

1999 DRAFTING REQUEST

Bill

Received: **03/07/2000**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Spencer Black (608) 266-7521**

By/Representing: **Steve Perala**

This file may be shown to any legislator: NO

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - mining**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prohibit use of cyanide in mining

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reouired</u>
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/2	traderc 03/20/2000	wj ackson 03/20/2000	martykr 03/20/2000	_____	lrb-docadmin 03/20/2000	lrb-docadmin 03/27/2000	

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/?	traderc	11 WLj 3/8	Jm 3/8	<u>S 3/8</u>			

FE Sent For:

<END>

MONTANA CODE ANNOTATED

*** THIS DOCUMENT IS CURRENT THROUGH THE OCTOBER, 1999
SESSION ***

TITLE 82 MINERALS, OIL, AND GAS
CHAPTER 4 RECLAMATION
PART 3 METAL MINE RECLAMATION

Mont. Code Anno., § 82-4-390 (1999)

82-4-390 Cyanide heap and vat leach open-pit gold and silver mining prohibited.

(1) ~~Open pit~~ ~~mine~~ ~~for gold or silver~~ ~~using heap leaching~~ or vat leaching with cyanide ore-processing reagents is prohibited ~~except as described in subsection (2).~~

~~(2) A mine described in this section operating on November 3, 1998, may continue operating under its existing operating permit or any amended permit that is necessary for the continued operation of the mine.~~

HISTORY:

En. Sec. 1, I.M. No. 137, approved Nov. 3, 1998; amd. Sec. 1, Ch. 457, L. 1999.


Becky,
Here is the Montana Law. I think it can be simply worded,
maybe as indicated above. I do want to be sure that cyanide
and cyanide compounds like sodium cyanide are also prohibited.
Thanks for your assistance.

Steve Peralo
Rep. Black's Office

82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

- (1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.
- (2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.
- (3) "Board" means the board of environmental review provided for in 2-I 5-3502.
- (4) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.
- (5) "Department" means the department of environmental quality provided for in 2-I 5-3501.
- (6) "Disturbed land" means the area of land or surface water that has been disturbed, beginning at the date of the issuance of the permit. The term includes the area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or coverings that result from the operation and that have not been previously reclaimed under the reclamation plan.
- (7) "Exploration" means:
 - (a) all activities that are conducted on or beneath the surface of lands and that result in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation; and
 - (b) all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.
- (8) "Mineral" means any ore, rock, or substance (other than oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium) that is taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.
- (9) "Mining" commences when the operator first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of aggregate of 10,000 short tons.
- (10) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.
- (11) "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.
- (12) "Placer deposit" means:
 - (a) naturally occurring, scattered or unconsolidated valuable minerals in gravel, glacial, eolian, colluvial, or alluvial deposits lying above bedrock; or
 - (b) all forms of deposit except veins of quartz and other rock in place.
- (13) "Placer or dredge mining" means the mining of minerals from a placer deposit by a person or persons.
- (14) "Reclamation plan" means the operator's written proposal, as required and approved by the department, for reclamation of the land that will be disturbed. The proposal must include, to the extent practical at the time of application for an operating permit:

- (a) a statement of the proposed subsequent use of the land after reclamation;
 - (b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed and the proposed method of accomplishment;
 - (c) the manner and type of revegetation or other surface treatment of disturbed areas;
 - (d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area;
 - (e) the method of disposal of mining debris;
 - (f) the method of diverting surface waters around the disturbed areas when necessary to prevent pollution of those waters or unnecessary erosion;
 - (g) the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;
 - (h) maps and other supporting documents that may be reasonably required by the department; and
 - (i) a time schedule for reclamation that meets the requirements of 82-4-336.
- (15) (a) "Small miner" means a person, firm, or corporation that engages in mining activity that is not exempt from this part pursuant to 82-4-310, that engages in the business of reprocessing of tailings or waste materials, or, except as provided in 82-4-310, that knowingly allows other persons to engage in mining activities on land owned or controlled by the person, firm, or corporation; that does not hold an operating permit under 82-4-335 except for a permit issued under 82-4-335(2) or a permit that meets the criteria of subsection (15)(c); and that conducts:
- (i) an operation that results in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or
 - (ii) two operations that disturb and leave unreclaimed less than 5 acres for each operation if the respective mining properties are:
 - (A) the only operations engaged in by the person, firm, or corporation; and
 - (B) at least 1 mile apart at their closest point.
- (b) For the purpose of this definition only, the department shall, in computing the area covered by the operation:
- (i) exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases; and
 - (ii) exclude access roads for which the person, firm, or corporation submits a bond to the department in the amount of the estimated total cost of reclamation along with a description of the location of the road and the specifications to which it will be constructed.
- (c) A small miner may hold an operating permit that allows disturbance of 100 acres or less. The permit may be amended to add new disturbance areas, but the total area permitted for disturbance may not exceed 100 acres at any time.
- (16) "Soil materials" means earth material found in the upper soil layers that will support plant growth.
- (17) (a) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining.
- (b) Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, peat, soil materials, or uranium or excavation or grading conducted for **onsite** farming, **onsite** road construction, or other **onsite** building construction.
- (18) "Underground mining" means all methods of mining other than surface mining.
- (19) "Unit of surface-mined area" means that area of land and surface water included within an operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit. The term includes the area from which overburden or minerals have been



removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations that by virtue of mining use are susceptible to erosion in excess of the surrounding undisturbed portions of land.

(20) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation.

History: En. Sec. 3, Ch. 252, L. 1971; amd. Sec. 1, Ch. 281, L. 1974; amd. Sec. 13, Ch. 39, L. 1977; amd. Sec. 1, Ch. 423, L. 1977; R.C.M. 1947, 50-1203; amd. Sec. 1, Ch. 588, L. 1979; amd. Sec. 1, Ch. 386, L. 1985; amd. Sec. 1, Ch. 453, L. 1985; amd. Sec. 1, Ch. 93, L. 1989; amd. Sec. 1, Ch. 346, L. 1989; amd. Sec. 1, Ch. 347, L. 1989; amd. Sec. 1, Ch. 283, L. 1991; amd. Sec. 1, Ch. 637, L. 1991; amd. Sec. 4, Ch. 472, L. 1993; amd. Sec. 380, Ch. 418, L. 1995; amd. Sec. 1, Ch. 272, L. 1997; amd. Sec. 1, Ch. 507, L. 1999.



1999 BILL

ONote

Gen Cat
1 AN ACT /...; relating to: prohibiting the use in metallic mining of certain processes
2 that use cyanide ore-processing reagents.

Analysis by the Legislative Reference Bureau

This bill prohibits mining for metallic minerals with heap leaching or vat leaching processes that use cyanide ore-processing reagents. A reagent is a substance that is used because it takes part in chemical reactions or biological processes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 293.67[✓] of the statutes is created to read:

4 **293.67 Use of cyanide ore-processing reagents. (1) DEFINITION.** In this
5 section, "cyanide ore-processing reagent" means cyanide or a cyanide compound
6 used as a reagent in ore leaching operations.

7 **(2) PROHIBITION.** No person may conduct mining with heap leaching or vat
8 leaching processes that use cyanide ore-processing reagents.

9 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4687/1dn

RCT: /:.....

Wlj

Please review this draft carefully to ensure that it conforms to your intent.

The prohibition in this draft is based on a marked-up version of a Montana statute, s. 824390, Mont. Code Anno., that was submitted to me. The definition is from s. ~~82-4-303~~ (4), Mont. Code Anno.

I do not know whether there are other mining processes that use cyanide or cyanide compounds. You might wish to discuss the technical aspects of this proposal with experts on metallic mining.

Please do not hesitate to contact me with any questions about the draft or with redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: Becky.Tradewell@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4687/1dn
RCT:wlj:km

March 9, 2000

Please review this draft carefully to ensure that it conforms to your intent.

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Managing Attorney
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E-mail: Becky.Tradewell@legis.state.wi.us

3/17 Per Steve Black's office: Redraft to eliminate references to "heap leaching" & "vat leaching". Prohibit use of cyanide to conduct mining or ore processing.

RLT

D



1999 BILL

and processing metallic ore using
Reagen

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2 metallic mining of certain processes that use cyanide ore-processing reagents.

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8 leaching processes that use ^{using} cyanide ore-processing reagents.

9 (END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 03/20/2000

To: Representative Black

Relating to LRB drafting number: LRB-4687

Topic

Prohibit use of cyanide in mining

Subject(s)

Environment - mining

fb

1. **JACKET** the draft for introduction _____

in the **Senate** or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-356 1. If you have any questions relating to the attached draft, please feel free to call me.

Rebecca C. Tradewell, Managing Attorney
Telephone: (608) 266-7290