

HOUSE BILL 241

Introduced by Harper

1/17	Introduced
1/18	Referred to Natural Resources
2/17	Hearing
2/17	Tabled in Committee

1 HOUSE BILL NO. 241
2 INTRODUCED BY Hayes
3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MINER USING
6 MINERAL PROCESSING REAGENTS TO OBTAIN AN OPERATING PERMIT
7 FROM THE DEPARTMENT OF STATE LANDS AND TO COMPLY WITH METAL
8 MINE RECLAMATION REQUIREMENTS; DEFINING "MINERAL PROCESSING
9 REAGENT"; AND AMENDING SECTIONS 82-4-303, 82-4-305, AND
10 82-4-335, MCA."
11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13 **Section 1.** Section 82-4-303, MCA, is amended to read:
14 **"82-4-303. Definitions.** As used in this part, unless
15 the context indicates otherwise, the following definitions
16 apply:
17 (1) "Abandonment of surface or underground mining" may
18 be presumed when it is shown that continued operation will
19 not resume.
20 (2) "Board" means the board of land commissioners or
21 such state employee or state agency as may succeed to its
22 powers and duties under this part.
23 (3) "Department" means the department of state lands.
24 (4) "Disturbed land" means that area of land or
25 surface water disturbed, beginning at the date of the

1 issuance of the permit, and it comprises that area from
2 which the overburden, tailings, waste materials, or minerals
3 have been removed and tailings ponds, waste dumps, roads,
4 conveyor systems, leach dumps, and all similar excavations
5 or covering resulting from the operation and which have not
6 been previously reclaimed under the reclamation plan.

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

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

22 (7) "Mineral processing reagent" means a chemical
23 reagent used in leaching operations, including but not
24 limited to cyanide compounds, acids, and thiourea.

25 ~~(7)~~(8) "Mining" commences at such time as the operator

first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of aggregate of 10,000 short tons.

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

{9}{10} "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.

{10}{11} "Reclamation plan" means the operator's written proposal, as required and approved by the board, for reclamation of the land that will be disturbed, which proposal shall include, to the extent practical at the time of application for an operating permit:

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

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

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

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

(e) the method of disposal of mining debris;

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

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

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

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

{11}{12} (a) "Small miner" means a person, firm, or corporation that engages in the business of mining or reprocessing of tailings or waste materials that does not remove from the earth during any calendar year material in excess of 36,500 tons in the aggregate, that holds no operating permit under 82-4-335, that does not use a mineral processing reagent, and that conducts:

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

(ii) two operations which disturb and leave unreclaimed less than 5 acres per operation if the respective mining

properties are:

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

(B) at least 1 mile apart at their closest point; and

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

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation, exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases.

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

construction, or other on-site building construction.

~~{13}~~(14) "Underground mining" means all methods of mining other than surface mining.

~~{14}~~(15) "Unit of surface-mined area" means that area of land and surface water included within an operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit, and it comprises and includes the area from which overburden or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations which by virtue of such use are thereafter susceptible to erosion in excess of the surrounding undisturbed portions of land.

~~{15}~~(16) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation."

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

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

(a) ~~that--he--shall~~ not to pollute or contaminate any stream;

(b) ~~that-he-shall~~ to provide protection for human and animal life through the installation of bulkheads installed

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

(c) not to use any mineral processing reagents; and

~~(e)~~(d) he--shall to provide a map locating his mining operations. Such The map shall be to a size and scale as determined by the department.

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

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

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

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

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

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

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

(c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any

class of voting stock of the corporation:

(i) holds a small-miner exemption;

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

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

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

"82-4-335. Operating permit. (1) No person shall engage in mining, ore processing, or reprocessing of tailings or waste material or construct or operate a hard-rock mill or use mineral processing reagents in a mining operation or disturb land in anticipation of those activities in the state without first obtaining an operating permit from the board to do so. A separate operating permit shall be required for each complex. Prior to receiving an operating permit from the board, any person must pay the basic permit fee of \$25 and must submit an application on a form provided by the board, which shall contain the following information and any other pertinent data required by the rules:

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

1 (b) minerals expected to be mined;
2 (c) a proposed reclamation plan;
3 (d) expected starting date of operations;
4 (e) a map showing the specific area to be mined and
5 the boundaries of the land which will be disturbed,
6 topographic detail, the location and names of all streams,
7 roads, railroads, and utility lines on or immediately
8 adjacent to the area, location of proposed access roads to
9 be built, and the names and addresses of the surface and
10 mineral owners of all lands within the mining area, to the
11 extent known to applicant;
12 (f) types of access roads to be built and manner of
13 reclamation of road sites on abandonment;
14 (g) a plan which will provide, within limits of normal
15 operating procedures of the industry, for completion of the
16 operation;
17 (h) ground water and surface water hydrologic data
18 gathered from a sufficient number of sources and length of
19 time to characterize the hydrologic regime;
20 (i) a plan detailing the design, operation, and
21 monitoring of impounding structures, including but not
22 limited to tailings impoundments and water reservoirs,
23 sufficient to ensure that such structures are safe and
24 stable;
25 (j) a plan identifying methods to be used to monitor

1 for the accidental discharge of objectionable materials and
2 remedial action plans to be used to control and mitigate
3 discharges to surface or ground water; and

4 (k) an evaluation of the expected life of any tailings
5 impoundment or waste area and the potential for expansion of
6 the tailings impoundment or waste site.

7 (2) Except as provided in subsection (4), the permit
8 provided for in subsection (1) for a large-scale mineral
9 development as defined in 90-6-302 shall be conditioned to
10 provide that activities under the permit may not commence
11 until the impact plan is approved under 90-6-307 and until
12 the permittee has provided a written guarantee to the
13 department and to the hard-rock mining impact board of
14 compliance within the time schedule with the commitment made
15 in the approved impact plan, as provided in 90-6-307. If
16 the permittee does not comply with that commitment within
17 the time scheduled, the board, upon receipt of written
18 notice from the hard-rock mining impact board, shall suspend
19 the permit until it receives written notice from the
20 hard-rock mining impact board that the permittee is in
21 compliance.

22 (3) When the department determines that a permittee
23 has become or will become a large-scale mineral developer
24 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
25 required under 82-4-339, within 6 months of receiving the

1 notice, the permittee shall provide the board with proof
2 that he has obtained a waiver of the impact plan requirement
3 from the hard-rock mining impact board or that he has filed
4 an impact plan with the hard-rock mining impact board and
5 the appropriate county or counties. If the permittee does
6 not file the required proof or if the hard-rock mining
7 impact board certifies to the board that the permittee has
8 failed to comply with the hard-rock mining impact review and
9 implementation requirements in Title 90, chapter 6, parts 3
10 and 4, the board shall suspend the permit until the
11 permittee files the required proof or until the hard-rock
12 mining impact board certifies that the permittee has
13 complied with the hard-rock mining impact review and
14 implementation requirements.

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

18 **Section 4. Extension of authority.** Any existing
19 authority to make rules on the subject of the provisions of
20 [this act] is extended to the provisions of [this act].

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