

HOUSE BILL NO. 680

INTRODUCED BY GRADY, GAGE, HOFMAN, RAPP-SVRCEK,
O'KEEFE, CRIPPEN, RANEY, PIPINICH, WEEDING, BECK,
D. BROWN, IVERSON

IN THE HOUSE

FEBRUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
FEBRUARY 14, 1989	FIRST READING.
FEBRUARY 18, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 20, 1989	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 21, 1989	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 94; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES.
	FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
	STATEMENT OF INTENT ADOPTED.
MARCH 10, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 2.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 15, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 16, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. *680*
 INTRODUCED BY *Donny Berg* *Reform* *App. Smith*
Debra C. Kelly *Finance* *Wesley Davis*
 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A HARD-ROCK
 MINER USING A CYANIDE ORE-PROCESSING REAGENT TO OBTAIN AN
 OPERATING PERMIT FOR THE AREA WHERE THE CYANIDE IS USED OR
 DISPOSED OF; EXEMPTING EXISTING FACILITIES USING CYANIDE
 ORE-PROCESSING REAGENTS IF THEY ARE REGISTERED BY JANUARY 1,
 1990; AMENDING SECTIONS 82-4-303, 82-4-305, AND 82-4-335,
 MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

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

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

(3) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.

(4) "Department" means the department of state

lands.

(5) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from the operation and which have not been previously reclaimed under the reclamation plan.

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

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

(8) "Mining" commences at--such--time--as when the

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

6 †8†(9) "Ore processing" means milling, heap leaching,
7 flotation, vat leaching, or other standard hard-rock mineral
8 concentration processes.

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

14 †10†(11) "Reclamation plan" means the operator's written
15 proposal, as required and approved by the board, for
16 reclamation of the land that will be disturbed, which
17 proposal shall include, to the extent practical at the time
18 of application for an operating permit:

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

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

25 (c) the manner and type of revegetation or other

1 surface treatment of disturbed areas;

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

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

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

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

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

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

16 †11†(12) (a) "Small miner" means a person, firm, or
17 corporation that engages in the business of mining or
18 reprocessing of tailings or waste materials that does not
19 remove from the earth during any calendar year material in
20 excess of 36,500 tons in the aggregate, that ~~holds-no~~ does
21 not hold an operating permit under 82-4-335 except for a
22 permit issued under 82-4-335(2), and that conducts:

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

25 (ii) two operations which disturb and leave unreclaimed

1 less than 5 acres per operation if the respective mining
2 properties are:

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

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

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

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

16 ~~(12)~~(13) "Surface mining" means all or any part of the
17 process involved in mining of minerals by removing the
18 overburden and mining directly from the mineral deposits
19 thereby exposed, including but not limited to open-pit
20 mining of minerals naturally exposed at the surface of the
21 earth, mining by the auger method, and all similar methods
22 by which earth or minerals exposed at the surface are
23 removed in the course of mining. Surface mining does not
24 include the extraction of oil, gas, bentonite, clay, coal,
25 sand, gravel, phosphate rock, or uranium or excavation or

1 grading conducted for on-site farming, on-site road
2 construction, or other on-site building construction.

3 ~~(13)~~(14) "Underground mining" means all methods of
4 mining other than surface mining.

5 ~~(14)~~(15) "Unit of surface-mined area" means that area of
6 land and surface water included within an operating permit
7 actually disturbed by surface mining during each 12-month
8 period of time, beginning at the date of the issuance of the
9 permit, and it comprises and includes the area from which
10 overburden or minerals have been removed, the area covered
11 by mining debris, and all additional areas used in surface
12 mining or underground mining operations which by virtue of
13 such the use are ~~thereafter~~ susceptible to erosion in excess
14 of the surrounding undisturbed portions of land.

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

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

19 "82-4-305. Exemption -- small miners -- written
20 agreement. (1) ~~No~~ Except as provided in subsection (3), the
21 provisions of this part ~~shall~~ do not apply to any small
22 miner when the small miner annually agrees in writing:

23 (a) that he ~~shall~~ will not pollute or contaminate any
24 stream;

25 (b) that he ~~shall~~ will provide protection for human and

1 animal life through the installation of bulkheads installed
2 over safety collars and the installation of doors on tunnel
3 portals; and

4 (c) ~~that he shall~~ will provide a map locating his
5 mining operations. ~~Such The~~ map ~~shall~~ must be ~~to of~~ a size
6 and scale ~~as~~ determined by the department.

7 (2) For small-miner exemptions obtained after September
8 30, 1985, ~~no a~~ small miner may not obtain or continue an
9 exemption under subsection (1) unless he annually certifies
10 in writing:

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

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

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

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

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

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

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

1 class of voting stock of the corporation:

2 (i) holds a small-miner exemption;

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

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

8 (3) A small miner who intends to use a cyanide
9 ore-processing reagent shall obtain an operating permit for
10 that part of his operation where the cyanide ore-processing
11 reagent will be used or disposed of."

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

13 "82-4-335. Operating permit. (1) ~~No A~~ person ~~shall~~ may
14 not engage in mining, ore processing, or reprocessing of
15 tailings or waste material ~~or,~~ construct or operate a
16 hard-rock mill, use cyanide ore-processing reagents, or
17 disturb land in anticipation of those activities in the
18 state without first obtaining an operating permit from the
19 board ~~to-do-so~~. A separate operating permit ~~shall--be~~ is
20 required for each complex.

21 (2) A small miner who intends to use a cyanide
22 ore-processing reagent shall obtain an operating permit for
23 that part of his operation where the cyanide ore-processing
24 reagent will be used or disposed of.

25 (3) Prior to receiving an operating permit from the

1 board, any person ~~must~~ shall pay the basic permit fee of \$25
 2 and ~~must~~ submit an application on a form provided by the
 3 board, which ~~shall~~ must contain the following information
 4 and any other pertinent data required by the rules:

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

9 (b) minerals expected to be mined;

10 (c) a proposed reclamation plan;

11 (d) expected starting date of operations;

12 (e) a map showing the specific area to be mined and the
 13 boundaries of the land which will be disturbed, topographic
 14 detail, the location and names of all streams, roads,
 15 railroads, and utility lines on or immediately adjacent to
 16 the area, location of proposed access roads to be built, and
 17 the names and addresses of the surface and mineral owners of
 18 all lands within the mining area, to the extent known to the
 19 applicant;

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

22 (g) a plan which will provide, within limits of normal
 23 operating procedures of the industry, for completion of the
 24 operation;

25 (h) ground water and surface water hydrologic data

1 gathered from a sufficient number of sources and length of
 2 time to characterize the hydrologic regime;

3 (i) a plan detailing the design, operation, and
 4 monitoring of impounding structures, including but not
 5 limited to tailings impoundments and water reservoirs,
 6 sufficient to ensure that ~~such~~ the structures are safe and
 7 stable;

8 (j) a plan identifying methods to be used to monitor
 9 for the accidental discharge of objectionable materials and
 10 remedial action plans to be used to control and mitigate
 11 discharges to surface or ground water; and

12 (k) an evaluation of the expected life of any tailings
 13 impoundment or waste area and the potential for expansion of
 14 the tailings impoundment or waste site.

15 ~~(2)(4)~~ Except as provided in subsection ~~(4)~~ (6), the
 16 permit provided for in subsection (1) for a large-scale
 17 mineral development as defined in 90-6-302 ~~shall~~ must be
 18 conditioned to provide that activities under the permit may
 19 not commence until the impact plan is approved under
 20 90-6-307 and until the permittee has provided a written
 21 guarantee to the department and to the hard-rock mining
 22 impact board of compliance within the time schedule with the
 23 commitment made in the approved impact plan, as provided in
 24 90-6-307. If the permittee does not comply with that
 25 commitment within the time scheduled, the board, upon

1 receipt of written notice from the hard-rock mining impact
2 board, shall suspend the permit until it receives written
3 notice from the hard-rock mining impact board that the
4 permittee is in compliance.

5 ~~†3†~~(5) When the department determines that a permittee
6 has become or will become a large-scale mineral developer
7 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
8 required under 82-4-339, within 6 months of receiving the
9 notice, the permittee shall provide the board with proof
10 that he has obtained a waiver of the impact plan requirement
11 from the hard-rock mining impact board or that he has filed
12 an impact plan with the hard-rock mining impact board and
13 the appropriate county or counties. If the permittee does
14 not file the required proof or if the hard-rock mining
15 impact board certifies to the board that the permittee has
16 failed to comply with the hard-rock mining impact review and
17 implementation requirements in Title 90, chapter 6, parts 3
18 and 4, the board shall suspend the permit until the
19 permittee files the required proof or until the hard-rock
20 mining impact board certifies that the permittee has
21 complied with the hard-rock mining impact review and
22 implementation requirements.

23 ~~†4†~~(6) Compliance with 90-6-307 is not required for
24 exploration and bulk sampling for metallurgical testing when
25 the aggregate samples are less than 10,000 tons."

1 NEW SECTION. **Section 4. Registration of cyanide**
2 **ore-processing operations.** An existing facility that uses a
3 cyanide ore-processing reagent and was not, prior to July 1,
4 1989, required to obtain an operating permit for the
5 facility or to include the facility in an operating permit
6 is not subject to [this act] if the facility is registered
7 by January 1, 1990, by the owner or operator, on a form
8 provided by the department.

9 NEW SECTION. **Section 5. Extension of authority.** Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. **Section 6. Effective date.** [This act] is
14 effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB680, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

HB680 would require all hard-rock miners, including small miners who are exempt from the requirements of the Montana Metal Mine Reclamation Act, to obtain an operating permit for the area where the cyanide ore-processing reagent will be used or disposed of; existing facilities using such reagents are exempt if they are registered by January 1, 1990.

ASSUMPTIONS:

1. The DSL would require 1.00 FTE, grade 14, reclamation specialist, plus minimal operating expenses for travel and per diem to implement the proposed legislation.
2. The number of permit applications is difficult to project because of a fluctuating market for precious metals.
3. General fund support will be required for the proposed law.
4. There is no other state fiscal impact.

FISCAL IMPACT:Expenditures:

	Current	FY90 Proposed		Current	FY91 Proposed	
	Law	Law	Difference	Law	Law	Difference
Dept. of State Lands	\$ -0-	\$25,939	\$25,939	\$ -0-	\$25,956	\$25,956
Personal Services	-0-	1,861	1,861	-0-	1,844	1,844
Operating Expenses	-0-			-0-		
Total	\$ -0-	\$27,800	\$27,800	\$ -0-	\$27,800	\$27,800
<u>Funding:</u>						
General Fund	\$ -0-	\$27,800	\$27,800	\$ -0-	\$27,800	\$27,800

Ray Shackleford

DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

Rep. Grady

DATE 2/21/89

EDWARD J. GRADY, PRIMARY SPONSOR

Fiscal Note for HB680, as introduced

HB 680

APPROVED BY COMM. ON
NATURAL RESOURCES*Amuse* BILL NO. *680*

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A HARD-ROCK MINER USING A CYANIDE ORE-PROCESSING REAGENT TO OBTAIN AN OPERATING PERMIT FOR THE AREA WHERE THE CYANIDE IS USED OR DISPOSED OF; EXEMPTING EXISTING FACILITIES USING CYANIDE ORE-PROCESSING REAGENTS IF THEY ARE REGISTERED BY JANUARY 1, 1990; AMENDING SECTIONS 82-4-303, 82-4-305, AND 82-4-335, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

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

(3) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.

(4) "Department" means the department of state

lands.

(5) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from the operation and which have not been previously reclaimed under the reclamation plan.

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

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

(8) "Mining" commences at such time as when the

SECOND READING

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2 quantities for sale, beneficiation, refining, or other
3 processing or disposition or first takes bulk samples for
4 metallurgical testing in excess of aggregate of 10,000 short
5 tons.

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7 flotation, vat leaching, or other standard hard-rock mineral
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10 association, partnership, or other legal entity engaged in
11 exploration for or mining of minerals on or below the
12 surface of the earth, reprocessing of tailings or waste
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14 †10†(11) "Reclamation plan" means the operator's written
15 proposal, as required and approved by the board, for
16 reclamation of the land that will be disturbed, which
17 proposal shall include, to the extent practical at the time
18 of application for an operating permit:

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

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

25 (c) the manner and type of revegetation or other

1 surface treatment of disturbed areas;

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

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

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8 disturbed areas where necessary to prevent pollution of
9 those waters or unnecessary erosion;

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

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

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

16 †11†(12) (a) "Small miner" means a person, firm, or
17 corporation that engages in the business of mining or
18 reprocessing of tailings or waste materials that does not
19 remove from the earth during any calendar year material in
20 excess of 36,500 tons in the aggregate, that ~~holds-no does~~
21 not hold an operating permit under 82-4-335 except for a
22 permit issued under 82-4-335(2), and that conducts:

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

25 (ii) two operations which disturb and leave unreclaimed

1 less than 5 acres per operation if the respective mining
2 properties are:

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

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

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

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

16 ~~(12)~~(13) "Surface mining" means all or any part of the
17 process involved in mining of minerals by removing the
18 overburden and mining directly from the mineral deposits
19 thereby exposed, including but not limited to open-pit
20 mining of minerals naturally exposed at the surface of the
21 earth, mining by the auger method, and all similar methods
22 by which earth or minerals exposed at the surface are
23 removed in the course of mining. Surface mining does not
24 include the extraction of oil, gas, bentonite, clay, coal,
25 sand, gravel, phosphate rock, or uranium or excavation or

1 grading conducted for on-site farming, on-site road
2 construction, or other on-site building construction.

3 ~~(13)~~(14) "Underground mining" means all methods of
4 mining other than surface mining.

5 ~~(14)~~(15) "Unit of surface-mined area" means that area of
6 land and surface water included within an operating permit
7 actually disturbed by surface mining during each 12-month
8 period of time, beginning at the date of the issuance of the
9 permit, and it comprises and includes the area from which
10 overburden or minerals have been removed, the area covered
11 by mining debris, and all additional areas used in surface
12 mining or underground mining operations which by virtue of
13 ~~such the~~ use are ~~thereafter~~ susceptible to erosion in excess
14 of the surrounding undisturbed portions of land.

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

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

19 "82-4-305. Exemption -- small miners -- written
20 agreement. (1) No Except as provided in subsection (3), the
21 provisions of this part ~~shall do not~~ apply to any small
22 miner when the small miner annually agrees in writing:

23 (a) that he ~~shall~~ will not pollute or contaminate any
24 stream;

25 (b) that he ~~shall~~ will provide protection for human and

1 animal life through the installation of bulkheads installed
2 over safety collars and the installation of doors on tunnel
3 portals; and

4 (c) ~~that~~ he ~~shall~~ will provide a map locating his
5 mining operations. ~~Such~~ The map ~~shall~~ must be ~~to~~ of a size
6 and scale ~~as~~ determined by the department.

7 (2) For small-miner exemptions obtained after September
8 30, 1985, ~~no~~ a small miner may ~~not~~ obtain or continue an
9 exemption under subsection (1) unless he annually certifies
10 in writing:

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

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

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

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

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

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

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

1 class of voting stock of the corporation:

2 (i) holds a small-miner exemption;

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

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

8 (3) A small miner who intends to use a cyanide
9 ore-processing reagent shall obtain an operating permit for
10 that part of his operation where the cyanide ore-processing
11 reagent will be used or disposed of."

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13 "82-4-335. Operating permit. (1) ~~No~~ A person ~~shall~~ may
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22 ore-processing reagent shall obtain an operating permit for
23 that part of his operation where the cyanide ore-processing
24 reagent will be used or disposed of.

25 (3) Prior to receiving an operating permit from the

board, any person ~~must~~ shall pay the basic permit fee of \$25 and ~~must~~ submit an application on a form provided by the board, which ~~shall~~ must 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;

(b) minerals expected to be mined;

(c) a proposed reclamation plan;

(d) expected starting date of operations;

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

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

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

(h) ground water and surface water hydrologic data

gathered from a sufficient number of sources and length of time to characterize the hydrologic regime;

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

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

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

~~†2†~~(4) Except as provided in subsection ~~†4†~~ (6), the permit provided for in subsection (1) for a large-scale mineral development as defined in 90-6-302 ~~shall~~ must be conditioned to provide that activities under the permit may not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the board, upon

1 receipt of written notice from the hard-rock mining impact
2 board, shall suspend the permit until it receives written
3 notice from the hard-rock mining impact board that the
4 permittee is in compliance.

5 ~~†3†~~(5) When the department determines that a permittee
6 has become or will become a large-scale mineral developer
7 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
8 required under 82-4-339, within 6 months of receiving the
9 notice, the permittee shall provide the board with proof
10 that he has obtained a waiver of the impact plan requirement
11 from the hard-rock mining impact board or that he has filed
12 an impact plan with the hard-rock mining impact board and
13 the appropriate county or counties. If the permittee does
14 not file the required proof or if the hard-rock mining
15 impact board certifies to the board that the permittee has
16 failed to comply with the hard-rock mining impact review and
17 implementation requirements in Title 90, chapter 6, parts 3
18 and 4, the board shall suspend the permit until the
19 permittee files the required proof or until the hard-rock
20 mining impact board certifies that the permittee has
21 complied with the hard-rock mining impact review and
22 implementation requirements.

23 ~~†4†~~(6) Compliance with 90-6-307 is not required for
24 exploration and bulk sampling for metallurgical testing when
25 the aggregate samples are less than 10,000 tons."

1 NEW SECTION. **Section 4.** Registration of cyanide
2 ore-processing operations. An existing facility that uses a
3 cyanide ore-processing reagent and was not, prior to July 1,
4 1989, required to obtain an operating permit for the
5 facility or to include the facility in an operating permit
6 is not subject to [this act] if the facility is registered
7 by January 1, 1990, by the owner or operator, on a form
8 provided by the department.

9 NEW SECTION. **Section 5.** Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. **Section 6.** Effective date. [This act] is
14 effective July 1, 1989.

-End-

House BILL NO. *680*

INTRODUCED BY *Gregory D. Hefner*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A HARD-ROCK MINER USING A CYANIDE ORE-PROCESSING REAGENT TO OBTAIN AN OPERATING PERMIT FOR THE AREA WHERE THE CYANIDE IS USED OR DISPOSED OF; EXEMPTING EXISTING FACILITIES USING CYANIDE ORE-PROCESSING REAGENTS IF THEY ARE REGISTERED BY JANUARY 1, 1990; AMENDING SECTIONS 82-4-303, 82-4-305, AND 82-4-335, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

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

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

(3) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.

(4) "Department" means the department of state

lands.

(5) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from the operation and which have not been previously reclaimed under the reclamation plan.

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

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

(8) "Mining" commences at--such--time--as when the

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

6 {8}{9} "Ore processing" means milling, heap leaching,
7 flotation, vat leaching, or other standard hard-rock mineral
8 concentration processes.

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

14 {10}{11} "Reclamation plan" means the operator's written
15 proposal, as required and approved by the board, for
16 reclamation of the land that will be disturbed, which
17 proposal shall include, to the extent practical at the time
18 of application for an operating permit:

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

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

25 (c) the manner and type of revegetation or other

1 surface treatment of disturbed areas;

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

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

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

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

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

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

16 {11}{12} (a) "Small miner" means a person, firm, or
17 corporation that engages in the business of mining or
18 reprocessing of tailings or waste materials that does not
19 remove from the earth during any calendar year material in
20 excess of 36,500 tons in the aggregate, that holds-no does
21 not hold an operating permit under 82-4-335 except for a
22 permit issued under 82-4-335(2), and that conducts:

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

25 (ii) two operations which disturb and leave unreclaimed

1 less than 5 acres per operation if the respective mining
2 properties are:

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

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

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

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

16 ~~(12)~~(13) "Surface mining" means all or any part of the
17 process involved in mining c minerals by removing the
18 overburden and mining directly from the mineral deposits
19 thereby exposed, including but not limited to open-pit
20 mining of minerals naturally exposed at the surface of the
21 earth, mining by the auger method, and all similar methods
22 by which earth or minerals exposed at the surface are
23 removed in the course of mining. Surface mining does not
24 include the extraction of oil, gas, bentonite, clay, coal,
25 sand, gravel, phosphate rock, or uranium or excavation or

1 grading conducted for on-site farming, on-site road
2 construction, or other on-site building construction.

3 ~~(13)~~(14) "Underground mining" means all methods of
4 mining other than surface mining.

5 ~~(14)~~(15) "Unit of surface-mined area" means that area of
6 land and surface water included within an operating permit
7 actually disturbed by surface mining during each 12-month
8 period of time, beginning at the date of the issuance of the
9 permit, and it comprises and includes the area from which
10 overburden or minerals have been removed, the area covered
11 by mining debris, and all additional areas used in surface
12 mining or underground mining operations which by virtue of
13 such the use are thereafter susceptible to erosion in excess
14 of the surrounding undisturbed portions of land.

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

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

19 "82-4-305. Exemption -- small miners -- written
20 agreement. (1) No Except as provided in subsection (3), the
21 provisions of this part ~~shall~~ do not apply to any small
22 miner when the small miner annually agrees in writing:

23 (a) that he ~~shall~~ will not pollute or contaminate any
24 stream;

25 (b) that he ~~shall~~ will provide protection for human and

1 animal life through the installation of bulkheads installed
2 over safety collars and the installation of doors on tunnel
3 portals; and

4 (c) ~~that he shall~~ will provide a map locating his
5 mining operations. Such The map shall must be to of a size
6 and scale ~~as~~ determined by the department.

7 (2) For small-miner exemptions obtained after September
8 30, 1985, ~~no a~~ small miner may not obtain or continue an
9 exemption under subsection (1) unless he annually certifies
10 in writing:

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

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

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

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

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

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

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

1 class of voting stock of the corporation:

2 (i) holds a small-miner exemption;

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

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

8 (3) A small miner who intends to use a cyanide
9 ore-processing reagent shall obtain an operating permit for
10 that part of his operation where the cyanide ore-processing
11 reagent will be used or disposed of."

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

13 **"82-4-335. Operating permit.** (1) ~~No A~~ person ~~shall~~ may
14 not engage in mining, ore processing, or reprocessing of
15 tailings or waste material ~~or,~~ construct or operate a
16 hard-rock mill, use cyanide ore-processing reagents, or
17 disturb land in anticipation of those activities in the
18 state without first obtaining an operating permit from the
19 board ~~to do so~~. A separate operating permit ~~shall--be~~ is
20 required for each complex.

21 (2) A small miner who intends to use a cyanide
22 ore-processing reagent shall obtain an operating permit for
23 that part of his operation where the cyanide ore-processing
24 reagent will be used or disposed of.

25 (3) Prior to receiving an operating permit from the

1 board, any person ~~must~~ shall pay the basic permit fee of \$25
 2 and ~~must~~ submit an application on a form provided by the
 3 board, which ~~shall~~ must contain the following information
 4 and any other pertinent data required by the rules:

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

9 (b) minerals expected to be mined;

10 (c) a proposed reclamation plan;

11 (d) expected starting date of operations;

12 (e) a map showing the specific area to be mined and the
 13 boundaries of the land which will be disturbed, topographic
 14 detail, the location and names of all streams, roads,
 15 railroads, and utility lines on or immediately adjacent to
 16 the area, location of proposed access roads to be built, and
 17 the names and addresses of the surface and mineral owners of
 18 all lands within the mining area, to the extent known to the
 19 applicant;

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

22 (g) a plan which will provide, within limits of normal
 23 operating procedures of the industry, for completion of the
 24 operation;

25 (h) ground water and surface water hydrologic data

1 gathered from a sufficient number of sources and length of
 2 time to characterize the hydrologic regime;

3 (i) a plan detailing the design, operation, and
 4 monitoring of impounding structures, including but not
 5 limited to tailings impoundments and water reservoirs,
 6 sufficient to ensure that such the structures are safe and
 7 stable;

8 (j) a plan identifying methods to be used to monitor
 9 for the accidental discharge of objectionable materials and
 10 remedial action plans to be used to control and mitigate
 11 discharges to surface or ground water; and

12 (k) an evaluation of the expected life of any tailings
 13 impoundment or waste area and the potential for expansion of
 14 the tailings impoundment or waste site.

15 ~~†2†~~ (4) Except as provided in subsection ~~†4†~~ (6), the
 16 permit provided for in subsection (1) for a large-scale
 17 mineral development as defined in 90-6-302 ~~shall~~ must be
 18 conditioned to provide that activities under the permit may
 19 not commence until the impact plan is approved under
 20 90-6-307 and until the permittee has provided a written
 21 guarantee to the department and to the hard-rock mining
 22 impact board of compliance within the time schedule with the
 23 commitment made in the approved impact plan, as provided in
 24 90-6-307. If the permittee does not comply with that
 25 commitment within the time scheduled, the board, upon

1 receipt of written notice from the hard-rock mining impact
2 board, shall suspend the permit until it receives written
3 notice from the hard-rock mining impact board that the
4 permittee is in compliance.

5 {3}{5} When the department determines that a permittee
6 has become or will become a large-scale mineral developer
7 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
8 required under 82-4-339, within 6 months of receiving the
9 notice, the permittee shall provide the board with proof
10 that he has obtained a waiver of the impact plan requirement
11 from the hard-rock mining impact board or that he has filed
12 an impact plan with the hard-rock mining impact board and
13 the appropriate county or counties. If the permittee does
14 not file the required proof or if the hard-rock mining
15 impact board certifies to the board that the permittee has
16 failed to comply with the hard-rock mining impact review and
17 implementation requirements in Title 90, chapter 6, parts 3
18 and 4, the board shall suspend the permit until the
19 permittee files the required proof or until the hard-rock
20 mining impact board certifies that the permittee has
21 complied with the hard-rock mining impact review and
22 implementation requirements.

23 {4}{6} Compliance with 90-6-307 is not required for
24 exploration and bulk sampling for metallurgical testing when
25 the aggregate samples are less than 10,000 tons."

1 NEW SECTION. Section 4. Registration of cyanide
2 ore-processing operations. An existing facility that uses a
3 cyanide ore-processing reagent and was not, prior to July 1,
4 1989, required to obtain an operating permit for the
5 facility or to include the facility in an operating permit
6 is not subject to [this act] if the facility is registered
7 by January 1, 1990, by the owner or operator, on a form
8 provided by the department.

9 NEW SECTION. Section 5. Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. Section 6. Effective date. [This act] is
14 effective July 1, 1989.

-End-

SENATE STANDING COMMITTEE REPORT

March 8, 1989

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration HB 680 (third reading copy -- blue), respectfully report that HB 680 be amended and as so amended be concurred in:

Sponsor: Grady (Noble)

1. Page 1.

Following: line 11

Insert: "

Statement of Intent

A statement of intent is provided for this bill to elaborate on the type and extent of review that the department of state lands shall give to a small-miner application for an operating permit for a cyanide ore-processing facility. Moreover, the legislature anticipates that implementation of this bill shall require rulemaking by the board of land commissioners.

While an operating permit is required for these operations, the legislature intends that, because of the size and limited scope of the operation, the application requirements in general may be substantially less rigorous than the requirements for larger proposed mine operations not under the small miner exclusion. The department of state lands shall also attempt to review these applications in a shorter timeframe than currently needed to review operating permit applications for larger mines.

To encourage expedited review, the department of state lands shall provide clear guidance to permit applicants concerning requirements for a complete application. In particular, the guidance must help applicants prepare adequate operating and reclamation plans. While the legislature recognizes plan requirements may vary with the site and characteristics of the proposed operation, the department shall attempt to guide the applicant in a manner that minimizes applicant costs while also meeting metal-mine reclamation requirements.

Finally, [section 4 of this act] exempts an existing cyanide ore-processing facility if the operator registers the facility by January 1, 1990. In order to provide ample notice to existing operators the legislature intends that the department shall prepare the form and notify affected small-miners of the form's availability and purpose as soon as possible by mail or publication or both."

AND AS AMENDED BE CONCURRED IN

Signed:


Thomas F. Keating, Chairman

Statement of intent adopted.

SENATE

scrhb680.308
HB 680

1 HOUSE BILL NO. 680

2 INTRODUCED BY GRADY, GAGE, HOFMAN, RAPP-SVRCEK,

3 O'KEEFE, CRIPPEN, RANEY, PIPINICH, WEEDING,

4 D. BROWN, IVERSON

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A HARD-ROCK
7 MINER USING A CYANIDE ORE-PROCESSING REAGENT TO OBTAIN AN
8 OPERATING PERMIT FOR THE AREA WHERE THE CYANIDE IS USED OR
9 DISPOSED OF; EXEMPTING EXISTING FACILITIES USING CYANIDE
10 ORE-PROCESSING REAGENTS IF THEY ARE REGISTERED BY JANUARY 1,
11 1990; AMENDING SECTIONS 82-4-303, 82-4-305, AND 82-4-335,
12 MCA; AND PROVIDING AN EFFECTIVE DATE."

13 STATEMENT OF INTENT

14
15 A STATEMENT OF INTENT IS PROVIDED FOR THIS BILL TO
16 ELABORATE ON THE TYPE AND EXTENT OF REVIEW THAT THE
17 DEPARTMENT OF STATE LANDS SHALL GIVE TO A SMALL-MINER
18 APPLICATION FOR AN OPERATING PERMIT FOR A CYANIDE
19 ORE-PROCESSING FACILITY. MOREOVER, THE LEGISLATURE
20 ANTICIPATES THAT IMPLEMENTATION OF THIS BILL WILL REQUIRE
21 RULEMAKING BY THE BOARD OF LAND COMMISSIONERS.

22 WHILE AN OPERATING PERMIT IS REQUIRED FOR THESE
23 OPERATIONS, THE LEGISLATURE INTENDS THAT, BECAUSE OF THE
24 SIZE AND LIMITED SCOPE OF THE OPERATION, THE APPLICATION
25 REQUIREMENTS IN GENERAL MAY BE SUBSTANTIALLY LESS RIGOROUS

1 THAN THE REQUIREMENTS FOR LARGER PROPOSED MINE OPERATIONS
2 NOT UNDER THE SMALL-MINER EXCLUSION. THE DEPARTMENT OF
3 STATE LANDS SHALL ALSO ATTEMPT TO REVIEW THESE APPLICATIONS
4 IN A SHORTER TIMEFRAME THAN CURRENTLY NEEDED TO REVIEW
5 OPERATING PERMIT APPLICATIONS FOR LARGER MINES.

6 TO ENCOURAGE EXPEDITED REVIEW, THE DEPARTMENT OF STATE
7 LANDS SHALL PROVIDE CLEAR GUIDANCE TO PERMIT APPLICANTS
8 CONCERNING REQUIREMENTS FOR A COMPLETE APPLICATION. IN
9 PARTICULAR, THE GUIDANCE MUST HELP APPLICANTS PREPARE
10 ADEQUATE OPERATING AND RECLAMATION PLANS. WHILE THE
11 LEGISLATURE RECOGNIZES PLAN REQUIREMENTS MAY VARY WITH THE
12 SITE AND CHARACTERISTICS OF THE PROPOSED OPERATION, THE
13 DEPARTMENT SHALL ATTEMPT TO GUIDE THE APPLICANT IN A MANNER
14 THAT MINIMIZES APPLICANT COSTS WHILE ALSO MEETING METAL MINE
15 RECLAMATION REQUIREMENTS.

16 FINALLY, [SECTION 4 OF THIS ACT] EXEMPTS AN EXISTING
17 CYANIDE ORE-PROCESSING FACILITY IF THE OPERATOR REGISTERS
18 THE FACILITY BY JANUARY 1, 1990. IN ORDER TO PROVIDE AMPLE
19 NOTICE TO EXISTING OPERATORS, THE LEGISLATURE INTENDS THAT
20 THE DEPARTMENT SHALL PREPARE THE FORM AND NOTIFY AFFECTED
21 SMALL MINERS OF THE FORM'S AVAILABILITY AND PURPOSE AS SOON
22 AS POSSIBLE BY MAIL OR PUBLICATION, OR BOTH.

23
24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

25 **Section 1.** Section 82-4-303, MCA, is amended to read:



1 **"82-4-303. Definitions.** As used in this part, unless
2 the context indicates otherwise, the following definitions
3 apply:

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

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

10 (3) "Cyanide ore-processing reagent" means cyanide or
11 a cyanide compound used as a reagent in leaching operations.

12 (4) "Department" means the department of state
13 lands.

14 (5) "Disturbed land" means that area of land or
15 surface water disturbed, beginning at the date of the
16 issuance of the permit, and it comprises that area from
17 which the overburden, tailings, waste materials, or minerals
18 have been removed and tailings ponds, waste dumps, roads,
19 conveyor systems, leach dumps, and all similar excavations
20 or covering resulting from the operation and which have not
21 been previously reclaimed under the reclamation plan.

22 (6) "Exploration" means all activities conducted on
23 or beneath the surface of lands resulting in material
24 disturbance of the surface for the purpose of determining
25 the presence, location, extent, depth, grade, and economic

1 viability of mineralization in those lands, if any, other
2 than mining for production and economic exploitation, as
3 well as all roads made for the purpose of facilitating
4 exploration, except as noted in 82-4-305 and 82-4-310.

5 (7) "Mineral" means any ore, rock, or substance,
6 other than oil, gas, bentonite, clay, coal, sand, gravel,
7 phosphate rock, or uranium, taken from below the surface or
8 from the surface of the earth for the purpose of milling,
9 concentration, refinement, smelting, manufacturing, or other
10 subsequent use or processing or for stockpiling for future
11 use, refinement, or smelting.

12 (8) "Mining" commences at-such--time--as when the
13 operator first mines ores or minerals in commercial
14 quantities for sale, beneficiation, refining, or other
15 processing or disposition or first takes bulk samples for
16 metallurgical testing in excess of aggregate of 10,000 short
17 tons.

18 (9) "Ore processing" means milling, heap leaching,
19 flotation, vat leaching, or other standard hard-rock mineral
20 concentration processes.

21 (10) "Person" means any person, corporation, firm,
22 association, partnership, or other legal entity engaged in
23 exploration for or mining of minerals on or below the
24 surface of the earth, reprocessing of tailings or waste
25 materials, or operation of a hard-rock mill.

1 ~~(10)~~(11) "Reclamation plan" means the operator's
2 written proposal, as required and approved by the board, for
3 reclamation of the land that will be disturbed, which
4 proposal shall include, to the extent practical at the time
5 of application for an operating permit:

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

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

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

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

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

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

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

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

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

3 ~~(11)~~(12) (a) "Small miner" means a person, firm, or
4 corporation that engages in the business of mining or
5 reprocessing of tailings or waste materials that does not
6 remove from the earth during any calendar year material in
7 excess of 36,500 tons in the aggregate, that ~~holds--no~~ does
8 not hold an operating permit under 82-4-335 except for a
9 permit issued under 82-4-335(2), and that conducts:

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

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

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

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

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

20 (b) For the purpose of this definition only, the
21 department shall, in computing the area covered by the
22 operation, exclude access or haulage roads that are required
23 by a local, state, or federal agency having jurisdiction
24 over that road to be constructed to certain specifications
25 if that public agency notifies the department in writing

1 that it desires to have the road remain in use and will
2 maintain it after mining ceases.

3 ~~(12)~~(13) "Surface mining" means all or any part of the
4 process involved in mining of minerals by removing the
5 overburden and mining directly from the mineral deposits
6 thereby exposed, including but not limited to open-pit
7 mining of minerals naturally exposed at the surface of the
8 earth, mining by the auger method, and all similar methods
9 by which earth or minerals exposed at the surface are
10 removed in the course of mining. Surface mining does not
11 include the extraction of oil, gas, bentonite, clay, coal,
12 sand, gravel, phosphate rock, or uranium or excavation or
13 grading conducted for on-site farming, on-site road
14 construction, or other on-site building construction.

15 ~~(13)~~(14) "Underground mining" means all methods of
16 mining other than surface mining.

17 ~~(14)~~(15) "Unit of surface-mined area" means that area
18 of land and surface water included within an operating
19 permit actually disturbed by surface mining during each
20 12-month period of time, beginning at the date of the
21 issuance of the permit, and it comprises and includes the
22 area from which overburden or minerals have been removed,
23 the area covered by mining debris, and all additional areas
24 used in surface mining or underground mining operations
25 which by virtue of such the use are thereafter susceptible

1 to erosion in excess of the surrounding undisturbed portions
2 of land.

3 ~~(15)~~(16) "Vegetative cover" means the type of
4 vegetation, grass, shrubs, trees, or any other form of
5 natural cover considered suitable at time of reclamation."

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

7 "**82-4-305. Exemption -- small miners -- written**
8 **agreement.** (1) No Except as provided in subsection (3), the
9 provisions of this part shall do not apply to any small
10 miner when the small miner annually agrees in writing:

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

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

17 (c) that he shall will provide a map locating his
18 mining operations. Such The map shall must be to of a size
19 and scale as determined by the department.

20 (2) For small-miner exemptions obtained after
21 September 30, 1985, no a small miner may not obtain or
22 continue an exemption under subsection (1) unless he
23 annually certifies in writing:

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

25 (i) no business association or partnership of which he

1 is a member or partner has a small-miner exemption; and

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

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

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

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

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

15 (i) holds a small-miner exemption;

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

18 (iii) is an officer, director, or owner of record of
19 25% or more of any class of voting stock of another
20 corporation that holds a small-miner exemption.

21 (3) A small miner who intends to use a cyanide
22 ore-processing reagent shall obtain an operating permit for
23 that part of his operation where the cyanide ore-processing
24 reagent will be used or disposed of."

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

1 **"82-4-335. Operating permit. (1) No A person shall may**
2 **not** engage in mining, ore processing, or reprocessing of
3 tailings or waste material ~~or~~, construct or operate a
4 hard-rock mill, use cyanide ore-processing reagents, or
5 disturb land in anticipation of those activities 'in the
6 state without first obtaining an operating permit from the
7 board ~~to-do-so~~. A separate operating permit ~~shall--be~~ is
8 required for each complex.

9 (2) A small miner who intends to use a cyanide
10 ore-processing reagent shall obtain an operating permit for
11 that part of his operation where the cyanide ore-processing
12 reagent will be used or disposed of.

13 (3) Prior to receiving an operating permit from the
14 board, any person must shall pay the basic permit fee of \$25
15 and must submit an application on a form provided by the
16 board, which ~~shall~~ must contain the following information
17 and any other pertinent data required by the rules:

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

22 (b) minerals expected to be mined;

23 (c) a proposed reclamation plan;

24 (d) expected starting date of operations;

25 (e) a map showing the specific area to be mined and

1 the boundaries of the land which will be disturbed,
 2 topographic detail, the location and names of all streams,
 3 roads, railroads, and utility lines on or immediately
 4 adjacent to the area, location of proposed access roads to
 5 be built, and the names and addresses of the surface and
 6 mineral owners of all lands within the mining area, to the
 7 extent known to the applicant;

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

10 (g) a plan which will provide, within limits of normal
 11 operating procedures of the industry, for completion of the
 12 operation;

13 (h) ground water and surface water hydrologic data
 14 gathered from a sufficient number of sources and length of
 15 time to characterize the hydrologic regime;

16 (i) a plan detailing the design, operation, and
 17 monitoring of impounding structures, including but not
 18 limited to tailings impoundments and water reservoirs,
 19 sufficient to ensure that such the structures are safe and
 20 stable;

21 (j) a plan identifying methods to be used to monitor
 22 for the accidental discharge of objectionable materials and
 23 remedial action plans to be used to control and mitigate
 24 discharges to surface or ground water; and

25 (k) an evaluation of the expected life of any tailings

1 impoundment or waste area and the potential for expansion of
 2 the tailings impoundment or waste site.

3 ~~{2}~~(4) Except as provided in subsection ~~{4}~~ (6), the
 4 permit provided for in subsection (1) for a large-scale
 5 mineral development as defined in 90-6-302 shall must be
 6 conditioned to provide that activities under the permit may
 7 not commence until the impact plan is approved under
 8 90-6-307 and until the permittee has provided a written
 9 guarantee to the department and to the hard-rock mining
 10 impact board of compliance within the time schedule with the
 11 commitment made in the approved impact plan, as provided in
 12 90-6-307. If the permittee does not comply with that
 13 commitment within the time scheduled, the board, upon
 14 receipt of written notice from the hard-rock mining impact
 15 board, shall suspend the permit until it receives written
 16 notice from the hard-rock mining impact board that the
 17 permittee is in compliance.

18 ~~{3}~~(5) When the department determines that a permittee
 19 has become or will become a large-scale mineral developer
 20 pursuant to 82-4-339 and 90-6-302(4) and provides notice as
 21 required under 82-4-339, within 6 months of receiving the
 22 notice, the permittee shall provide the board with proof
 23 that he has obtained a waiver of the impact plan requirement
 24 from the hard-rock mining impact board or that he has filed
 25 an impact plan with the hard-rock mining impact board and

1 the appropriate county or counties. If the permittee does
 2 not file the required proof or if the hard-rock mining
 3 impact board certifies to the board that the permittee has
 4 failed to comply with the hard-rock mining impact review and
 5 implementation requirements in Title 90, chapter 6, parts 3
 6 and 4, the board shall suspend the permit until the
 7 permittee files the required proof or until the hard-rock
 8 mining impact board certifies that the permittee has
 9 complied with the hard-rock mining impact review and
 10 implementation requirements.

11 ~~††~~(6) Compliance with 90-6-307 is not required for
 12 exploration and bulk sampling for metallurgical testing when
 13 the aggregate samples are less than 10,000 tons."

14 NEW SECTION. Section 4. Registration of cyanide
 15 ore-processing operations. An existing facility that uses a
 16 cyanide ore-processing reagent and was not, prior to July 1,
 17 1989, required to obtain an operating permit for the
 18 facility or to include the facility in an operating permit
 19 is not subject to [this act] if the facility is registered
 20 by January 1, 1990, by the owner or operator, on a form
 21 provided by the department.

22 NEW SECTION. Section 5. Extension of authority. Any
 23 existing authority to make rules on the subject of the
 24 provisions of [this act] is extended to the provisions of
 25 [this act].

1 NEW SECTION. Section 6. Effective date. [This act] is
 2 effective July 1, 1989.

-End-