

1 HOUSE BILL NO. 69

2 INTRODUCED BY S. GIST

3 BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING HARD ROCK AND ROCK PRODUCTS MINING FEES;
6 PROVIDING FOR AN ANNUAL SMALL MINER ADMINISTRATIVE FEE AND LATE FEE, AN EXPLORATION
7 LICENSE RENEWAL FEE, AN OPERATING PERMIT APPLICATION FEE, AN ANNUAL PERMIT FEE FOR
8 MINES AND ROCK PRODUCTS MINES, AND A FEE FOR PERMIT AMENDMENTS; CREATING A HARD-
9 ROCK MINING PERMITTING PROGRAM ACCOUNT; PROVIDING RULEMAKING AUTHORITY; AMENDING
10 SECTIONS 82-4-305, 82-4-311, 82-4-331, 82-4-332, 82-4-335, 82-4-339, 82-4-342, AND 82-4-343, MCA; AND
11 PROVIDING AN EFFECTIVE DATE."

12

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

14

15 **NEW SECTION. Section 1. Hard-rock mining permitting program account.** (1) There is a hard-
16 rock mining permitting program account in the state special revenue fund established in 17-2-102. Money
17 transferred to the fund by the legislature, fees collected in accordance with this part, and interest and income
18 earned on money in the account must be deposited into the account.

19 (2) The department shall use money in the account to administer and enforce this part.

20

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

22 **"82-4-305. Exemption -- small miners -- written agreement.** (1) Except as provided in subsections
23 (3) through ~~(41)~~ (12), the provisions of this part do not apply to a small miner if the small miner annually submits
24 a \$100 administrative fee and agrees in writing:

25 (a) that the small miner will not pollute or contaminate any stream;

26 (b) that the small miner will provide protection for human and animal life through the installation of
27 bulkheads installed over safety collars and the installation of doors on tunnel portals;

28 (c) that the small miner will provide a map locating the miner's mining operations. The map must

be of a size and scale determined by the department.

(d) if the small miner's operations are placer or dredge mining, that the small miner shall salvage and protect all soil materials for use in reclamation of that site and shall reclaim all land disturbed by the operations to comparable utility and stability as that of adjacent areas.

(2) For small-miner exemptions obtained after September 30, 1985, a small miner may not obtain or continue an exemption under subsection (1) unless the small miner annually certifies in writing:

(a) if the small miner is an individual, that:

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

(ii) no corporation of which the small miner 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; or

(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.

(3) A small miner whose operations are placer or dredge mining shall post a performance bond equal to the state's documented cost estimate of reclaiming the disturbed land, although the bond may not exceed \$10,000 for each operation. If the small miner has posted a bond for reclamation with another government agency, the small miner is exempt from the requirement of this subsection.

(4) If a small miner who conducts a placer or dredge mining operation fails to reclaim the operation, the small miner is liable to the department for all of its reasonable costs of reclamation, including a

1 reasonable charge for services performed by state personnel and for state materials and equipment used. If the
2 small miner posts a surety bond, the surety is liable to the state to the extent of the bond amount and the small
3 miner is liable for the remainder of the reasonable costs to the state of reclaiming the operation.

4 (5) If a small miner who conducts a placer or dredge mining operation fails to commence
5 reclamation of the operation within 6 months after cessation of mining or within an extended period allowed by
6 the department for good cause shown or if the small miner fails to diligently complete reclamation, the
7 department shall notify the small miner by certified mail that it intends to reclaim the operation unless the small
8 miner commences reclamation within 30 days and diligently completes the reclamation. The notice must be
9 mailed to the address stated on the small miner exclusion statement or, if the small miner has notified the
10 department of a different address by letter or in the annual certification form, to the most recent address given
11 to the department. If the small miner fails to commence reclamation within 30 days or to diligently complete
12 reclamation, the department may revoke the small miner exclusion statement, forfeit any bond that has been
13 posted with the department, and enter and reclaim the operation. If the small miner has not posted a bond with
14 the department or if the reasonable costs of reclamation exceed the amount of the bond, the department may
15 also collect additional reclamation costs, as set forth in subsection (6), before or after it incurs those costs.

16 (6) To collect additional reclamation costs, the department shall notify the small miner by certified
17 mail, at the address determined under subsection (5), of the additional reasonable reclamation costs and
18 request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30
19 days, the department may bring an action in district court for payment of the estimated future costs and, if the
20 department has performed any reclamation, of its reasonable actual costs. The court shall order payment of
21 costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is
22 completed. Upon completion of reclamation, the court shall order payment of any additional costs that it
23 considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual
24 reasonable costs incurred by the department.

25 (7) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching
26 solvents or reagents shall obtain an operating permit for that part of the small miner's operation in which the
27 cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of. The
28 acreage disturbed by the operation using cyanide ore-processing reagents or other metal leaching solvents or

1 reagents and covered by the operating permit is excluded from the 5-acre limit specified in 82-4-303(30)(a)(i)
2 and (30)(a)(ii).

3 (8) (a) Except for a small miner proposing to conduct a placer or dredge mining operation, a small
4 miner who intends to use an impoundment to store waste from ore processing shall obtain approval for the
5 design, construction, operation, and reclamation of that impoundment and post a performance bond for that
6 part of the small miner's operation before constructing an impoundment. The small miner shall post a
7 performance bond equal to the state's documented cost estimate of reclaiming the disturbed land. If the small
8 miner has posted a bond for reclamation of that site with a federal government agency, the small miner is
9 exempt from the requirements of this subsection (8)(a).

10 (b) The department shall conduct a review of the adequacy of the bond posted by a small miner
11 using an impoundment pursuant to this section at least once every 5 years and adjust the bond if necessary to
12 ensure reclamation of the impoundment. The acreage disturbed by the portion of the operation that uses an
13 impoundment to store waste from ore processing is included in the 5-acre limit specified in 82-4-303(30)(a)(i)
14 and (30)(a)(ii) and is subject to the provisions of this subsection (8).

15 (c) If a small miner under this subsection (8) fails to reclaim the operation, the small miner is liable
16 to the department for all of its reasonable costs of reclamation, including a reasonable charge for services
17 performed by state personnel and for state materials and equipment used. If the small miner posts a surety
18 bond, the surety is liable to the state to the extent of the bond amount and the small miner is liable for the
19 remainder of the reasonable costs to the state of reclaiming the operation.

20 (d) If a small miner under this subsection (8) fails to commence reclamation of the operation within
21 6 months after cessation of mining or within an extended period allowed by the department for good cause
22 shown or if the small miner fails to diligently complete reclamation, the department shall notify the small miner
23 by certified mail that it intends to reclaim the operation unless the small miner commences reclamation within
24 30 days and diligently completes the reclamation. The notice must be mailed to the address stated on the small
25 miner exclusion statement or, if the small miner has notified the department of a different address by letter or in
26 the annual certification form, to the most recent address given to the department. If the small miner fails to
27 commence reclamation within 30 days or to diligently complete reclamation, the department may revoke the
28 small miner exclusion statement, forfeit any bond that has been posted with the department, and enter and

1 reclaim the operation. If the small miner has not posted a bond with the department or if the reasonable costs of
2 reclamation exceed the amount of the bond, the department may also collect additional reclamation costs, as
3 set forth in subsection (8)(e), before or after it incurs those costs.

4 (e) To collect additional reclamation costs, the department shall notify the small miner by certified
5 mail, at the address determined under subsection (8)(d), of the additional reasonable reclamation costs and
6 request payment within 30 days. If the small miner does not pay the additional reclamation costs within 30
7 days, the department may bring an action in district court for payment of the estimated future costs and, if the
8 department has performed any reclamation, of its reasonable actual costs. The court shall order payment of
9 costs that it determines to be reasonable and shall retain jurisdiction until reclamation of the operation is
10 completed. Upon completion of reclamation, the court shall order payment of any additional costs that it
11 considers reasonable or the refund of any portion of any payment for estimated costs that exceeds the actual
12 reasonable costs incurred by the department.

13 (f) Except for a small miner who conducts a placer or dredge mining operation, a small miner
14 utilizing an impoundment to store waste from ore processing on or after April 28, 2005, shall obtain approval of
15 the design, construction, operation, and reclamation of that impoundment and post a performance bond within 6
16 months of April 28, 2005. If the small miner has posted a bond for reclamation of that site with a federal
17 government agency, the small miner is exempt from the requirements of this subsection (8)(f).

18 (9) The exemption provided in this section does not apply to a person:

19 (a) whose failure to comply with the provisions of this part, the rules adopted under this part, or a
20 permit or license issued under this part has resulted in the forfeiture of a bond, unless that person meets the
21 conditions described under 82-4-360;

22 (b) who has not paid a penalty for which the department has obtained a judgment pursuant to 82-
23 4-361;

24 (c) who has failed to post a reclamation bond required by this section, unless the department has
25 certified that the area for which the bond should have been posted has been reclaimed by that person or
26 reclaimed by the department and the person has reimbursed the department for the cost of the reclamation; or

27 (d) who has failed to comply with an abatement order issued pursuant to 82-4-362, unless the
28 department has completed the abatement and the person has reimbursed the department for the cost of

1 abatement.

2 (10) The exemption provided in this section does not apply to an area:

3 (a) under permit pursuant to 82-4-335;

4 (b) that has been permitted pursuant to 82-4-335 and reclaimed by the permittee, the department,
5 or any other state or federal agency; or

6 (c) that has been reclaimed by or has been subject to remediation of contamination or pollution by
7 a public agency, under supervision of a public agency, or using public funds.

8 (11) A small miner may not use mercury except in a contained facility that prevents the escape of
9 any mercury into the environment.

10 (12) If a small miner fails to meet the annual reporting requirement in this section on or before
11 March 1 of each year, the small miner shall pay a late fee of \$100 in addition to the \$100 administrative fee."

12

13 **Section 3.** Section 82-4-311, MCA, is amended to read:

14 **"82-4-311. Disposition of fees, fines, penalties, and other uncleared money.** (1) (a) All fees, fines
15 Fines, penalties, and other uncleared money that has been or will be paid to the department under the
16 provisions of this part must be placed in the environmental rehabilitation and response account in the state
17 special revenue fund provided for established in 75-1-110.

18 (b) Funds held by the department as bond or as a result of bond forfeiture that are no longer
19 needed for reclamation and for which the department is not able to locate a surety or other person who owns
20 the funds after diligent search must be deposited in the environmental rehabilitation and response account in
21 the state special revenue fund established in 75-1-110.

22 (2) Fees paid to the department under this part must be placed in the hard-rock mining permitting
23 program account established in [section 1]."

24

25 **Section 4.** Section 82-4-331, MCA, is amended to read:

26 **"82-4-331. Exploration license required -- employees included -- limitation.** (1) (a) A person may
27 not engage in exploration in the state without first obtaining an exploration license from the department. A
28 license must be issued for a period of 1 year from the date of issue and is renewable from year to year on

1 application. An application for renewal must be filed within 30 days preceding the expiration of the current
2 license and be accompanied by payment of ~~a \$25 renewal fee~~ the fee specified in 82-4-342(2)(c), if applicable,
3 and the following renewal fee:

4 (i) for an exploration license approved for activities beneath the surface of the land, \$400; or

5 (ii) for an exploration license approved for activities only on the surface of the land, \$100.

6 (b) A license may not be renewed if the applicant for renewal is in violation of any provision of this
7 part. A license is subject to suspension and revocation as provided by this part.

8 (2) Employees of persons holding a valid license under this part are included in and covered by
9 the license.

10 (3) A person may not be issued an exploration license if:

11 (a) that person's failure, or the failure of any firm or business association of which that person was
12 a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or
13 a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department
14 or the completion of reclamation by the person's surety or by the department, unless that person meets the
15 conditions described in 82-4-360;

16 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant
17 to 82-4-361;

18 (c) that person has failed to post a reclamation bond required by 82-4-305; or

19 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless
20 the department has completed the abatement and the person has reimbursed the department for the cost of the
21 abatement."

22
23 **Section 5.** Section 82-4-332, MCA, is amended to read:

24 **"82-4-332. Exploration license.** (1) An exploration license must be issued to any applicant who:

25 (a) pays ~~a~~ the following fee of \$400 to the department;

26 (i) for a license approved for activities beneath the surface of the land, \$2,000; or

27 (ii) for a license approved for activities only on the surface of the land, \$1,000;

28 (b) agrees to reclaim any surface area damaged by the applicant during exploration operations, as

1 may be reasonably required by the department; and

2 (c) is not in default of any other reclamation obligation under this law.

3 (2) An application for an exploration license must be made in writing, notarized, and submitted to
4 the department in duplicate upon forms prepared and furnished by it. The application must include an
5 exploration map or sketch in sufficient detail to locate the area to be explored and to determine whether
6 significant environmental problems would be encountered. The department shall by rule determine the precise
7 nature of the exploration map or sketch. The applicant shall state what type of prospecting and excavation
8 techniques will be employed in disturbing the land.

9 (3) Prior to the issuance of an exploration license, the applicant shall file with the department a
10 reclamation and revegetation bond in a form and amount as determined by the department in accordance with
11 82-4-338.

12 (4) In the event that the holder of an exploration license desires to mine the area covered by the
13 exploration license and has fulfilled all of the requirements for an operating permit, the department shall allow
14 the postponement of the reclamation of the acreage explored if that acreage is incorporated into the complete
15 reclamation plan submitted with the application for an operating permit. Any land actually affected by
16 exploration or excavation under an exploration license and not covered by the operating reclamation plan must
17 be reclaimed within 2 years after the completion of exploration or abandonment of the site in a manner
18 acceptable to the department."

19

20 **Section 6.** Section 82-4-335, MCA, is amended to read:

21 **"82-4-335. Operating permit -- limitation -- fees.** (1) A person may not engage in mining, ore
22 processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide ore-
23 processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of those
24 activities in the state without first obtaining a final operating permit from the department. Except as provided in
25 82-4-343, a separate final operating permit is required for each complex.

26 (2) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching
27 solvents or reagents shall obtain an operating permit for that part of the small miner's operation where the
28 cyanide ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.

1 (3) (a) Prior to receiving an operating permit from the department, a person shall pay ~~the basic~~
2 ~~permit fee of \$500~~ an application fee of \$5,000, except that a person mining primarily rock products as defined
3 in 82-4-303 shall pay an application fee of \$500.

4 (b) The department may require a person who is applying for a permit pursuant to subsection (1) to
5 pay an additional fee not to exceed the actual amount of contractor and employee expenses beyond the normal
6 operating expenses of the department whenever those expenses are reasonably necessary to provide for
7 timely and adequate review of the application, including any environmental review conducted under Title 75,
8 chapter 1, parts 1 and 2. The department may further define these expenses by rule. Whenever the department
9 determines that an additional fee is necessary and the additional fee will exceed \$5,000, the department shall
10 notify the applicant that a fee must be paid and submit to the applicant an itemized estimate of the proposed
11 expenses. The department shall provide the applicant an opportunity to review the department's estimated
12 expenses. The applicant may indicate which proposed expenses the applicant considers duplicative or
13 excessive, if any.

14 ~~(b)(c)~~ (i) Subject to subsection ~~(3)(b)(ii)~~ (3)(c)(ii), a contractor shall, at the request of the applicant,
15 directly submit invoices of contractor expenses to the applicant.

16 (ii) A contractor's work is assigned, reviewed, accepted, or rejected by the department pursuant to
17 this section.

18 (4) The person shall submit an application on a form provided by the department, which must
19 contain the following information and any other pertinent data required by rule:

20 (a) the name and address of the operator, the engineer of record if applicable, and, if a corporation
21 or other business entity, the name and address of its officers, directors, owners of 10% or more of any class of
22 voting stock, partners, and the like and its resident agent for service of process, if required by law;

23 (b) the minerals expected to be mined;

24 (c) a proposed reclamation plan;

25 (d) the expected starting date of operations;

26 (e) a map showing the specific area to be mined and the boundaries of the land that will be
27 disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or
28 immediately adjacent to the area, and the location of proposed access roads to be built;

1 (f) the names and addresses of the owners of record and any purchasers under contracts for
2 deed of the surface of the land within the permit area and the owners of record and any purchasers under
3 contracts for deed of all surface area within one-half mile of any part of the permit area, provided that the
4 department is not required to verify this information;

5 (g) the names and addresses of the present owners of record and any purchasers under contracts
6 for deed of all minerals in the land within the permit area, provided that the department is not required to verify
7 this information;

8 (h) the source of the applicant's legal right to mine the mineral on the land affected by the permit,
9 provided that the department is not required to verify this information;

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

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

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

15 (l) a plan detailing the design, operation, and monitoring of impounding structures, including but
16 not limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe and
17 stable. For a tailings storage facility, this requirement is met by submission of a design document pursuant to
18 82-4-376, a panel report pursuant to 82-4-377, and a tailings operation, maintenance, and surveillance manual
19 pursuant to 82-4-379 prior to issuance of a draft permit.

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

22 (n) an evaluation of the expected life of any tailings impoundment or waste area and the potential
23 for expansion of the tailings impoundment or waste site. For a tailings storage facility, this requirement is met by
24 submission of a design document pursuant to 82-4-376, a panel report pursuant to 82-4-377, and a tailings
25 operation, maintenance, and surveillance manual pursuant to 82-4-379 prior to issuance of a draft permit.

26 (o) an assessment of the potential for the postmining use of mine-related facilities for other
27 industrial purposes, including evidence of consultation with the county commission of the county or counties
28 where the mine or mine-related facilities will be located.

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

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

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

21 (8) A person may not be issued an operating permit if:

22 (a) that person's failure, or the failure of any firm or business association of which that person was
23 a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or
24 a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department
25 or the completion of reclamation by the person's surety or by the department, unless that person meets the
26 conditions described in 82-4-360;

27 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant
28 to 82-4-361;

1 (c) that person has failed to post a reclamation bond required by 82-4-305; or

2 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless
3 the department has completed the abatement and the person has reimbursed the department for the cost of
4 abatement.

5 (9) A person may not be issued a permit under this part unless, at the time of submission of a
6 bond, the person provides the current information required in subsection (4)(a) and:

7 (a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation
8 of this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

9 (ii) presents a certification by the administering agency that the violation is in the process of being
10 corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

11 (b) if the person is a partnership, corporation, or other business association, provides the
12 certification required by subsection (9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors,
13 owners of 10% or more of any class of voting stock, and business association members."
14

15 **Section 7.** Section 82-4-339, MCA, is amended to read:

16 **"82-4-339. Annual report of activities by permittee -- fee -- notice of large-scale mineral**
17 **developer status.** (1) Within 30 days after completion or abandonment of operations on an area under permit
18 or within 30 days after each anniversary date of the permit, whichever is earlier, or at a later date that may be
19 provided by rule and each year after that date until reclamation is completed and approved, the permittee shall
20 pay the applicable annual fee of \$100 provided for in subsections (3) or (4) and shall file a report of activities
21 completed during the preceding year on a form prescribed by the department. The report must:

22 (a) identify the permittee and the permit number;

23 (b) locate the operation by subdivision, section, township, and range and with relation to the
24 nearest town or other well-known geographic feature;

25 (c) estimate acreage to be newly disturbed by operation in the next 12-month period;

26 (d) include the number of persons on the payroll for the previous permit year and for the next
27 permit year at intervals that the department considers sufficient to enable a determination of the permittee's
28 status under 90-6-302(4);

- 1 (e) update the information required in 82-4-335(4)(a); and
- 2 (f) update any maps previously submitted or specifically requested by the department. The maps
- 3 must show:
- 4 (i) the permit area;
- 5 (ii) the unit of disturbed land;
- 6 (iii) the area to be disturbed during the next 12-month period;
- 7 (iv) if completed, the date of completion of operations;
- 8 (v) if not completed, the additional area estimated to be further disturbed by the operation within
- 9 the following permit year; and
- 10 (vi) the date of beginning, amount, and current status of reclamation performed during the previous
- 11 12 months.
- 12 (2) Whenever the department determines that the permittee has become or will, during the next
- 13 permit year, become a large-scale mineral developer, it shall immediately serve written notice of that fact on the
- 14 permittee, the hard-rock mining impact board, and the county or counties in which the operation is located.
- 15 (3) Except as provided in subsection (4):
- 16 (a) for a mine required to file a reclamation bond pursuant to 82-4-338(1)(a), a permittee shall pay
- 17 the fee specified under 82-4-342(2)(c), if applicable, and an annual permit fee as follows:
- 18 (i) for a mine of 500 acres or more of a bonded disturbance, \$5,000;
- 19 (ii) for a mine of 100 acres or more but less than 500 acres of a bonded disturbance, \$3,000; or
- 20 (iii) for a mine of less than 100 acres of a bonded disturbance, \$1,000; or
- 21 (b) for a mine not required to file a reclamation bond pursuant to 82-4-338(1)(a), a permittee shall
- 22 pay the fee specified under 82-4-342(2)(c) or 82-4-343(3)(c), if applicable, and an annual permit fee of \$100.
- 23 (4) Upon submission of an annual report of activities as required in subsection (1), a person
- 24 permitted under this part to mine rock products as defined in 82-4-303 shall pay:
- 25 (a) the applicable fee specified under 82-4-342(2)(c) or 82-4-343(3)(c); and
- 26 (b) an annual permit fee as follows:
- 27 (i) when the report is submitted between July 1, 2025, and June 30, 2026, 25% of the applicable
- 28 fee in subsection (3)(a);

(ii) when the report is submitted between July 1, 2026, and June 30, 2027, 50% of the applicable fee in subsection (3)(a);

(iii) when the report is submitted between July 1, 2027, and June 30, 2028, 75% of the applicable fee in subsection (3)(a); or

(iv) when the report is submitted on or after July 1, 2028, 100% of the applicable fee in subsection (3)(a)."

Section 8. Section 82-4-342, MCA, is amended to read:

"82-4-342. Amendment to operating permits and exploration licenses -- rulemaking -- fees. (1)

During the term of an operating permit or exploration license issued under this part, an operator or licensee may apply for a permit-revision as described in subsections ~~(5)(g)-(6)(g)~~ through ~~(5)(j)-(6)(l)~~ or an amendment to the permit or license. The operator may not apply for an amendment to delete disturbed acreage except following reclamation, as required under 82-4-336, and bond release for the disturbance, as required under 82-4-338.

(2) (a) The department may by rule establish criteria for the classification of amendments to a permit or exploration license as major or minor. The department shall adopt rules establishing requirements for the content of applications for revisions and major and minor amendments and the procedures for processing revisions and minor amendments.

(b) An amendment must be considered minor if:

(i) it is for the purpose of retention of mine-related facilities that are valuable for postmining use;

(ii) evidence is submitted showing that a local government has requested retention of the mine-related facilities for a postmining use; and

(iii) the postmining use of the mine-related facilities meets the requirements provided for in 82-4-336.

(c) An operator or licensee who is applying for a minor amendment or revision shall pay to the department a fee of \$100. This fee must be included with the next annual fee payment required under 82-4-332(1) or 82-4-339(3).

(3) ~~(a) Applications for major amendments~~ An application for a major amendment to an operating

1 permit must be processed pursuant to 82-4-337.

2 (b) Except as specified under 82-4-343(3)(c) or as provided in subsection (3)(c) of this section, an
3 operator applying for a major amendment to an operating permit shall pay to the department a fee of \$5,000 at
4 the time of the application.

5 (c) A person mining primarily rock products as defined in 82-4-303 shall pay to the department a
6 fee of \$500 for an application for a major amendment.

7 (4) An applicant for an amendment to an exploration license shall pay to the department a fee of:

8 (a) for amendments that include activities beneath the surface of the land, \$500; or

9 (b) for amendments that include activities only on the surface of the land, \$250.

10 (4)(5) The department shall review an application for a revision or a minor amendment and provide a
11 notice of decision on the adequacy of the application within 30 days. If the department does not respond within
12 30 days, then the permit is revised or amended in accordance with the application.

13 (5)(6) The department is not required to prepare an environmental assessment or an environmental
14 impact statement for the following categories of action and permit revisions:

15 (a) actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic
16 review pursuant to Title 75, chapter 1;

17 (b) administrative actions, such as routine, clerical, or similar functions of a department, including
18 but not limited to administrative procurement, contracts for consulting services, and personnel actions;

19 (c) repair or maintenance of the permittee's equipment or facilities;

20 (d) investigation and enforcement actions, such as data collection, inspection of facilities, or
21 enforcement of environmental standards;

22 (e) ministerial actions, such as actions in which the agency does not exercise discretion, but acts
23 upon a given state of facts in a prescribed manner;

24 (f) approval of actions that are primarily social or economic in nature and that do not otherwise
25 affect the human environment;

26 (g) changes in a permit boundary that increase disturbed acres that are insignificant in impact
27 relative to the entire operation, provided that the increase is less than 25 acres or 10% of the permitted area,
28 whichever is less;

(h) changes to an approved reclamation plan if the changes are consistent with this part and rules adopted pursuant to this part;

(i) changes in an approved operating plan for an activity that was previously permitted if the changes will be insignificant relative to the entire operation and the changes are consistent with subsection ~~(5)(g)~~ (6)(g);

(j) changes in a permit for the purpose of retention of mine-related facilities that are valuable for postmining use;

(k) modifications to a tailings storage facility that result in a minor expansion to the facility if:

(i) the proposed modification is certified by the seal of the engineer of record;

(ii) the capacity increase resulting from the expansion is no greater than 15% of the capacity of the existing tailings storage facility; and

(iii) the modification complies with 82-4-376(2)(l) and (2)(dd) and is exempt under subsection ~~(5)(g), (5)(h), or (5)(i)~~ (6)(g), (6)(h), or (6)(i) of this section; and

(l) applications for rock product permits and amendments pursuant to 82-4-343."

Section 9. Section 82-4-343, MCA, is amended to read:

"82-4-343. Operating permit -- rock products -- fees. (1) A person may not engage in mining of rock products or disturb land in anticipation of mining rock products before obtaining a final operating permit from the department pursuant to this section.

(2) (a) A person mining rock products or a landowner allowing another person to mine rock products from the landowner's land may obtain an operating permit for a single site or multiple sites if the operation or operations cumulatively disturb no more than 100 acres of the earth's surface and the single site or each of the multiple sites do not:

(i) operate within 100 feet of surface water or in ground water or impact any wetland, surface water, or ground water;

(ii) have any water impounding structures other than for storm water control;

(iii) adversely impact a member of or the critical habitat of a member of a wildlife species that is listed as threatened or endangered under the Endangered Species Act of 1973; or

1 (iv) impact significant historic or archaeological features.

2 (b) A landowner who is a permittee and allows another person to mine on the landowner's land is
3 responsible for compliance with this part, the rules adopted pursuant to this part, and the permit for mining
4 activities conducted on sites permitted pursuant to this subsection (2) with the landowner's permission. The
5 performance bond required under this part is and must be conditioned upon compliance with this part, the rules
6 adopted pursuant to this part, and the permit of the landowner and any person who mines with the landowner's
7 consent.

8 (3) (a) Prior to receiving a final operating permit from the department, a person shall pay a basic
9 permit application fee of \$500. The department may require a person applying for a permit pursuant to
10 subsection (1) to pay an additional fee not to exceed the actual amount of contractor and employee expenses
11 beyond the normal operating expenses of the department whenever those expenses are reasonably necessary
12 to provide for timely and adequate review of the application, including any environmental review conducted
13 under Title 75, chapter 1, parts 1 and 2. The ~~board~~department may further define these expenses by rule.
14 Whenever the department determines that an additional fee is necessary and the additional fee will exceed
15 \$2,000, the department shall notify the applicant that a fee must be paid and submit to the applicant an itemized
16 estimate of the proposed expenses. The department shall provide the applicant an opportunity to review the
17 department's estimated expenses. The applicant may indicate which proposed expenses the applicant
18 considers duplicative or excessive, if any.

19 (b) (i) Subject to subsection (3)(b)(ii), a contractor shall, at the request of the applicant, directly
20 submit invoices of contractor expenses to the applicant.

21 (ii) A contractor's work is assigned, reviewed, accepted, or rejected by the department pursuant to
22 this section.

23 (c) (i) A person applying for a minor amendment or revision to an operating permit shall pay to the
24 department a fee of \$100. This fee must be included with the next annual fee payment required by 82-4-339(3).

25 (ii) A person applying for a major amendment shall pay the department a fee of \$500 at the time of
26 the application.

27 (4) The person shall submit an application on a form provided by the department, which must
28 contain the following information and any other pertinent data required by rule:

1 (a) the name and address of the operator, and, if a corporation or other business entity, the name
2 and address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like
3 and its resident agent for service of process, if required by law;

4 (b) the rock products expected to be mined;

5 (c) a proposed reclamation plan;

6 (d) the expected starting date of operations;

7 (e) a map showing the specific area to be mined and the boundaries of the land that will be
8 disturbed, the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or
9 immediately adjacent to the area, and the location of proposed access roads to be built;

10 (f) the names and addresses of the owners of record and any purchasers under contracts for
11 deed of the surface of the land within the permit area, provided that the department is not required to verify this
12 information;

13 (g) the names and addresses of the present owners of record and any purchasers under contracts
14 for deed of all minerals in the land within the permit area, provided that the department is not required to verify
15 this information;

16 (h) the source of the applicant's legal right to mine the mineral on the land affected by the permit,
17 provided that the department is not required to verify this information;

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

19 (j) a plan that will provide, within limits of normal operating procedures of the industry, for
20 completion of the operation;

21 (5) A person may not be issued an operating permit if:

22 (a) that person's failure, or the failure of any firm or business association of which that person was
23 a principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or
24 a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department
25 or the completion of reclamation by the person's surety or by the department, unless that person meets the
26 conditions described in 82-4-360;

27 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant
28 to 82-4-361;

1 (c) that person has failed to post a reclamation bond required by 82-4-305; or

2 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless
3 the department has completed the abatement and the person has reimbursed the department for the cost of
4 abatement.

5 (6) A person may not be issued a permit under this part unless, at the time of submission of a
6 bond, the person provides the current information required in subsection (4)(a) and:

7 (a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation
8 of this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

9 (ii) presents a certification by the administering agency that the violation is in the process of being
10 corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

11 (b) if the person is a partnership, corporation, or other business association, provides the
12 certification required by 82-4-335(9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors, owners
13 of 10% or more of any class of voting stock, and business association members.

14 (7) The department's action on an application submitted under this section does not require an
15 environmental review under Title 75, chapter 1, for the following:

16 (a) an application for a new permit resulting in less than 15 acres of total disturbance;

17 (b) an application to amend a permit resulting in less than 15 acres of total disturbance; and

18 (c) an application to amend a permit that has been analyzed under Title 75, chapter 1, that results
19 in less than 25 acres of new disturbance."

20
21 **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an
22 integral part of Title 82, chapter 4, part 3, and the provisions of Title 82, chapter 4, part 3, apply to [section 1].

23
24 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2025.

25 - END -