

## I. Small Miner Exclusion Statement (SMES)

This is not actually a permit or license per se, but an "exclusion" from obtaining an operating (full-scale mining) permit as the name implies. It consists of a signed and notarized affidavit stating that an operator will stay within the requirements or conditions of the exclusion. An SMES basically excludes small operators from the stricter requirements of the MMRA if they meet several conditions. Those conditions are:

- A. The operator will conduct an operation resulting in not more than 5 acres of surface disturbance (including roads, except that access roads may be bonded for reclamation at the operators option, and thereby not counted against the 5 acres), or two operations which disturb and leave unreclaimed less than 5 acres per operation if the respective mining properties are:
  - 1. the only operations engaged in by the person or company;
  - 2. at least one mile apart at their closest point;
- B. The operator cannot pollute or contaminate any stream.
- C. The operator provides appropriate protection for human and animal life at underground mine sites through the installation of bulkheads placed over safety collars, and the installation of doors on portals.
- D. The operator provides DEQ with an appropriate map of his/her operation, and files a renewal annually that describes what has been done in the past year, and what is proposed for the coming year.
- E. The operator must comply with the Noxious Weed Management Act. For more information about this Act, please contact the Montana DEQ's Hard Rock Program or your county Weed District office.
- F. For Small Miner Exclusion Statements obtained after September 30, 1985, a small miner may not obtain or continue an exclusion unless he/she annually certifies in writing that:
  - a) the small miner is a person or legal entity that:
    - (i) no business association or partnership of which he/she is a member or partner has a small miner exclusion;
    - AND-**
    - (ii) no corporation of which he/she is an officer, director, or owner of record of 25% or more of any class of voting stock has a small miner exclusion;
  - OR-**
  - b) if the small miner is a partnership or business association, that:
    - (i) none of the associates or partners holds a small miner exclusion;

**-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 exclusion;

**-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 exclusion;
- OR-**
- (ii) is a member or partner in a business association or partnership that holds a small miner exclusion;
- 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 exclusion.

**Placer Mining and the SMES:** A reclamation bond, not to exceed \$10,000.00, is required for all small *placer* mining operations. Note that this bonding authority is only extended to small placer operations which began after July 1, 1989, and does not apply to small hard rock operations (e.g., open pit, underground, etc.). The MMRA also allows DEQ to recover costs over and above the \$10,000.00 limit by filing for the additional amount in district court.

The Department will hold such a bond on private, state or some federal lands controlled by the Bureau of Land Management (since the BLM has limited bonding authority). On National Forest lands, the Forest Service would generally hold an adequate bond to cover all disturbances, regardless of the amount. If the placer operation occurred on both National Forest and private land, DEQ would bond the private land portion. Under this authority, reclamation of placer operations would have to commence within 6 months of cessation of mining. This does not include seasonal closures.

**Cyanide or other metal leaching solvent use and the SMES:** A small miner who intends to use cyanide or other metal leaching solvent as an ore-processing reagent shall obtain an operating permit for that part of the small miner's operation in which the cyanide or other metal leaching solvent ore-processing reagent will be used or disposed of. Please refer to section IV of this document (below) for additional information.

For mines starting operations after November 3, 1998, open pit mining for gold or silver using heap leaching or vat leaching with cyanide ore-processing reagents is prohibited.

**Exploration and the SMES:** An SMES is for small-scale *mining* only, and ***cannot be used for exploration.*** In the MMRA, "mining" is defined as the extraction of ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing. "Exploration" is defined as 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 of those lands.

**Obtaining an SMES:** An SMES can be obtained by writing, stopping by, or calling the Hard Rock Program at

DEQ's Main Office in Helena:

**Montana DEQ - Hard Rock Program  
1520 East 6th Avenue  
PO Box 200901  
Helena, Montana 59620-0901**

**Telephone: (406) 444-4953  
Fax: (406) 444-1374**