

## State of Montana Department of Environmental Quality

### Exploration License

The Exploration License is one of three regulatory instruments that the Department of Environmental Quality (DEQ) Mining Bureau (MB) administers under the 1971 Montana Metal Mine Reclamation Act (MMRA). The Exploration License is not a mining permit, and cannot be used for mining. Likewise, the Operating Permit (OP) and Small Miner's Exclusion Statement (SMES) are intended for "mining" and cannot be used for "exploration."

#### Exploration License Laws and Rules

This document outlines some of the basic framework related to compliance with the Exploration License. The information included is not comprehensive, so please take some time to read over all of the provisions of state law applicable to Exploration Licenses. The MMRA provisions are set forth in Section [82-4-331](#) and [82-4-332](#) of the Montana Code Annotated (MCA) and the Administrative Rules of Montana (ARM) [17.24.102 through 17.24.108](#).

#### Key Terms

- *Exploration License* - An Exploration License covers work at one exploration project (see below) on private or public lands. DEQ MB regulates exploration everywhere in the State with the exception of reservation lands.
- *Exploration Project* – An exploration project is defined by location and, at times, landowner. Proposing exploration at a new location requires an application for a new exploration license.
- *License Amendment* – Licenses can be amended to include new exploration work that would occur in the same location as an existing exploration project.
- *Environmental Review* – Approval of a new exploration license or amendment to an existing license is a "state action" and, therefore, DEQ is required to complete an environmental review under the Montana Environmental Policy Act (MEPA).
- *Bond* – An applicant is required to submit a reclamation bond in the full amount for each new amendment that has been calculated by DEQ prior to being granted authorization to conduct exploration activities.
- *Reclamation* – Full reclamation of all exploration disturbance is required within 2 years of concluding exploration at an exploration project or abandonment of the exploration project.

## **Annual Renewals**

To renew an existing exploration license a licensee shall submit a complete exploration license renewal application to the department upon current forms prepared and furnished by it, in accordance with timelines detailed in 82-4-331(a), MCA. Exploration license renewal forms can be found at <https://deq.mt.gov/mining/assistance>.

Applicants renewing an existing exploration license shall pay an exploration license renewal fee to the department in accordance with 82-4-332(1)(a) and 82-4-342(2)(c), MCA.

All licensees who currently have a bond held by DEQ must maintain a current license by renewing annually; and §82-4-332(4), MCA, requires reclamation to be completed within 2-years of completion or abandonment of the site.

Conditions defined at 82-4-303(1) MCA, and ARM 17.24.150(1) are considered evidence that an operation may be complete or abandoned. The department shall cause performance bond to be forfeited in accordance with 82-4-341(4), MCA.

## **Field Inspections**

DEQ or other authorized parties may inspect the proposed exploration project site before work begins. DEQ may also conduct site inspections during exploration activities. Upon completion of the project or following interim surface reclamation, a licensee may contact DEQ to request a reclamation inspection. A formal reclamation inspection is required for DEQ to consider a bond release. Under most circumstance, DEQ will conduct no more than one formal reclamation inspection per year at the licensee's request. Typically, no formal reclamation inspections will be scheduled while snow is on the ground, as it is not feasible to adequately assess reclamation progress. Site inspections are subject to staff availability and seasonal limitations.

## **Personal Responsibility**

DEQ cannot over emphasize the importance of adhering to the final approved plan of operations. Everyone on-site is expected to read and fully understand the plan of operations and project constraints. Typically, if there are issues with exploration campaigns it is due to lack of understanding of the environmental constraints, conditions, or commitments. Deviating from the approved plan may result in a Violation Letter, suspension of the operation, bond forfeiture, and referral to enforcement for a corresponding penalty, or any combination thereof.

## Exploration License Process

### Getting Started

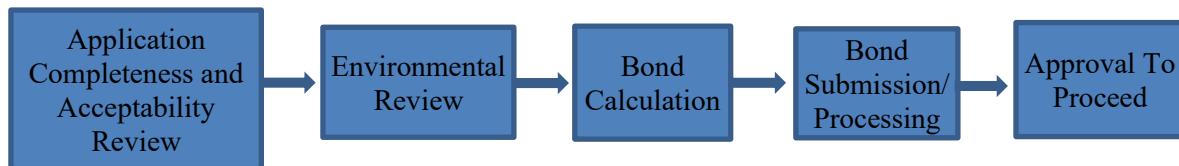
An application for a *new Exploration License* must be submitted with the following:

- A complete application for an exploration license to the department upon current forms prepared and furnished by it.
- An exploration plan of operations.
- Supplemental questions and associated materials.
- A new exploration license fee in accordance with 82-4-332(1)(a), MCA.

An application for an *amendment to an existing Exploration License* must be submitted with only the supplemental questions and associated materials.

### Exploration License Process

As a general guideline, a new exploration license or amendment to an existing license may take one or more months to process. Once an application has been submitted to DEQ, the general process and timeline for review and consideration is as follows, although a number of factors, including federal agency participation, may modify this process and extend this timeline:



### Completeness and Acceptability

The submitted application must be deemed “complete” and “acceptable” by DEQ before the environmental review can begin. An application is considered to be complete if it meets administrative requirements, such as being fully filled out and including appropriate maps and other necessary materials. An application is considered to be acceptable if it meets the technical requirements necessary for DEQ to calculate an adequate bond and develop an appropriate environmental review.

If an application is determined to be incomplete and/or unacceptable, it will be returned to the applicant with deficiency comments. The applicant must re-submit the entire application when addressing deficiencies. DEQ advises applicants to save an electronic copy of their application in order to avoid filling out the entire application again when addressing deficiencies.

DEQ will issue a Notice of Completeness and Acceptability to the applicant when a complete and acceptable application is received. The timeline for processing an exploration license is dependent on the quality of the application submitted to DEQ.

### ***Environmental Review***

Once an application is determined to be complete, DEQ will prepare an environmental review that analyzes potential environmental impacts that could result from the project as proposed by the applicant. If the project is on private property and if DEQ determines that an Environmental Assessment (EA) is the appropriate level of environmental review, DEQ is required to complete the review within 90 days of receiving a complete and acceptable application. If the project is on state or federal land, DEQ will coordinate the environmental review with the partner agency. In this case, timing is dependent on the partner agency's requirements, which often exceeds 90 days. Should an environmental impact assessment (EIS) be determined the appropriate level of environmental review, DEQ then has 180 days to produce the EIS.

Depending on the project, the environmental review process may involve various levels of public engagement including, but not limited to, scoping, public comment periods, and public meetings.

### ***Bond Calculation***

Before exploration can begin, an applicant must submit a reclamation bond to DEQ. The purpose of the bond is to ensure that the State of Montana would be able to reclaim any disturbance caused by exploration activities in the event that the licensee does not complete reclamation of the exploration project.

The bond may not be less than the estimated cost to the state to ensure compliance with Montana's Clean Air Act, Water Quality Act, MMRA, administrative rules adopted under the MMRA, and the exploration license. DEQ's bond calculation is based on the work proposed. In order for an accurate bond to be calculated, the details requested in the application must be complete. For specific laws regarding exploration license bonds, please see [82-4-332\(3\)](#) and [82-4-338\(1\)\(a\)](#), MCA.

### ***Bond Submission***

A full reclamation bond must be submitted and processed before DEQ issues an Approval to Proceed. Bonds can be submitted in the form of a surety, Letter of Credit (LOC), Certificate of Deposit (CD), or cash.