

OPEN CUT MINING (GRAVEL)

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: Materials covered under the opencut program in DEQ are bentonite, clay, scoria, peat, sand, soil, gravel, or mixtures of those substances. The vast majority of permits are for gravel or scoria.

A permit and reclamation plan are required for:

- a mine where more than 10,000 cubic yards of materials and overburden is removed;
- where an operator may have more than one mine that separately removes less than 10,000 cubic yards of materials and overburden, but the sum of the materials and overburden removed exceeds that amount;
- a site where the amount of materials and overburden previously removed, combined with new mining, exceeds 10,000 cubic yards of materials and overburden.

A permit or amendment is not necessary for limited opencut sites if:

- the mine is located more than one mile from the operator's nearest existing limited opencut operation;
- the total amount of materials and overburden removed does not exceed 10,000 cubic yards and the total area from which the materials and overburden are removed does not exceed five acres; and
- the operator either reclaims the limited opencut mine within one year, or submits a standard permit application and reclamation plan within six months.

Reclamation is the reconditioning of the land affected to make the area suitable for productive use, including but not limited to forestry, agriculture, grazing, wildlife, recreation, or residential or industrial development. Bonding of opencut mines is at least \$200 an acre up to an amount determined by the department to reclaim the affected land.

Legislative Services Division Materials:

Industrial and Energy Minerals Bureau [program evaluation](#), 2015.

Other Materials:

[Follow up to - Improving Montana's Opencut Mine Permitting Process](#), Legislative Audit Division, 2010.
[Improving Montana's Opencut Mine Permitting Process](#), Legislative Audit Division, 2008.

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2017 – None

2015 - None

2013

[HB 553](#) (S) Died in Standing Committee. AN ACT GENERALLY REVISING OPENCUT MINING LAWS; ALLOWING OPENCUT OPERATIONS TO MINE UNDER A CONDITIONAL PERMIT DURING THE PERMIT REVIEW PERIOD; AND AMENDING SECTION SECTIONS 82-4-422 AND 82-4-432, MCA.

[SB 229](#) (S) Died in Standing Committee. AN ACT REVISING THE EXEMPTION FROM PERMITTING FOR AN ADDITIONAL OPENCUT MINE OPERATED BY A CURRENT PERMITHOLDER; AND AMENDING SECTION 82-4-431, MCA.

[SB 234](#) (S) Died in Standing Committee. AN ACT REVISING OPENCUT MINING LAWS; PROVIDING CERTAIN EXEMPTIONS TO PERMIT REQUIREMENTS; AND AMENDING SECTIONS 82-4-431, 82-4-441, AND 82-4-442, MCA.

[SB 332](#) Chapter Number Assigned. AN ACT GENERALLY REVISING OPENCUT MINING LAWS; REQUIRING NOTICE OF INSPECTIONS; REVISING NOTICE AND HEARING PROVISIONS; REQUIRING FEE FOR MATERIALS MINED ILLEGALLY; AND AMENDING SECTIONS 7-14-2124, 82-4-403, 82-4-425, 82-4-427, 82-4-431, 82-4-432, 82-4-433, AND 82-4-437, MCA.

2011

[HB 303](#) (H) Died in Standing Committee. AN ACT REVISING SURFACE OWNER NOTICE REQUIREMENTS FOR MINERAL ACTIVITIES; AMENDING SECTION 82-2-303, MCA; AND REPEALING SECTION 82-2-302, MCA.

2009

[HB 77](#) (H) Died in Standing Committee. AN ACT REQUIRING PUBLIC NOTICE OF PROPOSED OPENCUT OPERATIONS; AND AMENDING SECTION 82-4-432, MCA."

[HB 313](#) (H) Died in Standing Committee. AN ACT AUTHORIZING COUNTIES TO PERMIT OPENCUT OPERATIONS; AND AMENDING SECTION 82-4-432, MCA.

[HB 319](#) (H) Died in Standing Committee. AN ACT REQUIRING AN OPENCUT OPERATOR TO SUBMIT PROOF OF OTHER ENVIRONMENTAL PERMIT APPLICATIONS RELATED TO A PROPOSED OPENCUT OPERATION WITH AN OPENCUT APPLICATION; AMENDING SECTION 82-4-432, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[HB 359](#) (H) Died in Standing Committee. AN ACT REQUIRING PUBLIC NOTICE FOR OPENCUT OPERATION APPLICATIONS; PROVIDING FOR PUBLIC HEARINGS ON CERTAIN OPENCUT OPERATION APPLICATIONS; REVISING APPLICATION REQUIREMENTS; AMENDING SECTION 82-4-432, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

[HB 429](#) (H) Died in Standing Committee. AN ACT ESTABLISHING AN ANNUAL FEE FOR OPENCUT OPERATIONS; REQUIRING THAT ANNUAL FEES BE USED TO PAY FOR ADMINISTERING THE OPENCUT MINING PROGRAM; AND AMENDING SECTIONS 82-4-422 AND 82-4-424, MCA

[HB 446](#) (H) Died in Standing Committee. AN ACT REVISING THE OPENCUT MINING ACT; REQUIRING WATER MONITORING IN CERTAIN SITUATIONS; REQUIRING WATER RUNOFF CONTROL; PROVIDING LEGAL ACTION FOR DAMAGE TO WATER SUPPLY; PROVIDING FOR A WRIT OF MANDAMUS; ALLOWING AWARDING OF ATTORNEY FEES; AND AMENDING SECTION 82-4-434, MCA.

[HB 447](#) (H) Died in Standing Committee. AN ACT REVISING THE OPENCUT MINING ACT; REQUIRING REVIEWS OF CERTAIN OPENCUT OPERATIONS; LIMITING EXPANSIONS OF OPENCUT OPERATIONS BY AMENDMENT; REVISING RECLAMATION REQUIREMENTS; EXEMPTING GOVERNMENTS FROM CERTAIN REQUIREMENTS; AND AMENDING SECTIONS 82-4-405, 82-4-432, AND 82-4-434, MCA.

[HB 678](#) Chapter Number Assigned. AN ACT REVISING LAWS RELATED TO OPENCUT MINING; ESTABLISHING AN OPENCUT FUND AND ANNUAL FEE; EXEMPTING CERTAIN OPENCUT OPERATIONS FROM THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX; REVISING THE OPENCUT PERMITTING PROCESS; AMENDING SECTIONS 15-38-104, 15-38-106, 15-38-113, 82-4-405, 82-4-424, 82-4-432, AND 82-4-437, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY DATES.

[HJ 41](#) (H) Died in Process. A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A STUDY OF OPENCUT MINING, INCLUDING THE PERMITTING PROCESS, ENVIRONMENTAL PROTECTION, AND RIGHTS OF NEARBY PROPERTY OWNERS.

[SB 246](#) (H) Died in Process. A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE OPERATOR OF AN OPENCUT MINING OPERATION TO PROMINENTLY DISPLAY THE OPERATOR'S NAME AND PHONE NUMBER AT ~~EACH~~ THE MAIN ENTRANCE TO THE PERMITTED OPENCUT OPERATION; AND PROVIDING A DELAYED EFFECTIVE DATE.

[SB 297](#) Chapter Number Assigned. AN ACT ESTABLISHING A SAND AND GRAVEL DEPOSIT PROGRAM WITHIN THE MONTANA BUREAU OF MINES AND GEOLOGY; ALLOWING THE MONTANA BUREAU OF MINES AND GEOLOGY TO ACCEPT GIFTS, GRANTS, AND REIMBURSEMENTS; REQUIRING PRESENTATIONS OF

FINDINGS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

SB 370 (H) Died in Process. AN ACT ESTABLISHING AN OPENCUT FUND AND ANNUAL FEE; ~~EXEMPTING GOVERNMENT OPENCUT OPERATIONS FROM THE OPENCUT FEE~~; RESTRICTING THE USE OF THE OPENCUT FUNDS; EXEMPTING OPENCUT OPERATIONS FROM THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX; AMENDING SECTIONS 15-38-104, 15-38-106, 15-38-113, 82-4-405, 82-4-424, AND 82-4-437, MCA; AND PROVIDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES.

SB 411 (H) Died in Standing Committee. A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS FOR AND ALLOWED CONTENT IN A LOCAL GOVERNMENT'S GROWTH POLICY AS IT RELATES TO SAND AND GRAVEL RESOURCES; REQUIRING A GROWTH POLICY TO INCLUDE ~~IDENTIFICATION OF PRIVATELY OWNED SAND AND GRAVEL RESOURCES AND STATE HOW THE RESOURCE OWNER'S PROPERTY AND DEVELOPMENT RIGHTS WILL BE PRESERVED~~; SAND AND GRAVEL RESOURCES AMONG THE CHARACTERISTICS AND FEATURES THAT GROWTH POLICY JURISDICTIONAL AREA MAPS AND TEXT MUST DESCRIBE; AND AMENDING SECTION 76-1-601, MCA.

SB 433 (S) Died in Standing Committee. A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE APPLICABILITY OF ZONING REGULATIONS TO SAND AND GRAVEL OPERATIONS; PROVIDING THAT A PROPOSED OPENCUT OPERATION THAT HAS PROVIDED PUBLIC NOTICE IS NOT SUBJECT TO ZONING REGULATIONS ADOPTED AFTER THE NOTICE; REQUIRING PUBLIC NOTICE FOR OPENCUT OPERATIONS; PROVIDING FOR A PUBLIC MEETING; REVISING REVIEW CRITERIA; PROVIDING FOR AN EXTENDED REVIEW PERIOD; AMENDING SECTIONS 76-2-109, 76-2-206, 76-2-208, 76-2-209, AND 82-4-432, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

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