



MONTANA  
ADMINISTRATIVE  
REGISTER



DEPARTMENT OF ENVIRONMENTAL QUALITY

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**NOTICE OF PROPOSED RULEMAKING**

**MAR NOTICE NO. 2026-853.1**

**Summary**

The Department of Environmental Quality (DEQ) is proposing rule amendments to implement House Bill 69, enacted by the 69th Montana Legislature in 2025, which revised hard rock mining and exploration fees under Title 82, chapter 4, part 3, MCA. DEQ also is proposing a definition for reprocessing to clarify the status of material subject to permitting requirements.

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**Hearing Date and Time**

Wednesday, June 3, 2026, at 11:00 a.m.

**Hearing Information**

In the Wilderness Room of the Colonial Building, 2401 Colonial Drive, Helena, Montana.

**Virtual Hearing Information**

Interested parties may also attend the hearing electronically in the following ways:

Join from PC, Mac, iPad, or Android:

<https://mt-gov.zoom.us/j/81358592703?pwd=5afCG2a7C3vYwdrTYmUoTkRPLBIDzm.1>

Passcode:072607

Phone one-tap:

+12133388477,,81358592703#,,,,\*072607# US (Los Angeles)

+12063379723,,81358592703#,,,,\*072607# US (Seattle)

Join via audio:

+1 213 338 8477 US (Los Angeles)

+1 206 337 9723 US (Seattle)  
+1 646 558 8656 US (New York)  
Webinar ID: 813 5859 2703  
Passcode: 072607  
International numbers available: <https://mt-gov.zoom.us/j/81358592703>

Join from an H.323/SIP room system:  
H.323: 144.195.19.161 (US West) or 206.247.11.121 (US East)  
Meeting ID: 813 5859 2703  
Passcode: 072607  
SIP: 81358592703@zoomcrc.com  
Passcode: 072607

### **Comments**

Comments may be submitted using the contact information below. Comments must be received by Friday, June 5, 2026, at 5:00 p.m.

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### **Accommodations**

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Tuesday, May 26, 2026, at 5:00 p.m.

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### **Contact**

Legal Unit  
(406) 444-1388  
DEQMAR2026-853@mt.gov

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### **Rulemaking Actions**

#### **AMEND**

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

#### **17.24.102 DEFINITIONS**

As used in the Act and this subchapter, the following definitions apply:

- (1) "Act" means Title 82, chapter 4, part 3, MCA.
- (2) "Activities Beneath the Surface of the Land" means, with regards to exploration licenses, activities that are approved to occur beneath the surface of the land such as drilling, the construction or expansion of underground portals or shafts, or other exploration activities occurring beneath the surface of the land that are not exempted under 82-4-310, MCA.
- (3) "Activities Only on the Surface of the Land" means, with regards to exploration licenses, activities that are approved to occur on the surface of the land such as test pit excavations, trenches, non-mining placer activities, or other exploration activities that do not include any of the exploration activities defined in (2) and are not exempted under 82-4-310, MCA.
- ~~(2)~~(4) "Alternate land use" means, with regard to a mill facility, reclamation of a site to an alternative post-mining land use where the following conditions are met:
  - (a) The proposed post-milling land use is compatible with adjacent land use, and applicable landowner authorization.
  - (b) Retention of a structure is consistent with the proposed post-mining land use. This shall be documented through inclusion of a schedule showing how the proposed use will be achieved within a reasonable time after milling and will be sustained.
  - (c) Plans for alternate land use must be integrated with the requirements of ARM 17.24.169 for the grading and revegetation of the surrounding area.
  - (d) Plans must document, if appropriate, that financing, attainment, and maintenance of the alternative land use is feasible.
  - (e) The proposed use will:
    - (i) not present actual or probable hazard to public health or safety;
    - (ii) comply with the air and water quality acts; and
    - (iii) minimize adverse effects on fish, wildlife, and related environmental values.
- ~~(3)~~(5) "Alternate reclamation" means the return of lands disturbed by mining or mining-related activities to a postmining land use other than that which existed prior to mining. Alternate reclamation must be stable, must have utility and must comply with Title 75, chapters 2, 5, and 6, MCA.
- ~~(4)~~(6) "Beneficial use" means use of water as defined in 85-2-102, MCA.

~~(5)~~(7) "Bulkhead" means a door, fence or other construction which allows periodic entry to an adit or shaft, adequately secured and locked so that animals and unauthorized persons are denied entry.

~~(6)~~(8) "Collateral bond" means an indemnity agreement for a fixed amount, payable to the department, executed by the operator and supported by depositing with the department cash, negotiable bonds of the United States (not treasury certificates), state or municipalities, negotiable certificates of deposit or an irrevocable letter of credit of any bank organized or authorized to transact business in the United States or other surety acceptable to the department.

~~(7)~~(9) "Contingency plan" means, with regard to spilled process solution, a plan which includes, but is not limited to, steps for containment, neutralization, and removal, and identification of any associated training needs.

~~(8)~~(10) "Description of existing environment" means a description with appropriate maps of the condition of the proposed project area prior to exploration or operation. The description shall provide, but not be limited to, a discussion which characterizes each of the following:

- (a) geology;
- (b) soils;
- (c) vegetation including, but not limited to, canopy cover, diversity, use, and productivity;
- (d) wildlife;
- (e) hydrology (surface and ground water characteristics, quantity, quality, and use), including maps which identify springs, seeps, and water wells within one mile of the permit boundary and three miles down gradient unless a lesser distance is justified and agreed to by the department;
- (f) air quality and climate;
- (g) aquatic biology;
- (h) land use and ownership;
- (i) recreation;
- (j) cultural/historic resources identified as a result of inventory and of file searches conducted by the State Historic Preservation Office;
- (k) noise;
- (l) transportation; and
- (m) aesthetics.

~~(9)~~(11) "Disturbed and unreclaimed" means, as used in the definition of "small miner" in 82-4-303, MCA, land affected by mining activities, including reprocessing of tailing or waste material, that has not been restored to a continuing productive use, with proper grading and revegetative procedures to assure:

- (a) slope stability;
- (b) minimal erosion;
- (c) adequate vegetative ground cover (if in keeping with reclaimed use) ;
- (d) that no mine discharge water, ground water or surface water passing through a disturbed area will pollute or contaminate any state waters.

~~(10)~~(12) "Exclusion" means a statement filed by a small miner pursuant to 82-4-305 , MCA.

~~(11)~~(13) "Expansion of a mill facility" means disturbance of an area not previously disturbed by the milling operation, and, in the case of a waste dump, tailing impoundment, or similar facility, a change in the design capacity that will result in an increase in land disturbance at an existing mill facility. When disturbance of an area not previously disturbed by the operation occurs at a dump, impoundment, or similar facility, the department may regulate the previously disturbed area to the extent necessary to achieve reclamation of the expansion area.

~~(12)~~(14) "Exploration" includes pilot ore processing plants or sites and associated facilities constructed for the sole purpose of metallurgical or physical testing of ore materials, not to exceed 10,000 short tons, to aid in determining the development potential of an ore body.

(15) "Exploration License Major Amendment" means a change to an exploration license project that

- (a) increases previously approved surface disturbance by more than 25%,
- (b) increases the cumulative drill hole footage by more than 50% of the cumulative drill hole footage previously approved under the exploration license project, or
- (c) introduces the potential for significant environmental impacts.

(16) "Exploration License Minor Amendment" means a change to an exploration license project that

- (a) increases the previously approved surface disturbance by more than 10% but less than or equal to 25%, or
- (b) increases the cumulative drill hole footage by more than 25% but less than, or equal to 50% of the cumulative drill hole footage previously approved under the exploration license project.

(17) "Exploration License Revision" means a change to an exploration license project that

(a) increases the previously approved surface disturbance by no more than 10%, or

(b) increases the cumulative drill hole footage by no more than 25% of the cumulative drill hole footage previously approved under the exploration license project.

~~(1318)~~ "Facility" means any building, impoundment, embankment, waste or tailings disposal site, or other human-made structure associated with a particular activity. Mill facility means a mill and associated structures, disturbance, and development.

~~(1419)~~ "Incremental bond area" is an area within the permit boundary, or plan for exploration or small miner activity, that has been identified for phases or increments of disturbance and the bond has been determined according to ARM 17.24.140.

~~(1520)~~ "Mill" means any facility for ore, tailings, or waste rock processing and disposal. This term does not include smelting, or refining facilities, sample collection processes, and pilot testing performed pursuant to an exploration license.

~~(1621)~~ "Permit area" is the area contained within a boundary, which includes any minimal area delineated around a disturbance area for the purposes of providing a buffer adjacent to all disturbances, and for the purposes of controlling public access to areas permitted under 82-4-335, MCA. Monitoring wells are not required to be within a contiguous permit boundary, but must be permitted. Other activities are to be included within the permit boundary as follows:

(a) Access roads must be included within the permit area from the point of departure with a public road to the mine site.

(b) Utilities are required to be permitted only within the permit area.

(c) Work camps are not required to be permitted. (However, they are regulated under Title 75, chapter 5, MCA.)

(d) If applicable, the applicant may propose incremental bond areas to reflect the anticipated progress of disturbance during mining or milling activities.

~~(1722)~~ "Placer or dredge mining" includes, but is not limited to, mining by hydraulic giant, ground sluice, rocker or sluice box methods, the use of a dry land dredge, trommel or washing plant, and bucket type floating dredges, all as referred to in Mining Methods and Equipment Illustrated, Montana Bureau of Mines and Geology, Bulletin 63, 1967.

- (~~18~~23) "Plan" means the information submitted to the department pertaining to a proposed or ongoing mining or milling related activity which utilizes narratives, engineering designs, maps, cross-sections, or other documentation which adequately describes the activity.
- (~~19~~24) "Plan of operations" means the plans required under 82-4-335 through 82-4-337, MCA, including the reclamation plan defined in 82-4-303, MCA, plus the approved operating, monitoring and contingency plans required in an application for an operating permit.
- (~~20~~25) "Pollute or contaminate any stream" means, as used in 82-4-305, MCA, to conduct any mining or reprocessing of tailing or waste in a manner that will result in deterioration of water quality as specified by standards listed in ARM Title 17, chapter 30, et seq., pursuant to the Montana Water Quality Act, Title 75, chapter 5, et seq., MCA. Any future revisions of these standards adopted in accordance with the provisions of the Montana Water Quality Act, as amended, apply to this definition.
- (~~21~~26) "Reclamation" means the return of lands disturbed by mining, milling, or related activities to an approved postmining land use which has stability and utility comparable to that of the pre-mining landscape except for rock faces and open pits which may not be feasible to reclaim to this standard. Those rock faces and open pits must be reclaimed in accordance with 82-4-336 , MCA. The term "reclamation" does not mean restoring the landscape to its pre-mining condition. Reclamation, where appropriate, may include, but is not limited to:
- (a) neutralizing cyanide or other processing chemicals;
  - (b) closure activities for ore heaps, waste rock dumps, and tailing impoundments;
  - (c) closure activities for surface openings;
  - (d) grading, soiling and revegetating disturbed lands;
  - (e) removal of buildings and other structures that have no utility in regard to the approved postmine land use;
  - (f) other steps necessary to assure long-term compliance with Title 75, chapters 2 and 5, MCA; and
  - (g) other steps necessary to protect public health and safety at closure.
- (27) "Reprocessing" means ore processing as defined in 82-4-303(20), MCA, on material that has already undergone ore processing.
- (~~22~~28) "Revision" means a change to an operating permit that is exempt under 82-4-342, MCA, from the requirement to prepare an environmental assessment or environmental impact statement.

(2329) "Significantly affect the human environment" means an affect on the human environment that meets the criteria of ARM 17.4.608.

(2430) "Surety bond" means a surety agreement for a fixed amount, payable to the department, executed by a corporation licensed to do business as a surety in Montana, and guaranteeing performance of the obligations of the Act, the rules and the appropriate permit, exclusion or license.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-303, 82-4-305, 82-4-309, 82-4-310, 82-4-331, 82-4-332, 82-4-335, 82-4-336, 82-4-341, MCA

### **Reasonable Necessity Statement**

Definitions for "Activities Beneath the Surface of the Land", "Activities Only on the Surface of the Land", "Exploration License Revision", "Exploration License Major Amendment" and "Exploration License Minor Amendment" were added to implement the exploration license modifications included in HB 69 (2025 Legislative Session). Specifically, HB 69 introduced different levels of fees for exploration licenses based on whether the licensee is approved for activities beneath the surface of the land or activities only on the surface of the land. HB 69 also added license modifications in the form of revisions, minor amendments, and major amendments: definitions for those modifications are proposed herein. A definition for "reprocessing" was added to specify the types of material subject to the permitting requirements of 82-4-335, MCA.

### **17.24.103 EXPLORATION LICENSE--APPLICATION AND CONDITIONS**

- (1) To secure an exploration license an applicant shall:
  - (a) ~~pay a filing fee of \$100 to the department~~ pay a new exploration license fee in accordance with 82-4-332(1)(a), MCA, to the department prior to issuance of a new exploration license;
  - (b) submit an application for an exploration license to the department upon forms prepared and furnished by it;
  - (c) submit an exploration plan of operations and a map ~~or sketch~~ in sufficient detail to locate the area to be explored as well as the actual proposed disturbances, and to allow the department to adequately determine whether significant environmental problems would be encountered. The plan of operations must state the type of exploration techniques that would be

employed in disturbing the land and include a reclamation plan in sufficient detail to allow the department to determine whether the specific reclamation and performance requirements of ARM 17.24.104 through 17.24.108 would be satisfied;

- (d) agree to reclaim any surface area disturbed by the applicant during exploration operations, all as may be reasonably required by the department, unless the applicant shall have applied for and been issued an operating permit for the lands so disturbed;
  - (e) submit a reclamation performance bond with the department in a form and amount determined adequate by the department in accordance with 82-4-338, MCA; and
  - (f) ~~not be in default of any other reclamation obligation mandated by the Act or rules implementing the Act~~ submit a certification that the applicant is not in default of any other reclamation obligation mandated by the Act or rules implementing the Act.
- (2) On approval by the department, the applicant will be issued an exploration license renewable annually ~~by filing an annual report on a form provided by the department and payment of the renewal fee of \$25.~~
- (37) An exploration licensee is subject to and must agree to the provisions of ARM 17.24.104 through 17.24.107 for reclamation of surface areas disturbed by exploration operations. Because of the inherent difficulties of promulgating regulations of state-wide applicability, the department will allow variance from the following provisions of this rule, if a written request submitted prior to commencement of the subject disturbance is accompanied by the landowner's or land administrator's written consent to the variance and is sufficient to convince the department that the public interest and the intent of the Act are best served by allowing such variance.
- (3) To renew an existing exploration license, a licensee shall submit a complete exploration license renewal application to the department upon the current forms prepared and furnished by it, in accordance with timelines detailed in 82-4-331(1)(a), MCA.
- (4) In the absence of emergency or suddenly threatened or existing catastrophe, the licensee may not depart from an approved plan without previously obtaining from the department verbal or written approval of the proposed change. Activities or projects approved under an exploration license with a performance bond held by the department are required to renew annually.
- (5) Exploration licenses where the licensee is not required to submit a bond and the department does not hold bond for an activity or project will be closed if not renewed.

- (6) Applicants renewing an existing exploration license shall pay an exploration license renewal fee to the department in accordance with 82-4-331(1)(a), MCA and, if applicable, 82-4-342(2)(c), MCA.
- (8) In the absence of emergency or suddenly threatened or existing catastrophe, the licensee may not depart from an approved plan without previously modifying the plan through a exploration license major amendment, exploration license minor amendment, or exploration license revision.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-331, 82-4-332, MCA

### **Reasonable Necessity Statement**

The department is proposing to amend ARM 17.24.103 to implement HB 69 (2025 Legislative Session) revisions to 82-4-332(1)(a), MCA by updating the fee provisions for a new exploration license. Also, the department is proposing to specify when an exploration license must be renewed and the process that must be followed to renew the license. The department is not proposing to modify its practice of notifying licensees of the due date and amount of the license renewal fee.

### **17.24.116 OPERATING PERMIT: APPLICATION REQUIREMENTS**

- (1) Applicant must obtain an operating permit for each mine complex on a form prescribed by the department.
- (2) To obtain an operating permit the applicant shall pay a ~~\$500~~ fee the applicable application fee as required by 82-4-335(3), MCA.
- (3) In addition to the information required by 82-4-335(4), MCA, an application for an operating permit must describe the following:
  - (a) the existing environment;
  - (b) soil salvage and stockpiling activities and measures to protect soil from erosion and contamination;
  - (c) provisions for the prevention of wind erosion of all disturbed areas;
  - (d) the design, construction, and operation of the mine, mill, tailings, and waste rock disposal facilities;
  - (e) the facilities, buildings, and capacity of mill or processing;

- (f) the proposed date for commencement of mining, the minerals to be mined, and a proposed conceptual life of mine operations;
  - (g) the designs of diversions, impoundments, and sediment control structures to be constructed reflecting their safety, utility, and stability;
  - (h) the location of access, haul, and other support roads and provisions for their construction and maintenance that control and minimize channeling and other erosion;
  - (i) the source and volume of incoming ore, tailings, or waste rock;
  - (j) the equipment and chemicals to be used in the operation by location and task;
  - (k) the general chemical processes and the purpose, amount, and source of water used in the operation and the disposition of any process waste water or solutions;
  - (l) the ground and surface water monitoring programs to be implemented including a schedule for reporting results to the department;
  - (m) a contingency plan addressing accidental discharges to ground or surface water;
  - (n) a fire protection plan;
  - (o) a toxic spill contingency plan with certification that notice of the filing of the plan has been provided to the state fire marshal;
  - (p) the sewage treatment facilities and solid waste disposal sites;
  - (q) the power needs and source(s) , including fuel storage sites;
  - (r) the anticipated employment including direct and onsite contract employees;
  - (s) the transportation network to be used during the construction and operation phases, including a list of the type and amount of traffic at mine or mill capacity;
  - (t) the predicted noise levels by activities during construction and operations;
  - (u) the protective measures for archaeological and historical values in the areas to be mined;
  - (v) the protective measures designed to avoid foreseeable situations of unnecessary damage to flora and fauna in or adjacent to the area.
- (4) The application must include a map or maps to scale of:
- (a) the proposed permit area and area to be disturbed, including anticipated phases or increments of disturbance, if applicable;

- (b) the location of the proposed mine and facilities;
  - (c) the location and identity of streams within one mile of the permit boundary and three miles down gradient unless a lesser distance is justified and agreed to by the department;
  - (d) existing and proposed roads;
  - (e) other constructed features like railroad, oil and gas wells, pipelines and other utility lines in the immediate area;
  - (f) residences and water wells within one mile of the permit area; and
  - (g) a uniform base, a scale, and a north directional arrow.
- (5) The application must include a reclamation plan that meets the requirements of 82-4-336, MCA, and this subchapter.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-335, 82-4-336, MCA

### **Reasonable Necessity Statement**

Amendment of ARM 17.24.116 is necessary to update to the application fee requirements to correspond to those described in Section 82-4-335(3), MCA, as revised by HB 69 (2025 Legislative Session).

### **17.24.118 ANNUAL REPORT**

- (1) Each permittee shall file an annual report with the department and pay ~~an~~ the applicable annual fee of ~~\$100~~ within a time period specified in 82-4-339, MCA, until such time as full bond is released.
- (2) The annual report must include the information outlined under 82-4-339 , MCA. In addition, the annual report must include:
  - (a) the number of acres of land affected by the operation during the preceding year and cumulatively, as well as the disturbance status of incremental bond areas, if applicable;
  - (b) the extent of backfilling and grading performed during the preceding year and cumulatively;
  - (c) the area of land planted;

- (d) the type of planting or seeding;
  - (e) the mixtures and amounts seeded;
  - (f) the species, location, and method of planting for site or species specific plantings;
  - (g) the date of seeding or planting;
  - (h) cumulative acres reseeded to date;
  - (i) cumulative acres of completed reclamation and the date each increment was completed; and
  - (j) maps showing the information required in (2)(a) through (i) .
- (3) Each annual report must include an inventory of soils volumes which includes:
- (a) cubic yards salvaged in the preceding year and cumulatively;
  - (b) cubic yards to be salvaged in the coming year;
  - (c) cumulative volume of soils contained in stockpiles; and
  - (d) replaced soil depths and volumes.
- (4) Each annual report for those operations using cyanide or other metal leaching solvents or reagents or having the potential to generate acid must provide a narrative summary of water balance conditions during the preceding year and identify excess water holding capacity at the time of the annual report.
- (5) When incremental bond has been approved, additional bond must be submitted, in the amount required, with the annual report and the status of incremental bonding must be described.
- (6) If changes in facilities have occurred in the preceding year, the annual report must, pursuant to 82-4-339(1)(f) , MCA, update the permit map required under ARM 17.24.115. The updated map must depict all approved surface features, as required by the department, in or associated with the permit area, reproduced at a scale applicable for field use.
- (7) If cultural resource mitigations identified in the permit will be ongoing through the life of the operation, the annual report must include an updated cultural resource management table, including a list of sites mitigated and disturbed in the preceding year and sites to be mitigated and disturbed in the coming year.
- (8) If comprehensive water monitoring is required by the permit, field measurements and analytical results shall be submitted in electronic format according to the schedule in the approved monitoring plan. Each annual report must include:

- (a) an evaluation of water monitoring data and trends, which may include a summary of reports or data submitted during the preceding year;
  - (b) field measurements, analytical results, and data validation from the preceding year, if not previously provided through the department's designated electronic system; and
  - (c) time series trend analyses for those key site-specific parameters required by the department in the permit, if not previously provided through the department's designated electronic system.
- (9) If site-specific geologic conditions identified in the permit indicate the need for geologic monitoring, each annual report must include monitoring results and must report materials balances as required in the permit.
- (10) If site-specific closure requirements identified in the permit include monitoring for cyanide or other metal leaching solvent or reagent neutralization, acid rock drainage development, or similar occurrences, the annual report must include an evaluation of monitoring and testing data required in the permit for closure under 82-4-335, MCA.
- (11) Each annual report must include the names of key personnel for maintenance and monitoring if the operation is shut down.
- (12) Each annual report must include any other relevant information required by the permit.
- (13) The department shall notify a permittee of a deficiency in reporting or failure to pay the full annual fee as required by this rule pursuant to ARM 17.24.132 and 82-4-362(3), MCA. A deficiency in reporting, as related to annual reports, includes a failure to file:
- (a) an annual report;
  - (b) a complete annual report; or
  - (c) an accurate annual report.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-335, 82-4-336, 82-4-337, 82-4-338, 82-4-339, 82-4-362, MCA

### **Reasonable Necessity Statement**

A change is necessary to update to the annual fee requirements to include the new fee structure described in Section 82-4-339(3) and (4), MCA, as modified by HB 69.

#### **17.24.119 PERMIT AMENDMENTS**

- (1) An application for a major amendment must:
  - (a) include the applicable application fee as required under 82-4-342(3), MCA;
  - (~~a~~b) contain a summary of changes in disturbances, in resources affected, and in construction, operating, reclamation, monitoring, and contingency plans;
  - (~~b~~c) provide dated replacement or supplemental resource data, plans, and maps as outlined in ARM 17.24.115, or cross reference applicable data, plans, or maps in the previously permitted plan of operation, in order to identify the existing environment and resources affected, as well as changes in permit boundaries, in total disturbances, and in construction, operating, reclamation, monitoring, and contingency plans;
  - (~~e~~d) identify any additional resource data necessary to the evaluation of the proposed amendment;
  - (~~e~~) provide an updated or comprehensive facilities map; and
  - (~~f~~) clearly indicate on the facilities map all bonding areas subject to pre-July 1, 1974, bonding levels. No action under this subsection affects a bond in effect under pre-July 1, 1974, bonding levels.
- (2) For an application for a major amendment, the department shall implement the application, notice and hearing requirements for new permits pursuant to 82-4-337 and 82-4-353, MCA, and prepare necessary environmental analyses pursuant to the Montana Environmental Policy Act.
- (3) An application for minor amendment must:
  - (a) contain a summary of proposed changes in sufficient detail for the department to determine whether further environmental analysis under Title 75, chapter 1, MCA, is required;
  - (b) contain dated replacement pages and necessary supplemental resource data and plans, and maps in order to identify changes in permit boundaries, total disturbances, and plans;
  - (c) contain an updated or comprehensive facilities map;
  - (d) contain a statement of the applicant's rationale for asserting nonsignificance pursuant to 82-4-342(~~56~~), MCA;
  - (e) identify previous environmental analyses relevant to the amendment; and

- (f) clearly indicate on the facilities map all bonding areas subject to pre-July 1, 1974, bonding levels. No action under this section affects a bond in effect under pre-July 1, 1974, bonding levels.
- (4) For a minor amendment, the department shall not implement the application, notice and hearing requirements for new permits pursuant to 82-4-337 and 82-4-353, MCA. The department shall provide the permittee with a notice of decision on the adequacy of the minor amendment application within 30 days of receipt of the application.
- (5) An operator who submits an application for a minor amendment must pay the application fee required under 82-4-342(2), MCA, with the next annual fee payment required under 82-4-339(3), MCA.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-337, 82-4-339, 82-4-342, MCA

### **Reasonable Necessity Statement**

The new application fee for major amendments to operating permits was added as required by 82-4-342(3), MCA. Additionally, the new fee for minor amendments as described in 82-4-342(2), MCA, as modified by HB 69 (2025 Legislative Session) was also added as an application requirement for minor amendments to an operating permit. DEQ is not proposing to modify its current practice of notifying permittees of the due date and the amount of the annual fee.

### **17.24.120 PERMIT REVISIONS**

- (1) An application for revision must include:
  - (a) a general summary explaining the revision;
  - (b) a statement of the applicant's rationale for asserting nonsignificance pursuant to 82-4-342(5)(6), MCA;
  - (c) identification of previous environmental analyses relevant to the revision;
  - (d) a reference to prior commitments to topsoil salvage, sediment control, reclamation, and other previously approved plans or standards that are applicable to the revision;
  - (e) documentation of the adequacy of existing bonding, if appropriate;

- (f) updated replacement pages and permit map for the permitted plan of operations;
  - (g) any necessary construction, operating, reclamation, monitoring, and contingency plans; and
  - (h) an updated or comprehensive facilities map that clearly indicates all areas subject to pre-July 1, 1974, bonding levels. No action under this subsection affects a bond in effect under pre-July 1, 1974, bonding levels.
- (2) An operator who submits an application for a revision must pay the application fee required under 82-4-342(2), MCA, with the next annual fee payment required under 82-4-339(3), MCA.
- (23) The department shall provide the permittee with a notice of adequacy of proposed revisions within 30 days of receipt of the application.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-337, 82-4-339, 82-4-342, MCA

### **Reasonable Necessity Statement**

The application fee for permit revisions was added as required by 82-4-342(2), MCA, as modified by HB 69 (2025 Legislative Session).

### **17.24.167 MILLS: OPERATING PERMIT APPLICATION**

- (1) Any person wishing to operate a mill or disturb land in anticipation of construction or operation of a mill must obtain an operating permit for each mill complex on a form prescribed by the department before disturbance of land in anticipation of construction or operation of the mill or associated facilities.
- (2) Prior to receiving an operating permit, the applicant must:
  - (a) ~~pay a \$500 filing fee to the department~~ the applicable application fee as required under 82-4-335(3), MCA, unless the mill application is associated with and submitted concurrently with a new operating permit application submitted under 82-4-335 , MCA;
  - (b) indicate the proposed date for commencement of milling and the minerals to be milled and the conceptual life of the mill;

- (c) provide a map or maps to scale of the mill area (such map must locate the proposed mill and must locate and identify streams, and proposed roads, railroads, and utility lines in the immediate area and residences and wells within one mile of the permit area) . All maps provided in the application must have a uniform base, a scale, and a north directional arrow;
  - (d) file a reclamation bond pursuant to 82-4-338 , MCA;
  - (e) file a plan of operation including construction, operating, monitoring and contingency plans; and
  - (f) file a reclamation plan.
- (3) The department shall provide public notice of mill applications, consistent with 82-4-353 , MCA.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-335, MCA

### **Reasonable Necessity Statement**

The application fee applicable to operating permits for mills was added as required by 82-4-335(3), MCA, as modified by HB 69 (2025 Legislative Session).

### **17.24.168 MILLS: OPERATING PLANS**

- (1) An application for an operating permit pursuant to ARM 17.24.167 must contain an operating plan that contains each of the following:
  - (a) a description of the existing environment;
  - (b) a plan of operations that includes:
    - (i) all of the matters required by 82-4-335 ~~(3)~~(4)(d) through (k) , MCA, excepting the mine map;
    - (ii) maps enhancing narratives which use the same base and scale as required by ARM 17.24.167(2) (c) ; where appropriate;
    - (iii) a description of the design, construction, and operation of the mill, tailings, and waste rock disposal facilities;
    - (iv) a list of equipment and chemicals to be used in the operation by location and task;

- (v) a description of all buildings and identification of mill design capacity;
- (vi) a description of topsoil salvage and stockpiling activities;
- (vii) a description of the general chemical processes and the purpose and amount and source of water used in the operation and the amount and disposition of any process wastewater or solutions to be disposed;
- (viii) a description of the power needs and source(s) , including fuel storage sites;
- (ix) sewage treatment and facilities and solid waste disposal sites;
- (x) a description of the transportation network to be used or built during the construction and operation phases, and a listing of the type and amount of traffic at mill capacity;
- (xi) a description of the fire protection plan and the toxic spill contingency plan and a certification that notice of the filing of the plan has been provided to the state fire marshal;
- (xii) plans describing the design and operation of all diversions and impounding structures and sediment control. Descriptions shall be detailed enough to provide an accurate depiction of the safety, utility and stability of such structures;
- (xiii) a discussion of predicted noise levels by activities during construction and operational phases;
- (xiv) a discussion of the potential and known archaeological and cultural values in the area of potential environmental effect for the project and a discussion of how such values are to be given consideration;
- (xv) provisions for the prevention of wind erosion of all disturbed areas;
- (xvi) a description of the provisions for protection of off-site flora and fauna;
- (xvii) plans for the monitoring of ground water and surface water until continuous compliance with water quality standards is demonstrated, and a contingency plan in case of accidental discharge describing remedial action in cases requiring emergency action;
- (xviii) a plan for the protection of topsoil stockpiles from erosion and contamination; and
- (xix) a listing of known sources and volumes of incoming ore, tailings, or waste rock.

(c)

- (i) —anticipated employment including both direct and onsite contract employees;
  - (ii)(d) if the mill is proposed to be operated in conjunction with a mine operated by applicant, personnel requirements by location and task for construction and operation phases. (Operations meeting the definition of "large scale mineral development" in 90-6-302 , MCA, must also comply with the Hard Rock Impact Act, Title 90, chapter 6, part 3, MCA) .
- (2) Annual reports must be submitted consistent with 82-4-339 , MCA, and include in addition:
- (a) sources and volumes of incoming ore;
  - (b) volumes of tailings or waste generated;
  - (c) water monitoring report;
  - (d) remaining waste and tails capacity.
- (3) Plans submitted under ARM 17.24.167, 17.24.168, and 17.24.169, must be consistent with plans filed with other permitting authorities.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-335, MCA

### **Reasonable Necessity Statement**

The application requirements for an operating permit for a mill were updated to correct the statutory reference to Section 82-4-335(4), MCA, as modified by HB 69 (2025 Legislative Session).

### **17.24.181 SMALL MINER – EXCLUSION AND PLACER AND DREDGE BONDING**

- (1) Except as provided in 82-4-305(3), MCA, through 82-4-305(12), MCA, the Act does not apply to a small miner if a small miner annually submits to the department:
  - (a) an administrative fee in accordance with 82-4-305(1), MCA; and
  - (b) a complete exclusion upon current forms prepared and furnished by the department.
- (2) The exclusion shall, at a minimum:

- (a) include agreement to criteria in 82-4-305(1), MCA;
  - (b) identify whether the small miner is an individual; a partnership or business association; or a corporation, and certify in writing compliance with requirements at 82-4-305(2), MCA; and
  - (c) include an attestation that the individual, partnership or business association, or corporation that engages in mining activity is a small miner as defined in 82-4-303(30), MCA.
- (3) A small miner who fails to submit the administrative fee and exclusion required in this rule by March 1 of each year shall pay a late fee as required in 82-4-305(12), MCA for that year.
- (4) A small miner shall continue to submit the administrative fee and exclusion required in this rule if the small miner:
  - (a) has not completed reclamation for a placer or dredge operation;
  - (b) has an unreclaimed impoundment; or
  - (c) has operations where the department or a federal agency holds a performance bond.
- ~~(15)~~ 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 criteria outlined in (2) or unless it is documented that a bond for reclamation is posted with another government agency.
  - (a) Bond must be filed in the form of a surety, payable to the state of Montana or to the state and the appropriate federal agency, a cash deposit, an assignment of certificate of deposit, letter of credit, or other surety acceptable to the department.
  - (b) The bond must be accompanied by an appropriate map showing the location of the mine, anticipated disturbances, and perennial streams in the vicinity.
  - (c) A small miner placer or dredge mine operator that posted a bond with the department prior to May 15, 1997, for a mine is not required to post a bond in excess of \$5,000 for that mine.
- ~~(26)~~ The department shall reduce the required bonding amount if the small miner submits an operating plan documenting that the cost of reclamation to the department would be less than \$10,000. The information needed to make such a determination includes the following:
  - (a) a description of the proposed mining operation and foreseeable expansion;
  - (b) a description of the mine support facilities;
  - (c) the type of equipment and capacity of the plant;

- (d) an estimate of pit and pond sizes and volumes of all soil, overburden and placer gravel stockpiles;
- (e) description of mining sequence and maximum acreage to be disturbed and unreclaimed at any one time at the mine being bonded;
- (f) a description of any water diversions required by the operation;
- (g) a topographic map locating mine pit, ponds, diversions, roads, process area, and stream drainages and materials storage sites. This map should include a reference to existing locatable monuments or landmarks on the ground;
- (h) the depth of soil, overburden and pay zones to be excavated;
- (i) the average and maximum rate of pay gravel removal;
- (j) the length and width of roads and average size of the plant area;
- (k) any proposal to use suitable settling pond sediments as soil amendment if limited soil is available;
- (l) a proposed permanent seed mixture and rate of application (lbs/ac);
- (m) characterization of stream channel and riparian conditions for locations where disturbance is proposed;
- (n) identification of the construction method and materials to be used to reclaim soils, overburden, gravel stockpiles, and other disturbances and to reestablish functioning streams and associated floodplains where stream channels have been disturbed;
- (o) an erosion control plan ~~which contains the appropriate elements from ARM 17.24.182;~~
- (p) whenever applicable, a description of the status of 404 permits issued pursuant to the federal Clean Water Act and plans of operation required by federal land management agencies; and
- (q) status of 310 permit compliance, pursuant to 75-7-101, MCA, et seq., and status of Montana pollution discharge elimination permit compliance pursuant to 75-5-401, MCA, et seq.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):** 82-4-305(1), MCA

### **Reasonable Necessity Statement**

The department is proposing to amend ARM 17.24.181 to include the payment of a fee for Small Miner Exclusions as required by 82-4-305, MCA, revised by HB 69 (2025 Legislative Session). Criteria for submitting a Small Miner Exclusion are also proposed to include the exemption requirements and identify when renewal of a small miner exclusion is required because of an unreclaimed operation, unreclaimed impoundment or when an outstanding performance bond is held by the department or a federal agency. The department is proposing to repeal ARM 17.24.182, and therefore also proposes to remove the reference to ARM 17.24.182 in this rule.

## **ADOPT**

The rules proposed to be adopted are as follows:

### **NEW RULE I EXPLORATION LICENSE — REVISIONS AND AMENDMENTS**

- (1) During the term of an exploration license, a licensee may apply for:
  - (a) exploration license major amendments;
  - (b) exploration license minor amendments; or
  - (c) exploration license revisions.
- (2) Applications for exploration license major amendments, exploration license minor amendments, and exploration license revisions must be completed and submitted to the department upon current forms prepared and furnished by the department.
- (3) An application for each exploration license major amendment must include the following:
  - (a) a fee determined in accordance with 82-4-342(4), MCA, paid to the department at the time of application; and
  - (b) an application as specified in (2) containing the information required for a new exploration license under ARM 17.24.103(1)(c) through (f).
- (4) An application for each exploration license minor amendment must include the following:
  - (a) a fee determined in accordance with 82-4-342(2)(c), MCA, to be paid to the department with the next annual fee payment required under 82-4-331(1)(a), MCA;
  - (b) an application as specified in (2);
  - (c) a summary and description of the proposed change to the exploration license project;
  - (d) updated maps containing the information required in ARM 17.24.103(1)(c) related to maps and showing:

- (i) location and extent of proposed new or modified surface disturbances; and
    - (ii) geographic coordinates and other information sufficient to identify the site;
  - (e) updated plans that implement the specific reclamation and performance requirements of ARM 17.24.104 through 17.24.108; and
  - (f) identification of previous environmental analyses applicable to the proposed changes and a statement demonstrating their adequacy.
- (5) An application for each exploration license revision must include:
- (a) a fee determined in accordance with 82-4-342(2)(c), MCA, to be paid to the department with the next annual fee payment required under 82-4-331(1)(a), MCA;
  - (b) an application as specified in (2); and
  - (c) a summary and description of the proposed change to the exploration license project.
- (6) An applicant must file a reclamation performance bond with the department in a form and amount determined adequate by the department in accordance with 82-4-338, MCA.

**Authorizing statute(s):** 82-4-321, MCA

**Implementing statute(s):**82-4-321, MCA

### **Reasonable Necessity Statement**

The new rule is proposed to implement the modifications to exploration licenses included in HB 69 (2025 Legislative Session) revisions to 82-4-342, MCA. The new rule specifies the information that must be contained in an application for exploration license major amendments, exploration license minor amendments and exploration license revisions. The fee for an exploration license major amendment is required at the time of application pursuant to 82-4-342(3)(b).

### **REPEAL**

The rules proposed to be repealed are as follows:

#### **17.24.182 (INTERPRETIVE RULE) OPERATIONAL RECOMMENDATIONS FOR SMALL MINERS**

- (1) In order for SMES placer and dredge operators to meet the requirements of 82-4-305 (1) , MCA, which requires that the small miner agree in writing not to pollute or contaminate any stream, the department recommends the following best management practices as minimally necessary to assure that operations do not result in water quality violations:
  - (a) Mining equipment should not be operated in a live stream or diversion, or in any manner to cause bank caving or erosion of the bank of any live stream or diversion.
  - (b) The amount of make-up water should be limited to only the amount required to operate the wash plant with spent water being recirculated back to the wash plant.
  - (c) Runoff from undisturbed areas should be minimized through use of temporary berms.
  - (d) Adequate temporary berms and/or natural undisturbed areas of vegetation should be placed or left as a buffer zone around diversion ditches and live streams to prevent water quality degradation and erosion of disturbed areas as a result of runoff from a ten-year, 24-hour precipitation event.
  - (e) During operations, care should be taken to protect streambanks and streambank vegetation, streambanks, ditches, and diversions should be lined, riprapped, or otherwise stabilized to prevent excess erosion.
  - (f) Roads should:
    - (i) be constructed to provide controlled drainage, include culverts, waterbars, and slash filters necessary to facilitate drainage and minimize erosion and be constructed to reduce concentrated flows;
    - (ii) be located on well-drained soils and located back from stream bottoms in order to provide a buffer zone for preventing road sediments from washing into stream channels;
    - (iii) be located outside slide-prone areas characterized by seeps, steep slopes, highly weathered bedrock, clay beds, concave slopes, hummocky topography, and rock layers that dip parallel to the slope;
    - (iv) be constructed to stabilize sloped exposed surfaces by seeding, compacting, riprapping, benching, mulching or other suitable means prior to fall or spring runoff;
    - (v) not be left in an erosive condition over a winter season; and

- (vi) be used only minimally during wet periods and spring breakup when damage to the roads, which would result in increased sedimentation, is likely to occur.
  - (g) Cut-and-fill slopes should be constructed at a stable angle and stabilized by seeding, mulching, benching or other suitable means during the same season as construction.
  - (h) Clearing, grubbing or logging debris should not be placed in streams or used for diversions or cause water quality degradation.
  - (i) Diversions and impoundments should be sized to pass the ten-year, 24-hour precipitation event. Diversions should be constructed with drop structures or energy dissipators whenever necessary to prevent erosion. Diversion ditch berms should be sloped to account for site-specific conditions, including soils, climate, height of structure and existing natural slopes, and should be revegetated, riprapped, or otherwise stabilized to minimize stream sedimentation.
  - (j) Before winter shutdown, a small miner should take the following precautions:
    - (i) Diversions should be sized to pass spring runoff (minimum ten-year, 24-hour event) or streams should be returned to original channels.
    - (ii) Ponds should have adequate freeboard to prevent over-topping during spring runoff from direct precipitation and over-land flow. Whenever ponds are located within a flood plain and diversions are not sized to pass the ten-year, 24-hour precipitation event, ponds should be filled and reclaimed prior to onset of winter.
    - (iii) Soil, overburden, and tailings stockpiles should not be placed near streams, unless necessary, and, or if so placed, should be bermed at the toe to prevent erosion of sediments into streams.
    - (iv) Fuel storage tanks should be drained before winter shut down and should be drained and disposed of in a manner which protects adjacent streams.
  - (k) Dikes should be constructed around fuel storage areas to prevent a spill or discharge of fuel to any waters.
- (2) A placer or dredge operator who proposes a "project", as that term is defined in 75-7-103 , MCA, on a perennial stream, must comply with the requirements of the Natural Streambed and Land Preservation Act, as amended, by obtaining a permit required by the appropriate conservation district.
  - (3) In order for a SMES placer or dredge operator to meet the reclamation requirements for bond release, the following reclamation planning guidelines should be followed:

- (a) A reclamation plan, or appropriate waiver, for all roads is necessary.
- (b) The postmine land use should be identified and a reclamation timetable should be established.
- (c) Soil should be salvaged from all areas to be disturbed and should be stockpiled for use in reclamation.
- (d) Site disturbances should be recontoured to a minimum of 3:1 slopes or flatter by backfilling excavated material, unless otherwise approved by the department as achieving comparable stability and utility in the postmining landscape.
- (e) Soil and approved soil amendments should be redistributed over all areas disturbed by mining.
- (f) The site should be seeded with perennial nonweedy species.
- (g) Stream channels should be reconstructed, using coarse placer tails as necessary to dissipate energy. Riprap, temporary synthetic erosion control, or biodegradable revegetation fabrics in combination with permanent vegetation should be used to stabilize streambanks, as necessary. Streams should be reconstructed with grades, pools, and meanders comparable to premine drainage.
- (h) Clays and fines available on-site should be used to create a relatively impermeable layer beneath reclaimed channels and floodplains.
- (i) The floodplain should be returned to original contour with the gravel, overburden, and soils replaced to resemble their original stratigraphy.

**Authorizing statute(s):** This rule is advisory only, but may be a correct interpretation of the law, 82-4-321, MCA

**Implementing statute(s):** 82-4-305(1), (3), (4), and (5), MCA

### **Reasonable Necessity Statement**

The information contained in ARM 17.24.182 is interpretive. By January 31, 2027, the department will convey similar information through a guidance document that contains additional information such as images and graphics to improve the readability of the information.

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### **Small Business Impact**

The department has determined that the class or group that will be affected by the proposed rulemaking is business and operations that conduct hard rock mineral exploration activities and mining. The proposed rules implement the exploration license application, modification and renewal process. The proposed rule also implements the fee provisions enacted in HB 69 (2025 Legislative Session) for exploration licenses, operating permits and small miner exclusions. The rules do not modify the requirements contained in HB 69 and would therefore not have a direct or significant impacts on small businesses.

The documentation of the small business impact analysis is available upon request.

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### **Bill Sponsor Notification**

The Bill Sponsor was e-mailed on January 28, 2026.

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### **Interested Persons**

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact above or may be made by completing a request form at any rules hearing held by the department.

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### **Rule Reviewer**

[rule\_reviewer]

### **Approval**

Sonja Nowakowski, Director