What Permit Do I need?

Recreational Mining – *Statute: 82-4-301, et seq., MCA Rule: ARM 17.24.101, et seq.*

Recreational Miners are not regulated by the State provided the miner:

1. Does not use motorized excavating equipment
2. Does not use blasting agents
3. Does not disturb more than 100 sq. ft. of the earth's surface
4. Does not dig more than 50 cubic yards of material at any site
5. Does not leave un-reclaimed sites that are less than 1 mile apart
6. Does not use mercury
7. Does not use cyanide or other metal leaching agents

Recreational Miners may require other local, state or federal permits.

Small Miner Exclusion Statement (SMES) – *Statue: 82-4-301, et seq., MCA Rule: ARM 17.24.101, et seq.*

A SMES is not a permit or a license, but a notarized affidavit attesting that the miner will follow the conditions of the small miner exclusion statement. Rules applicable to small miners are:

1. A small mine operation disturbs less than 5 acres of total surface disturbance.
2. A small mine operator may have 2 total SMES operations that have not been reclaimed. Those operations must be over 1 mile apart at their closest points.
3. Types of SMES activities and commodities may include: open pit, decorative rock, placer, underground, etc…
4. A small mine operator may not hold a SMES in addition to an Operating Permit that has over 100 acres of permitted disturbance.
5. SMES are valid for 1 year and can be renewed annually.

SMES operations may require other local, state or federal permits.

Exploration License – *Statue: 82-4-332, et seq., MCA Rule: ARM 17.24.103, et seq.*

As a guideline, an exploration license is intended for exploratory operations to determine the feasibility of mining.

1. License applies statewide and can include multiple sites and multiple plans of operation.
2. Often includes drill holes and associated surface disturbance, and exploration trenches, but can also include underground tunnels, adits, and declines.
3. No more than 10,000 short tons of material may be taken for testing from each site under an exploration license.
4. All activity must be bonded, and an environmental review must be conducted for each plan of operation.

Exploration Licenses may require other local, state or federal permits.

Operating Permits – *Statue: 82-4-301, et seq, MCA Rule: ARM 17.24.101 et seq.*

1. Mining operations generally with greater than 5 acres of total surface disturbance, including quarries, roads, processing areas, loadouts, etc…
2. Can cover a single location or multiple quarries
3. All activity must be bonded, and an environmental review must be conducted

Operating Permit will likely require other local, state or federal permits.

State of Montana

Department of Environmental Quality
Small Miner Exclusion Statement

The Small Miner Exclusion Statement (SMES) is one of three regulatory instruments that the Department of Environmental Quality (DEQ) Hard Rock Mining Bureau (HRMB) administers under the 1971 Montana Metal Mine Reclamation Act (MMRA). The SMES is not a mining permit, but is an exclusion from the requirement to obtain a mining permit. The SMES is an agreement that a miner signs attesting that they will follow the rules and conditions of the exclusion statement in order to be exempted from obtaining a full mining permit.

The following notes and Frequently Asked Questions are meant to summarize the legal requirements and department policies related to the SMES program. However, this should not be relied upon as a comprehensive list of all legal requirements. Rather, the small miner should refer to the provisions of the MMRA and Administrative Rules of Montana (ARM) to determine all compliance requirements.

SMES Laws and Rules

The following outlines some of the basic framework related to SMES compliance. The list is not comprehensive, so please take some time to read over all of the provisions of state law applicable to the SMES. The MMRA provisions are set forth in Sections 82-4-303(30) and 82-4-305 of the Montana Code Annotated and ARM 17.24.101 through 102, and 17.24.180 through 189.

- Size Limit – Total surface disturbance cannot exceed 5 acres.
    - Disturbance generally includes all land associated with the mining operation such as excavated ground, waste dumps, roads, conveyor systems and load-out areas.
    - Access roads can be bonded and, once bonded, that acreage can be deducted from the total disturbed acreage.
- Reclamation – Reclamation is generally not required for SMES sites, with the exception of placer operations. All disturbance associated with a placer operation must be reclaimed within 6 months after cessation of mining.
- Number of SMES per person or company – A small miner may hold up to 2 SMES that disturb up to 5 acres each. A small miner may hold additional SMES after first fully reclaiming an earlier operation.
- SMES Location:
    - SMES held by the same operator must be located at least 1 mile apart.
    - Discontiguous sites are allowed within a 1-mile diameter, provided that they are part of the same operation and the total disturbance is under 5 acres.
    - SMES may not be located on ground previously operated under an Operating Permit.
    - SMES may not be located on ground previously reclaimed by a public agency.

Getting Started
A SMES agreement must be submitted for each individual operation. Once a SMES agreement has been submitted to DEQ, the small miner may commence mining activity with the exception of placer mines. Small miners wishing to placer mine must first submit a $10,000 reclamation bond. If the placer miner thinks the bond may be calculated at less than $10,000, the SMES-Placer Mining Addendum can also be submitted in order for DEQ to calculate an appropriate reclamation bond. Placer mining cannot proceed until the reclamation bond has been posted, and DEQ has issued a Notice of Receipt.

Annual Renewals
The authority to mine granted by the SMES must be renewed annually. All SMES expire at the end of the calendar year. An annual renewal form must be submitted before mining commences each year. Renewals are valid for the remainder of the calendar year in which they are submitted. Renewals can be submitted to DEQ no earlier than December 1st of the year preceding the calendar year in which it would become valid. Renewals can be submitted any time during the calendar year, however a renewal MUST be submitted before mining commences each year. DEQ will e-mail a reminder to renew and a current renewal form near the end of each calendar year. However, DEQ will not send paper reminder letters.

Field Inspections
In general, DEQ or other authorized parties will inspect the site during the first season of operation, subject to staff availability. DEQ may also conduct site inspections during following seasons. Small miners conducting placer mining who have completed reclamation must make a request to DEQ for release of the associated bond. DEQ will conduct an inspection of the site before determining whether release of the reclamation bond is appropriate. DEQ will typically conduct no more than one reclamation inspection per year at the miner's request. No reclamation inspections will be scheduled while snow is on the ground as it is not feasible to adequately assess reclamation progress.

Site Status
SMES sites fall into three status categories; Active, Inactive, and Closed. Active sites are up-to-date on annual renewals. Inactive sites are not up-to-date on annual renewals and remain unreclaimed. Closed sites are those that have been fully reclaimed, and for placer sites, the full amount of the reclamation bond has been released.

As stated previously, each small miner may hold up to 2 SMES. Only sites that are categorized as Closed do not count against a small miner's 2 allowable SMES. Any site that is categorized as Active or Inactive is included in the total number of SMES that can be held by a small miner.

Frequently Asked Questions

1. What mining activities do not require a SMES or Operating Permit (OP)?
All of the following criteria must be met in order to be categorized as "Recreational Mining", which is not regulated by the State:

1. Does not use motorized excavating equipment
2. Does not use blasting agents
3. Does not disturb more than 100 sq. ft. of the earth's surface
4. Does not dig more than 50 cubic yards of material at any site
5. Does not leave unreclaimed sites that are less than 1 mile apart
6. Does not use mercury
7. Does not use cyanide or other metal leaching agents

Recreational Miners may need other local, state, or federal permits to operate.

2. Is a SMES required for high banking or suction dredging?
Review the above "recreational mining" criteria to determine if your high banking activity may require a SMES. Suction dredging does require a suction dredge permit, which is administered by the DEQ Water Quality division. Please contact the Water Quality Division at (406)444-5546 to receive the most updated forms.

3. What mined commodities are regulated by the HRMB?
This question is better answered by identifying what commodities are *not* regulated by the HRMB:

- Oil and gas is regulated by the Department of Natural Resources and Conservation (DNRC) Board of Oil and Gas Conservation program
- Coal and uranium mining is regulated by the DEQ Coal program
- Sand, gravel, clay, and soil mining is regulated by the DEQ Opencut program.
- Suction dredging is regulated by the DEQ Water Protection program

4. Does DEQ administer mineral rights or mining claims?
No. Mineral rights and mining claim regulation is a function of the federal Bureau of Land Management (BLM).

5. I have a permit to mine from the US Forest Service or BLM. Do I also need permission from DEQ?
Yes. DEQ HRMB regulates mining activity on state, federal, and private land. DEQ HRMB does not regulate mining activity within a reservation boundary.

6. Do I need a SMES or OP to mine on my own private land?
Yes. DEQ HRMB regulates mining activity on state, federal, and private land. DEQ HRMB does not regulate mining activity within a reservation boundary.

7. Is a SMES or OP from the DEQ HRMB the only permit I need?
Sometimes. While DEQ can provide you a list of common permits you may also need, it is the responsibility of the miner to know and to obtain all necessary permits before the operation commences.

8. How much does a SMES cost? How much is the cost to renew my SMES annually?
SMES and SMES renewals do not have an associated fee.

9. Whom should I contact if I have questions about the SMES program?
Two DEQ staff oversee the SMES program. Please refer to the included map to determine the appropriate contact for your area.

- Northern half of the state: Jake Mohrmann - (406)444-4330, jake.mohrmann@mt.gov
- Southern half of the state: Whitney Bausch - (406)444-4960, wbausch2@mt.gov

THIS MAY NOT BE THE ONLY LICENSE OR PERMIT YOU NEED

State of Montana Permits

310 Permit –For work proposed in streams, wetlands, floodplains, and other water bodies. One joint application form is available to apply for several different Local/State/Federal permits. See: http://dnrc.mt.gov/licenses-and-permits/stream-permitting/310-permit-applications

Montana Pollutant Discharge Elimination System (MPDES) Permit – for projects that have a surface water discharge. See: http://deq.mt.gov/Water/permits/Discharges

Montana Ground Water Pollution Control System (MGWPCS) Permit – for projects that have a groundwater discharge. See: http://deq.mt.gov/water/wqinfo/MGWPCS

Stormwater Pollution Prevention – for projects that have the potential to contribute sediment or pollution to surface waters from surface disturbances as a result of a storm event. See: http://deq.mt.gov/Water/StormWater/StormSystems

Suction Dredge Permit – for projects that utilize a suction dredge. Call: (406)444-5546

Sage Grouse – In response to Senate Bill 261 and Executive Orders 10-2014 and 12-2015, many DEQ permits and approvals in sage grouse core, general, or connectivity habitat, received on or after January 1, 2016, must include a letter of comment from the Sage Grouse Habitat Conservation Program. See: https://sagegrouse.mt.gov/

Federal Authorizations

MSHA – Contact the MSHA field office in Helena by calling (406)441-1180 or e-mailing petty.curis@dol.gov

USFS – Contact local USFS office. See: https://www.fs.usda.gov/r1/

BLM – Contact local BLM office. See: https://www.blm.gov/montana-dakotas

US Army Corp of Engineers 404 Permit – may be required for any work in streams or wetlands See: http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/

SMALL MINER EXCLUSION STATEMENT (SMES)

1. SMES # (*DEQ Use Only*):_____

2. SMES Holder Contact Information:

Company Name:_____ Phone Number:_____

Contact Name and Address:_____ E-mail:_____

_____

_____

3. SMES Location Information:

Site or Claim Name:_____ County: _____

Latitude/Longitude: _____ Landowner: _____

4. Type of Mining Operation *(circle all that apply)***:**

Placer/Dredge Other (describe):_____

(Also complete Placer Addendum)

5. Mining Plans: General description of mining operation including mineral/commodity to be mined:

6. MAPS: Please include 2 maps. (Section 82-4-305, Montana Code Annotated [MCA]) These maps must be of a higher quality than a sketch or drawing. Maps created on GoogleEarth or on a USGS 1:24,000 map are acceptable.

1.) Overview map showing project location in reference to nearest town/city.
2.) Detailed map of project site labeling all project disturbances (new or improved roads, quarries, processing areas, loadout areas, new temporary and permanent buildings, fuel storage area, water crossings, etc.)

7. Please be advised that:

The filing of a SMES does not convey a right to occupy land not owned by the small miner. A small miner is responsible for obtaining a lease or other authorization from the landowner to occupy the land on which the small miner plans to conduct mining activity. The Department of Environmental Quality (DEQ) does not confirm whether the small miner has obtained such authorization and does not resolve any disputes regarding access between a small miner and the landowner.

The operator shall allow DEQ, at reasonable times and upon presentation of appropriate credentials, to enter upon and have access to, any and all lands covered by this SMES and to inspect, obtain or monitor any activities associated with the operation and SMES.

_____ _____

Signature of SMES Holder Date

** For SMES that are not Placer/Dredge, the authority to mine will commence upon DEQ's receipt of this form. All SMES will expire at the end of the current calendar year. SMES may be renewed annually during each calendar year. **

The Montana Metal Mine Reclamation Act, Section 82-4-305(1) Montana Code Annotated (MCA), requires holders of Small Miner Exclusion Statements (SMES) to annually agree in writing:

AGREEMENT

The undersigned person, firm, or corporation, states and agrees that they (it), in consideration for their (its) exemption from the permit and license requirements of Part 3, Chapter 4, Title 82, Montana Code Annotated (MCA):

1. that the small miner will not pollute or contaminate any stream;
2. that the small miner will provide protection for human and animal life through the installation of bulkheads installed over safety collars and the installation of doors on tunnel portals;
3. that the small miner will provide a map locating their mining operations. Such map shall be to a size and scale as determined by the department;
4. 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; and

Further, the undersigned hereby certifies as follows:

1. If the small miner is a natural person, that:
   - (i) No business association or partnership of which he is a member or partner has a small-miner exemption; and
   - (ii) No corporation of which he is an officer, director, or owner of record of 25% or more of any class of voting stock has a small-miner exemption; or
2. 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
3. If the small miner is a corporation, that no officer, director or owner of record of 25% or more of any class of voting stock of the corporation:
   - (i) Holds a small-miner exemption;
   - (ii) Is a member or partner in a business association or partnership that holds a small-miner exemption;
   - (iii) Is an officer, director or owner of record of 25% or more of any class of voting stock of another corporation that holds a small-miner exemption.

Name	Signature
Address	Title
City/State/Zip	Phone
E-mail address	

Placer/Dredge Addendum

A small miner who operates a placer or dredge mine shall post a $10,000 bond unless the department approves a lower amount based on the below information. Use additional pages as necessary.

Mining Plans: *Please refer to Administrative Rules of Montana (ARM) 17.24.182 when developing the mine plan.*

A.) Description of the mining operation including future expansion. Identify maximum size of total operation:

B.) Description of all equipment, support facilities, and plant capacity (*cubic yards/hr*):

C.) Estimate of pit/trench excavation size (*length x width x depth*), pond size (*length x width x depth*), overburden depth (*length x width x depth*):

D.) Estimate size (*length x width*) of all roads to be used (use codes: N:*new roads, E:existing roads, and OT:overland travel*):

E.) Describe project water to be used, including any surface diversions, and identify distance between nearest project feature to nearest surface water (*streams, ponds, etc..*):

F.) Describe erosion control plan.

G.) Please disclose the status of 310 permit and Montana Pollutant Discharge Elimination System (MPDES) permit compliance.

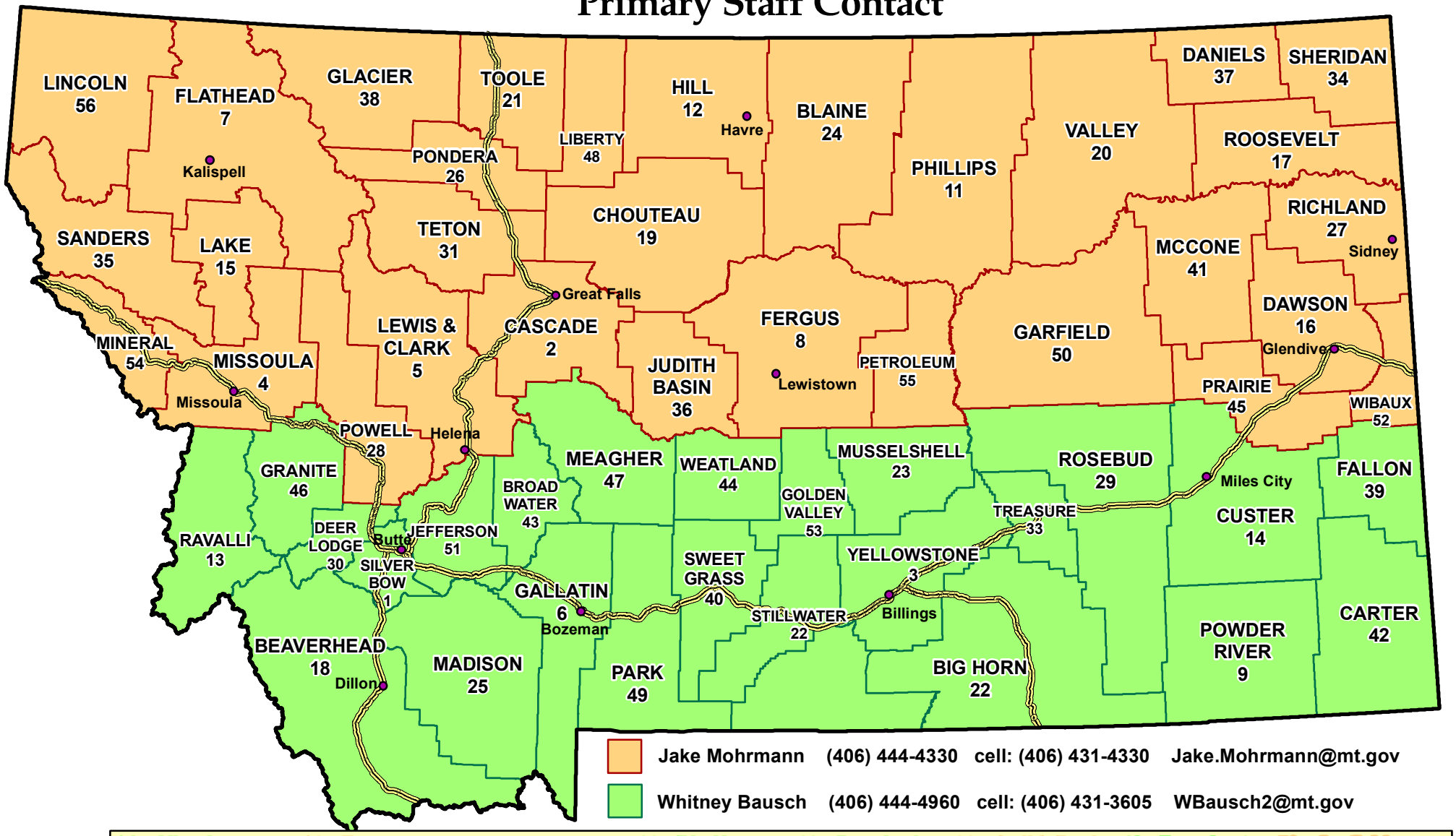
H.) Describe final reclamation plan including time between end of operation and end of final reclamation; how top soil will be salvaged, stored and reestablished; and identify seed mixture to be used including application rate:

State of Montana

Department of Environmental Quality
Small Miner Exclusion Statement
Completeness Checklist

- ☐ Signed Agreement Form
- ☐ Placer Addendum (if applicable)
- ☐ Map 1. – Overview Map showing project location
- ☐ Map 2. – Detailed Map

Small Miner Exclusion Statement / Exploration Program
Primary Staff Contact



Jake Mohrmann (406) 444-4330 cell: (406) 431-4330 Jake.Mohrmann@mt.gov

Whitney Bausch (406) 444-4960 cell: (406) 431-3605 WBausch2@mt.gov

01 - Silverbow	08 - Fergus	15 - Lake	22 - Big Horn	29 - Rosebud	36 - Judith Basin	43 - Broadwater	50 - Garfield
02 - Cascade	09 - Powder River	16 - Dawson	23 - Musselshell	30 - Deer Lodge	37 - Daniels	44 - Wheatland	51 - Jefferson
03 - Yellowstone	10 - Carbon	17 - Roosevelt	24 - Blaine	31 - Teton	38 - Glacier	45 - Prairie	52 - Wibaux
04 - Missoula	11 - Phillips	18 - Beaverhead	25 - Madison	32 - Stillwater	39 - Fallon	46 - Granite	53 - Golden Valley
05 - Lewis & Clark	12 - Hill	19 - Choteau	26 - Pondera	33 - Treasure	40 - Sweet Grass	47 - Meagher	54 - Mineral
06 - Gallatin	13 - Ravalli	20 - Valley	27 - Richland	34 - Sheridan	41 - McCone	48 - Liberty	55 - Petroleum
07 - Flathead	14 - Custer	21 - Toole	28 - Powell	35 - Sanders	42 - Carter	49 - Park	56 - Lincoln