of reclamation."

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

9 "82-4-305. Exemption -- small miners -- written
10 agreement. (1) No provisions of this part shall apply to any
11 small miner when the small miner annually agrees in writing:

12 (a) that he shall not pollute or contaminate any
13 stream;

14 (b) that he shall provide protection for human and
15 animal life through the installation of bulkheads installed
16 over safety collars and the installation of doors on tunnel
17 portals; and

18 (c) that he shall not use any mineral processing
19 reagents; and

20 ~~(c)~~(d) he shall provide a map locating his mining
21 operations. Such map shall be to a size and scale as
22 determined by the department.

23 (2) For small-miner exemptions obtained after
24 September 30, 1985, no small miner may obtain or continue an
25 exemption under subsection (1) unless he annually certifies

1 in writing:

2 (a) if the small miner is a natural person, that:

3 (i) no business association or partnership of which he
4 is a member or partner has a small-miner exemption; and

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

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

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

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

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

18 (i) holds a small-miner exemption;

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

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

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

25 "82-4-335. Operating permit. (1) No person shall

1 engage in mining, ore processing, or reprocessing of
 2 tailings or waste material or construct or operate a
 3 hard-rock mill or use mineral processing reagents or disturb
 4 land in anticipation of those activities in the state
 5 without first obtaining an operating permit from the board
 6 to do so. A separate operating permit shall be required for
 7 each complex. Prior to receiving an operating permit from
 8 the board, any person must pay the basic permit fee of \$25
 9 and must submit an application on a form provided by the
 10 board, which shall contain the following information and any
 11 other pertinent data required by the rules:

12 (a) name and address of the operator and, if a
 13 corporation or other business entity, the name and address
 14 of its principal officers, partners, and the like and its
 15 resident agent for service of process, if required by law;

16 (b) minerals expected to be mined;

17 (c) a proposed reclamation plan;

18 (d) expected starting date of operations;

19 (e) a map showing the specific area to be mined and
 20 the boundaries of the land which will be disturbed,
 21 topographic detail, the location and names of all streams,
 22 roads, railroads, and utility lines on or immediately
 23 adjacent to the area, location of proposed access roads to
 24 be built, and the names and addresses of the surface and
 25 mineral owners of all lands within the mining area, to the

1 extent known to applicant;

2 (f) types of access roads to be built and manner of
 3 reclamation of road sites on abandonment;

4 (g) a plan which will provide, within limits of normal
 5 operating procedures of the industry, for completion of the
 6 operation;

7 (h) ground water and surface water hydrologic data
 8 gathered from a sufficient number of sources and length of
 9 time to characterize the hydrologic regime;

10 (i) a plan detailing the design, operation, and
 11 monitoring of impounding structures, including but not
 12 limited to tailings impoundments and water reservoirs,
 13 sufficient to ensure that such structures are safe and
 14 stable;

15 (j) a plan identifying methods to be used to monitor
 16 for the accidental discharge of objectionable materials and
 17 remedial action plans to be used to control and mitigate
 18 discharges to surface or ground water; and

19 (k) an evaluation of the expected life of any tailings
 20 impoundment or waste area and the potential for expansion of
 21 the tailings impoundment or waste site.

22 (2) Except as provided in subsection (4), the permit
 23 provided for in subsection (1) for a large-scale mineral
 24 development as defined in 90-6-302 shall be conditioned to
 25 provide that activities under the permit may not commence

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

13 (3) When the department determines that a permittee
 14 has become or will become a large-scale mineral developer
 15 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
 16 required under 82-4-339, within 6 months of receiving the
 17 notice, the permittee shall provide the board with proof
 18 that he has obtained a waiver of the impact plan requirement
 19 from the hard-rock mining impact board or that he has filed
 20 an impact plan with the hard-rock mining impact board and
 21 the appropriate county or counties. If the permittee does
 22 not file the required proof or if the hard-rock mining
 23 impact board certifies to the board that the permittee has
 24 failed to comply with the hard-rock mining impact review and
 25 implementation requirements in Title 90, chapter 6, parts 3

1 and 4, the board shall suspend the permit until the
 2 permittee files the required proof or until the hard-rock
 3 mining impact board certifies that the permittee has
 4 complied with the hard-rock mining impact review and
 5 implementation requirements.

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

9 NEW SECTION. Section 4. Prospecting permit. (1)
 10 Except for subsection (2), the provisions of [this part] do
 11 not apply to a prospector who performs the discovery and
 12 minimum assessment requirements of the federal government
 13 for unpatented claims. This exclusion does not apply if the
 14 value of assessment work performed per mining claim exceeds
 15 \$100 per year or \$1,000 per mining claim group per year.
 16 Assessment work within a mining claim group may be allocated
 17 to one or more claims provided that the total cost does not
 18 exceed \$100 per claim multiplied by the number of claims in
 19 the group. In addition, the total lands that are disturbed
 20 and unreclaimed by a prospector, including roads, may not
 21 exceed 16,000 square feet per unpatented claim or 160,000
 22 square feet per mining claim group. The lands that are
 23 disturbed and unreclaimed within a mining claim group may be
 24 allocated to one or more claims provided that the total does
 25 not exceed 16,000 square feet per unpatented claim

1 multiplied by the number of claims in the group. Assessment
2 activities on unpatented claims that exceed these
3 restrictions require an appropriate permit or license as
4 defined in [this part]. All activities on patented claims
5 must qualify for a small miner's exclusion or require an
6 exploration license or an operating permit, as appropriate.

7 (2) Prior to prospecting, as set forth in subsection
8 (1), a prospector shall submit to the department a map of
9 the proposed disturbances, including roads, and a brief
10 description of the proposed operation. The department shall
11 issue a prospecting permit if the proposed operation
12 complies with [this part].

13 NEW SECTION. Section 5. Extension of authority. Any
14 existing authority of the department of state lands or the
15 board of land commissioners to make rules on the subject of
16 the provisions of this act is extended to the provisions of
17 this act.

-End-

1 House BILL NO. 629
 2 INTRODUCED BY Bob Resum Grady
 3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 LAWS RELATING TO METAL MINE RECLAMATION; AND AMENDING
 7 SECTIONS 82-4-303, 82-4-305, AND 82-4-335, MCA."

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

10 Section 1. Section 82-4-303, MCA, is amended to read:
 11 "82-4-303. Definitions. As used in this part, unless
 12 the context indicates otherwise, the following definitions
 13 apply:

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

17 (2) "Board" means the board of land commissioners or
 18 such state employee or state agency as may succeed to its
 19 powers and duties under this part.

20 (3) "Department" means the department of state lands.

21 (4) "Disturbed land" means that area of land or
 22 surface water disturbed, beginning at the date of the
 23 issuance of the permit, and it comprises that area from
 24 which the overburden, tailings, waste materials, or minerals
 25 have been removed and tailings ponds, waste dumps, roads,

1 conveyor systems, leach dumps, and all similar excavations
 2 or covering resulting from the operation and which have not
 3 been previously reclaimed under the reclamation plan.

4 (5) "Exploration" means all activities conducted on or
 5 beneath the surface of lands resulting in material
 6 disturbance of the surface for the purpose of determining
 7 the presence, location, extent, depth, grade, and economic
 8 viability of mineralization in those lands, if any, other
 9 than mining for production and economic exploitation, as
 10 well as all roads made for the purpose of facilitating
 11 exploration, except as noted in 82-4-305--and 82-4-310 and
 12 work performed by prospectors.

13 (6) "Mineral" means any ore, rock, or substance, other
 14 than oil, gas, bentonite, clay, coal, sand, gravel,
 15 phosphate rock, or uranium, taken from below the surface or
 16 from the surface of the earth for the purpose of milling,
 17 concentration, refinement, smelting, manufacturing, or other
 18 subsequent use or processing or for stockpiling for future
 19 use, refinement, or smelting.

20 (7) "Mineral processing reagents" means:

21 (a) those chemical reagents used in mineral flotation
 22 processes, including but not limited to frothers,
 23 collectors, and inhibitors; and

24 (b) chemical reagents used in leaching operations,
 25 including but not limited to cyanide compounds, acids, and



1 thiourea.

2 ~~(7)~~(8) "Mining" commences at such time as the operator
3 first mines ores or minerals in commercial quantities for
4 sale, beneficiation, refining, or other processing or
5 disposition or first takes bulk samples for metallurgical
6 testing in excess of aggregate of 10,000 short tons.

7 (9) "Mining claim group" means two or more contiguous
8 unpatented mining claims.

9 ~~(8)~~(10) "Ore processing" means milling, heap leaching,
10 flotation, vat leaching, or other standard hard-rock mineral
11 concentration processes.

12 ~~(9)~~(11) "Person" means any person, corporation, firm,
13 association, partnership, or other legal entity engaged in
14 exploration for or mining of minerals on or below the
15 surface of the earth, reprocessing of tailings or waste
16 materials, or operation of a hard-rock mill.

17 (12) "Prospector" means an individual, firm, or
18 corporation that performs discovery or annual assessment
19 work valued at \$100 or less a year for an unpatented mining
20 claim or assessment work valued at \$1,000 or less a year for
21 a mining claim group.

22 ~~(10)~~(13) "Reclamation plan" means the operator's
23 written proposal, as required and approved by the board, for
24 reclamation of the land that will be disturbed, which
25 proposal shall include, to the extent practical at the time

1 of application for an operating permit:

2 (a) a statement of the proposed subsequent use of the
3 land after reclamation;

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

8 (c) the manner and type of revegetation or other
9 surface treatment of disturbed areas;

10 (d) procedures proposed to avoid foreseeable
11 situations of public nuisance, endangerment of public
12 safety, damage to human life or property, or unnecessary
13 damage to flora and fauna in or adjacent to the area;

14 (e) the method of disposal of mining debris;

15 (f) the method of diverting surface waters around the
16 disturbed areas where necessary to prevent pollution of
17 those waters or unnecessary erosion;

18 (g) the method of reclamation of stream channels and
19 stream banks to control erosion, siltation, and pollution;

20 (h) such maps and other supporting documents as may be
21 reasonably required by the department; and

22 (i) a time schedule for reclamation that meets the
23 requirements of 82-4-336.

24 ~~(11)~~(14) (a) "Small miner" means a person, firm, or
25 corporation that engages in the business of mining or

1 reprocessing of tailings or waste materials that does not
 2 remove from the earth during any calendar year material in
 3 excess of 36,500 tons in the aggregate--that--holds--no
 4 operating--permit--under-82-4-335, from a mine complex area,
 5 that does not use any mineral processing reagents, that does
 6 not conduct an operation within the boundary of an operating
 7 permit issued pursuant to 82-4-335 or within the boundary of
 8 an area previously subject to an operating permit if the
 9 permit has been revoked and the area has not been reclaimed,
 10 and that conducts:

11 (i) operations resulting in not more than 5 acres of
 12 the earth's surface being disturbed and unreclaimed; or

13 (ii) two operations which disturb and leave unreclaimed
 14 less than 5 acres per operation if the respective mining
 15 properties are:

16 ~~(A)--the--only--operations--engaged--in--by--the--person,~~
 17 ~~firm, or corporation;~~

18 ~~(B)(A)~~ at least 1 mile apart at their closest point;
 19 and

20 ~~(C)(B)~~ not operated simultaneously except during
 21 seasonal transitional periods not to exceed 30 days.

22 (b) For the purpose of this definition only, the
 23 department shall, in computing the area covered by the
 24 operation, exclude access or haulage roads that are required
 25 by a local, state, or federal agency having jurisdiction

1 over that road to be constructed to certain specifications
 2 if that public agency notifies the department in writing
 3 that it desires to have the road remain in use and will
 4 maintain it after mining ceases.

5 ~~(12)(15)~~ "Surface mining" means all or any part of the
 6 process involved in mining of minerals by removing the
 7 overburden and mining directly from the mineral deposits
 8 thereby exposed, including but not limited to open-pit
 9 mining of minerals naturally exposed at the surface of the
 10 earth, mining by the auger method, and all similar methods
 11 by which earth or minerals exposed at the surface are
 12 removed in the course of mining. Surface mining does not
 13 include the extraction of oil, gas, bentonite, clay, coal,
 14 sand, gravel, phosphate rock, or uranium or excavation or
 15 grading conducted for on-site farming, on-site road
 16 construction, or other on-site building construction.

17 ~~(13)(15)~~ "Underground mining" means all methods of
 18 mining other than surface mining.

19 ~~(14)(17)~~ "Unit of surface-mined area" means that area
 20 of land and surface water included within an operating
 21 permit actually disturbed by surface mining during each
 22 12-month period of time, beginning at the date of the
 23 issuance of the permit, and it comprises and includes the
 24 area from which overburden or minerals have been removed,
 25 the area covered by mining debris, and all additional areas

1 used in surface mining or underground mining operations
2 which by virtue of such use are thereafter susceptible to
3 erosion in excess of the surrounding undisturbed portions of
4 land.

5 ~~(15)~~(18) "Vegetative cover" means the type of
6 vegetation, grass, shrubs, trees, or any other form of
7 natural cover considered suitable at time of reclamation."

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

9 "82-4-305. Exemption -- small miners -- written
10 agreement. (1) No provisions of this part shall apply to any
11 small miner when the small miner annually agrees in writing:

12 (a) that he shall not pollute or contaminate any
13 stream;

14 (b) that he shall provide protection for human and
15 animal life through the installation of bulkheads installed
16 over safety collars and the installation of doors on tunnel
17 portals; and

18 (c) that he shall not use any mineral processing
19 reagents; and

20 ~~(c)~~(d) he shall provide a map locating his mining
21 operations. Such map shall be to a size and scale as
22 determined by the department.

23 (2) For small-miner exemptions obtained after
24 September 30, 1985, no small miner may obtain or continue an
25 exemption under subsection (1) unless he annually certifies

1 in writing:

2 (a) if the small miner is a natural person, that:

3 (i) no business association or partnership of which he
4 is a member or partner has a small-miner exemption; and

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

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

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

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

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

18 (i) holds a small-miner exemption;

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

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

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

25 "82-4-335. Operating permit. (1) No person shall

1 engage in mining, ore processing, or reprocessing of
 2 tailings or waste material or construct or operate a
 3 hard-rock mill or use mineral processing reagents or disturb
 4 land in anticipation of those activities in the state
 5 without first obtaining an operating permit from the board
 6 to do so. A separate operating permit shall be required for
 7 each complex. Prior to receiving an operating permit from
 8 the board, any person must pay the basic permit fee of \$25
 9 and must submit an application on a form provided by the
 10 board, which shall contain the following information and any
 11 other pertinent data required by the rules:

12 (a) name and address of the operator and, if a
 13 corporation or other business entity, the name and address
 14 of its principal officers, partners, and the like and its
 15 resident agent for service of process, if required by law;

16 (b) minerals expected to be mined;

17 (c) a proposed reclamation plan;

18 (d) expected starting date of operations;

19 (e) a map showing the specific area to be mined and
 20 the boundaries of the land which will be disturbed,
 21 topographic detail, the location and names of all streams,
 22 roads, railroads, and utility lines on or immediately
 23 adjacent to the area, location of proposed access roads to
 24 be built, and the names and addresses of the surface and
 25 mineral owners of all lands within the mining area, to the

1 extent known to applicant;

2 (f) types of access roads to be built and manner of
 3 reclamation of road sites on abandonment;

4 (g) a plan which will provide, within limits of normal
 5 operating procedures of the industry, for completion of the
 6 operation;

7 (h) ground water and surface water hydrologic data
 8 gathered from a sufficient number of sources and length of
 9 time to characterize the hydrologic regime;

10 (i) a plan detailing the design, operation, and
 11 monitoring of impounding structures, including but not
 12 limited to tailings impoundments and water reservoirs,
 13 sufficient to ensure that such structures are safe and
 14 stable;

15 (j) a plan identifying methods to be used to monitor
 16 for the accidental discharge of objectionable materials and
 17 remedial action plans to be used to control and mitigate
 18 discharges to surface or ground water; and

19 (k) an evaluation of the expected life of any tailings
 20 impoundment or waste area and the potential for expansion of
 21 the tailings impoundment or waste site.

22 (2) Except as provided in subsection (4), the permit
 23 provided for in subsection (1) for a large-scale mineral
 24 development as defined in 90-6-302 shall be conditioned to
 25 provide that activities under the permit may not commence

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

13 (3) When the department determines that a permittee
 14 has become or will become a large-scale mineral developer
 15 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
 16 required under 82-4-339, within 6 months of receiving the
 17 notice, the permittee shall provide the board with proof
 18 that he has obtained a waiver of the impact plan requirement
 19 from the hard-rock mining impact board or that he has filed
 20 an impact plan with the hard-rock mining impact board and
 21 the appropriate county or counties. If the permittee does
 22 not file the required proof or if the hard-rock mining
 23 impact board certifies to the board that the permittee has
 24 failed to comply with the hard-rock mining impact review and
 25 implementation requirements in Title 90, chapter 6, parts 3

1 and 4, the board shall suspend the permit until the
 2 permittee files the required proof or until the hard-rock
 3 mining impact board certifies that the permittee has
 4 complied with the hard-rock mining impact review and
 5 implementation requirements.

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

9 NEW SECTION. Section 4. Prospecting permit. (1)
 10 Except for subsection (2), the provisions of [this part] do
 11 not apply to a prospector who performs the discovery and
 12 minimum assessment requirements of the federal government
 13 for unpatented claims. This exclusion does not apply if the
 14 value of assessment work performed per mining claim exceeds
 15 \$100 per year or \$1,000 per mining claim group per year.
 16 Assessment work within a mining claim group may be allocated
 17 to one or more claims provided that the total cost does not
 18 exceed \$100 per claim multiplied by the number of claims in
 19 the group. In addition, the total lands that are disturbed
 20 and unreclaimed by a prospector, including roads, may not
 21 exceed 16,000 square feet per unpatented claim or 160,000
 22 square feet per mining claim group. The lands that are
 23 disturbed and unreclaimed within a mining claim group may be
 24 allocated to one or more claims provided that the total does
 25 not exceed 16,000 square feet per unpatented claim

1 multiplied by the number of claims in the group. Assessment
2 activities on unpatented claims that exceed these
3 restrictions require an appropriate permit or license as
4 defined in [this part]. All activities on patented claims
5 must qualify for a small miner's exclusion or require an
6 exploration license or an operating permit, as appropriate.

7 (2) Prior to prospecting, as set forth in subsection
8 (1), a prospector shall submit to the department a map of
9 the proposed disturbances, including roads, and a brief
10 description of the proposed operation. The department shall
11 issue a prospecting permit if the proposed operation
12 complies with [this part].

13 NEW SECTION. Section 5. Extension of authority. Any
14 existing authority of the department of state lands or the
15 board of land commissioners to make rules on the subject of
16 the provisions of this act is extended to the provisions of
17 this act.

-End-