

SUBSTITUTE FOR
HOUSE BILL NO. 5246

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 63101 (MCL 324.63101), as added by 1995 PA
57, and by adding sections 63103a, 63103b, 63103c, and 63103d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 63101. As used in this part:

2 (A) "ADMINISTRATIVELY COMPLETE" MEANS AN APPLICATION FOR A
3 MINING PERMIT UNDER THIS PART THAT IS DETERMINED BY THE DEPART-
4 MENT TO SATISFY ALL OF THE CONDITIONS OF THIS PART AND RULES
5 PROMULGATED UNDER THIS PART.

6 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
7 QUALITY.

8 (C) "LIFE OF THE MINE" MEANS THE PERIOD OF TIME FROM
9 ISSUANCE OF A PERMIT UNDER THIS PART THROUGH THE COMPLETION OF
10 RECLAMATION AS REQUIRED BY THIS PART.

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1 (D) "METALLIC MINERAL" MEANS METALLIC ORE OR MATERIAL MINED
2 FOR ITS METALLIC CONTENT.

3 (E) "METALLIC MINERAL OPERATOR" MEANS A PERSON WHO OWNS OR
4 LEASES THE PLANT AND EQUIPMENT UTILIZED IN A METALLIC MINERAL
5 MINING AREA AND IS ENGAGED IN THE BUSINESS OF MINING METALLIC
6 MINERALS OR PREPARING TO ENGAGE IN MINING OPERATIONS FOR METALLIC
7 MINERALS.

8 (F) "METALLIC PRODUCT" MEANS A COMMERCIALY SALABLE METALLIC
9 MINERAL IN ITS FINAL MARKETABLE FORM OR STATE.

10 (G) ~~-(a)-~~ "Mineral" means ~~coal, gypsum, stone, metallic~~
11 ~~ore, or material mined for its metallic content and other similar~~
12 ~~solid material or~~ ANY substance to be excavated from THE natural
13 deposits on or in the earth for commercial, industrial, or con-
14 struction ~~uses~~ PURPOSES, INCLUDING GYPSUM, LIMESTONE, DOLOS-
15 TONE, SANDSTONE, SHALE, METALLIC MINERAL, OR OTHER SOLID
16 MATERIALS. Mineral does not include clay, gravel, marl, peat,
17 ~~or~~ INLAND sand OR SAND MINED FOR COMMERCIAL OR INDUSTRIAL PUR-
18 POSES, FROM SAND DUNE AREAS REGULATED UNDER PART 637, OR COAL
19 REGULATED UNDER PART 635.

20 (H) ~~-(b)-~~ "Mining area" or "area subjected to mining" means
21 an area of land from which material is removed in connection with
22 the production or extraction of minerals by SURFACE OR open pit
23 mining methods, the lands on which material from that mining is
24 deposited, the lands on which beneficiating or treatment plants
25 and auxiliary facilities are located, the lands on which the
26 water reservoirs used in the mining process are located, and
27 auxiliary lands which are used.

1 ~~-(c) "Open pit mining" means the mining of a mineral in the~~
2 ~~regular operation of a business by removing the overburden lying~~
3 ~~above natural deposits of the mineral and mining directly from~~
4 ~~the natural deposits thus exposed or by mining directly from~~
5 ~~deposits lying exposed in their natural state. Open pit mining~~
6 ~~does not include excavation or grading preliminary to a construc-~~
7 ~~tion project or borrow operations for highway constructions.~~

8 (I) ~~-(d) "Operator" means an owner or lessee of mineral~~
9 ~~rights~~ A METALLIC MINERAL OPERATOR OR OTHER PERSONS engaged in
10 or preparing to engage in mining operations ~~with respect~~
11 ~~thereto~~ for the production of mineral products.

12 ~~-(e) "Person" means an individual, corporation, company,~~
13 ~~association, joint venture, partnership, receiver, trustee,~~
14 ~~guardian, executor, administrator, personal representative, or~~
15 ~~private organization.~~

16 (J) ~~-(f) "Stockpile" means material, including, but not~~
17 ~~limited to, surface overburden, rock, or lean ore, which in the~~
18 ~~process of mining and beneficiation or treatment has been removed~~
19 ~~from the earth and stored on the surface, but excluding materials~~
20 ~~that are being treated in the production of mineral products and~~
21 ~~the mineral product that has been produced by that operation.~~

22 (K) ~~-(g) "Supervisor of reclamation" means the state~~
23 ~~geologist.~~

24 (1) "SURFACE OR OPEN PIT MINING" MEANS THE MINING OF MORE
25 THAN 10,000 TONS OF A MINERAL OR DISTURBING MORE THAN 1 ACRE OF
26 LAND A YEAR IN THE REGULAR OPERATION OF A BUSINESS BY REMOVING
27 THE OVERBURDEN LYING ABOVE A NATURAL DEPOSIT OF A MINERAL AND

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1 MINING DIRECTLY FROM THE NATURAL DEPOSIT EXPOSED OR BY MINING
2 DIRECTLY FROM A DEPOSIT LYING EXPOSED IN THE MINERAL'S NATURAL
3 STATE. SURFACE OR OPEN PIT MINING INCLUDES ALL MINING BELOW THE
4 WATER TABLE OR WHICH WILL UPON CESSATION OF MINING RESULT IN CRE-
5 ATING A BODY OF WATER OF ANY SIZE. SURFACE OR OPEN PIT MINING
6 DOES NOT INCLUDE EXCAVATION OR GRADING PRELIMINARY TO A CONSTRUC-
7 TION PROJECT.

8 (M) ~~—(h)—~~ "Tailings basin" means land on which is deposited,
9 by hydraulic OR OTHER means, the material that is separated from
10 the mineral product in the beneficiation or treatment of minerals
11 including any surrounding dikes constructed to contain the
12 material.

13 SEC. 63103A. (1) AFTER OCTOBER 1, 1997, A METALLIC MINERAL
14 OPERATOR SHALL NOT ENGAGE IN THE MINING OF METALLIC MINERALS
15 WITHOUT FIRST OBTAINING A PERMIT FOR THAT PURPOSE FROM THE
16 DEPARTMENT. A METALLIC MINERAL OPERATOR ENGAGED IN OR CARRYING
17 OUT A METALLIC MINING OPERATION AS OF THE EFFECTIVE DATE OF THIS
18 SECTION SHALL APPLY FOR A PERMIT TO MINE 1 YEAR AFTER THE EFFEC-
19 TIVE DATE OF THIS SECTION. ANY SUCH EXISTING METALLIC MINING
20 OPERATION MAY CONTINUE MINING UNTIL THE DEPARTMENT ISSUES OR
21 DENIES A PERMIT FOR THE METALLIC MINING OPERATION.

22 (2) PRIOR TO RECEIVING A PERMIT FROM THE DEPARTMENT, A
23 METALLIC MINERAL OPERATOR SHALL SUBMIT THE FOLLOWING:

24 (A) A PERMIT APPLICATION ON A FORM PROVIDED BY THE
25 DEPARTMENT.

26 (B) A MINING AND RECLAMATION PLAN FOR THE PROPOSED METALLIC
27 MINING ACTIVITY AS PRESCRIBED BY SECTION 63103B.

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1 SEC. 63103B. THE MINING AND RECLAMATION PLAN SUBMITTED
2 UNDER SECTION 63103A, FOR THE TOTAL PROJECT, SHALL INCLUDE ALL OF
3 THE FOLLOWING:

4 (A) THE METHOD AND DIRECTION OF MINING.

5 (B) SURFACE OVERBURDEN STRIPPING PLANS.

6 (C) THE DEPTH OF GRADE LEVEL OVER THE ENTIRE SITE FROM WHICH
7 THE METALLIC MINERAL WILL BE REMOVED.

8 (D) PROVISIONS FOR GRADING, REVEGETATION, AND STABILIZATION
9 THAT WILL MINIMIZE SOIL EROSION, SEDIMENTATION, AND PUBLIC SAFETY
10 CONCERNS.

11 (E) THE LOCATION OF BUILDINGS, EQUIPMENT, STOCKPILES, ROADS,
12 OR OTHER FEATURES NECESSARY TO THE MINING ACTIVITY AND PROVISIONS
13 FOR THEIR REMOVAL AND RESTORATION OF THE AREA AT THE PROJECT
14 TERMINATION.

15 (F) THE INTERIM USE OR USES OF RECLAIMED AREAS BEFORE THE
16 CESSATION OF THE ENTIRE MINING OPERATION.

17 (G) MAPS AND OTHER SUPPORTING DOCUMENTS REQUIRED BY THE
18 DEPARTMENT.

19 (H) FENCING OR OTHER TECHNIQUES TO MINIMIZE TRESPASS OR
20 UNAUTHORIZED ACCESS TO THE MINING ACTIVITY.

21 (I) IF REQUIRED BY THE DEPARTMENT WHEN MINING ACTIVITY BELOW
22 THE WATER TABLE IS PROPOSED, A HYDROGEOLOGICAL SURVEY OF THE SUR-
23 ROUNDING AREA.

24 (J) IF THREATENED OR ENDANGERED SPECIES ARE IDENTIFIED, AN
25 INDICATION OF HOW THE THREATENED OR ENDANGERED SPECIES WILL BE
26 PROTECTED OR, IF NOT PROTECTED, WHAT MITIGATION MEASURES WILL BE
27 PERFORMED.

1 (K) IF THE PROPOSED MINING ACTIVITY INCLUDES BENEFICIATION
2 OR TREATMENT OF THE METALLIC ORE OR MATERIAL MINED FOR ITS METAL-
3 LIC CONTENT, THE APPLICATION DOCUMENTS SHALL INCLUDE SPECIFIC
4 PLANS DEPICTING THE BENEFICIATION AND TREATMENT METHODS AND TECH-
5 Niques, AND MANUFACTURER'S MATERIAL SAFETY DATA SHEETS ON ALL
6 CHEMICALS OR OTHER ADDITIVES THAT ARE NOT NATURAL TO THE SITE,
7 THAT WILL BE UTILIZED IN THE PROCESS. THE OPERATOR SHALL OBTAIN
8 ALL APPLICABLE STATE AND FEDERAL PERMITS BEFORE BEGINNING THE
9 BENEFICIATION PROCESS.

10 SEC. 63103C. (1) A METALLIC MINERAL MINING PERMIT ISSUED BY
11 THE DEPARTMENT IS VALID FOR THE LIFE OF THE MINE. HOWEVER, THE
12 DEPARTMENT MAY REVOKE A METALLIC MINERAL MINING PERMIT UNDER THE
13 FOLLOWING CONDITIONS:

14 (A) THE PERSON HOLDING THE PERMIT HAS NOT COMMENCED CON-
15 STRUCTION OF PLANT FACILITIES OR CONDUCTED ACTUAL MINING AND REC-
16 LAMATION ACTIVITIES COVERED BY THE PERMIT WITHIN 3 YEARS AFTER
17 THE DATE OF ISSUANCE OF THE PERMIT.

18 (B) THE PERMITTEE REQUESTS THE REVOCATION OF THE METALLIC
19 MINERAL MINING PERMIT AND THE DEPARTMENT DETERMINES THE MINING
20 ACTIVITY HAS NOT POLLUTED, IMPAIRED, OR DESTROYED THE AIR, WATER,
21 OR OTHER NATURAL RESOURCES OR THE PUBLIC TRUST IN THOSE
22 RESOURCES, AS PROVIDED IN PART 17.

23 (C) THE PERMITTEE FAILS TO SUBMIT THE ANNUAL REPORT OF PRO-
24 Duction AS REQUIRED BY SECTION 63103D(2).

25 (D) THE DEPARTMENT FINDS THAT THE PERMITTEE IS NOT IN COM-
26 PLIANCE WITH THIS PART, THE RULES PROMULGATED UNDER THIS PART, OR

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1 THE METALLIC MINERAL PERMIT AND THERE EXISTS AN IMMINENT THREAT
2 TO THE HEALTH AND SAFETY OF THE PUBLIC.

3 (2) THE DEPARTMENT MAY ORDER IMMEDIATE SUSPENSION OF ANY OR
4 ALL ACTIVITIES AT A METALLIC MINERAL MINING OPERATION, INCLUDING
5 THE REMOVAL OF METALLIC PRODUCT FROM THE SITE, IF THE DEPARTMENT
6 FINDS THERE EXISTS AN EMERGENCY ENDANGERING THE PUBLIC HEALTH AND
7 SAFETY OR AN IMMINENT THREAT TO THE NATURAL RESOURCES OF THE
8 STATE.

9 (3) AN ORDER SUSPENDING OPERATIONS SHALL BE IN EFFECT FOR
10 THE SHORTER OF THE FOLLOWING TIME PERIODS: NOT MORE THAN 10
11 DAYS, OR UNTIL THE OPERATION IS IN COMPLIANCE AND PROTECTION OF
12 THE PUBLIC HEALTH AND SAFETY IS ENSURED OR THE THREAT TO THE NAT-
13 URAL RESOURCES HAS BEEN ELIMINATED. TO EXTEND THE SUSPENSION
14 BEYOND 10 DAYS, THE DEPARTMENT SHALL ISSUE AN EMERGENCY ORDER TO
15 CONTINUE THE SUSPENSION OF OPERATIONS AND SHALL SCHEDULE A HEAR-
16 ING AS PROVIDED BY THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
17 1969 PA 306, MCL 24.201 TO 24.328. THE TOTAL DURATION OF THE
18 SUSPENSION OF OPERATIONS SHALL NOT BE MORE THAN 30 DAYS.

19 (4) A METALLIC MINERAL MINING PERMIT MAY BE TRANSFERRED TO A
20 NEW PERSON WITH APPROVAL OF THE DEPARTMENT. THE PERSON ACQUIRING
21 THE PERMIT SHALL SUBMIT A REQUEST FOR TRANSFER OF THE PERMIT TO
22 THE DEPARTMENT ON FORMS PROVIDED BY THE DEPARTMENT. THE PERSON
23 ACQUIRING THE PERMIT SHALL ACCEPT THE CONDITIONS OF THE EXISTING
24 PERMIT AND ADHERE TO THE REQUIREMENTS SET FORTH ON THE APPROVED
25 MINING AND RECLAMATION PLAN. PENDING THE TRANSFER OF THE EXIST-
26 ING PERMIT, THE PERSON ACQUIRING THE PERMIT SHALL NOT OPERATE THE
27 MINE.

1 (5) A METALLIC MINERAL MINING PERMIT SHALL NOT BE
2 TRANSFERRED TO A PERSON WHO HAS BEEN DETERMINED TO BE IN VIOLA-
3 TION OF ANY OF THE FOLLOWING, UNTIL THE PERSON ACQUIRING THE
4 PERMIT HAS CORRECTED THE VIOLATION OR THE DEPARTMENT HAS ACCEPTED
5 A COMPLIANCE SCHEDULE AND A WRITTEN AGREEMENT HAS BEEN REACHED TO
6 CORRECT THE VIOLATIONS:

7 (A) THIS PART.

8 (B) THE RULES PROMULGATED UNDER THIS PART.

9 (C) PERMIT CONDITIONS.

10 (D) AN ORDER OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

11 (6) IF THE PERMITTEE OF A METALLIC MINERAL MINING OPERATION
12 IS UNDER NOTICE BECAUSE OF UNSATISFACTORY CONDITIONS AT THE
13 MINING SITE INVOLVED IN THE TRANSFER, THEN THE PERMIT FOR THE
14 MINING OPERATION SHALL NOT BE TRANSFERRED TO A PERSON UNTIL THE
15 PERMITTEE HAS COMPLETED THE NECESSARY CORRECTIVE ACTIONS OR THE
16 PERSON ACQUIRING THE PERMIT HAS ENTERED INTO A WRITTEN AGREEMENT
17 TO CORRECT ALL OF THE UNSATISFACTORY CONDITIONS.

18 (7) UPON RECEIPT OF AN APPLICATION FOR A PERMIT, THE DEPART-
19 MENT SHALL HAVE UP TO 60 DAYS TO REVIEW THE APPLICATION TO DETER-
20 MINE IF THE APPLICATION IS ACCURATE AND COMPLETE. IF THE APPLI-
21 CATION IS DETERMINED TO BE INACCURATE OR INCOMPLETE, THEN THE
22 DEPARTMENT SHALL PROVIDE THE PERSON MAKING THE APPLICATION FOR A
23 PERMIT, WITHIN THE 60-DAY PERIOD, WITH A NOTICE THAT THE APPLICA-
24 TION IS INACCURATE OR INCOMPLETE AND WHAT CHANGES OR ADDITIONAL
25 INFORMATION SHALL BE SUBMITTED. UPON RECEIPT OF THE REQUESTED
26 INFORMATION, THE DEPARTMENT SHALL HAVE UP TO AN ADDITIONAL 30
27 DAYS TO REVIEW THE INFORMATION TO DETERMINE IF THE APPLICATION IS

1 ACCURATE AND COMPLETE. UPON COMPLETION OF THE REVIEW PROCESS,
2 THE DEPARTMENT SHALL APPROVE OR DENY A METALLIC MINERAL MINING
3 PERMIT APPLICATION IN WRITING WITHIN 60 DAYS AFTER THE APPLICA-
4 TION IS DETERMINED BY THE DEPARTMENT TO BE ADMINISTRATIVELY
5 COMPLETE. A DETERMINATION OF ADMINISTRATIVE COMPLETENESS SHALL
6 NOT BE CONSTRUED TO MEAN THAT ADDITIONAL INFORMATION MAY NOT BE
7 REQUIRED FROM THE APPLICANT AS A RESULT OF NEW CIRCUMSTANCES THAT
8 COME TO THE ATTENTION OF THE DEPARTMENT. IF A METALLIC MINERAL
9 PERMIT IS DENIED, THE REASONS SHALL BE STATED IN A WRITTEN REPORT
10 TO THE APPLICANT.

11 (8) A METALLIC MINERAL MINING PERMIT MAY BE AMENDED UPON
12 SUBMISSION TO THE DEPARTMENT OF A REQUEST BY THE PERMITTEE. UPON
13 RECEIPT OF THE REQUEST TO AMEND AN EXISTING METALLIC MINERAL
14 PERMIT, THE DEPARTMENT SHALL DETERMINE IF THE REQUEST CONSTITUTES
15 A SIGNIFICANT CHANGE FROM THE CONDITIONS OF THE APPROVED PERMIT.
16 IF THE DEPARTMENT DETERMINES THE REQUEST IS A SIGNIFICANT CHANGE
17 FROM THE CONDITIONS OF THE APPROVED PERMIT, THE DEPARTMENT MAY
18 SUBMIT THE REQUEST FOR AMENDMENT TO THE SAME REVIEW PROCESS AS
19 PROVIDED IN SECTION 63103C(7). IF A REQUEST TO AMEND THE PERMIT
20 IS DENIED, THE REASONS FOR DENIAL SHALL BE STATED IN A WRITTEN
21 REPORT TO THE PERMITTEE. IF THE DEPARTMENT DETERMINES THE
22 REQUEST FOR AMENDMENT DOES NOT CONSTITUTE A SIGNIFICANT CHANGE
23 FROM THE CONDITIONS OF THE APPROVED PERMIT, THE DEPARTMENT SHALL
24 APPROVE THE AMENDMENT AND NOTIFY THE PERMITTEE.

25 SEC. 63103D. (1) FOR PURPOSES OF SURVEILLANCE, MONITORING,
26 ADMINISTRATION, AND ENFORCEMENT OF THIS PART, A METALLIC MINERAL
27 OPERATOR SHALL BE ASSESSED A METALLIC MINERAL SURVEILLANCE FEE ON

1 THE METALLIC PRODUCT PRODUCED FOR THE CALENDAR YEAR REPORTED AS
2 DESCRIBED IN SUBSECTION (2). THE FEE SHALL BE ASSESSED UPON EACH
3 METALLIC PRODUCT AT THE FOLLOWING RATES: GOLD SHALL BE NOT MORE
4 THAN 9.4 CENTS PER TROY OUNCE, SILVER SHALL NOT BE MORE THAN 0.13
5 CENTS PER TROY OUNCE, COPPER SHALL NOT BE MORE THAN 0.03 CENTS
6 PER POUND, AND IRON SHALL NOT BE MORE THAN 1 CENT PER METRIC
7 TON. FUNDS COLLECTED BY THE ASSESSMENT OF THE METALLIC MINERAL
8 SURVEILLANCE FEE SHALL NOT EXCEED THE ACTUAL COSTS TO THE DEPART-
9 MENT OF IMPLEMENTING THE SECTIONS OF THIS PART THAT PERTAIN TO
10 METALLIC MINERAL MINING. ANY FEES COLLECTED UNDER THIS SUBSEC-
11 TION THAT ARE UNEXPENDED AT THE END OF A FISCAL YEAR SHALL BE
12 CREDITED TO A SEPARATE FUND OF THE DEPARTMENT, CARRIED OVER TO
13 THE SUCCEEDING FISCAL YEAR, AND DEDUCTED FROM THE AMOUNT APPRO-
14 PRIATED FOR THAT YEAR FOR SURVEILLANCE, MONITORING, ADMINISTRA-
15 TION, AND ENFORCEMENT OF THIS PART FOR PURPOSES OF COMPUTING THE
16 FEE TO BE ASSESSED FOR THAT YEAR.

17 (2) A METALLIC MINERAL OPERATOR SHALL FILE AN ANNUAL REPORT
18 OF PRODUCTION ON OR BEFORE FEBRUARY 15 OF EACH YEAR. THE REPORT
19 SHALL CONTAIN THE ANNUAL PRODUCTION OF METALLIC PRODUCT FROM EACH
20 METALLIC MINERAL MINE.

21 (3) THE METALLIC MINERAL SURVEILLANCE FEE DESCRIBED IN SUB-
22 SECTION (1) SHALL BE DUE NOT MORE THAN 30 DAYS AFTER THE DEPART-
23 MENT SENDS WRITTEN NOTICE TO THE METALLIC MINERAL OPERATOR OF THE
24 AMOUNT DUE.

25 (4) FAILURE TO SUBMIT AN ANNUAL REPORT OF PRODUCTION IN COM-
26 PLIANCE WITH RULES PROMULGATED BY THE DEPARTMENT CONSTITUTES
27 GROUNDS FOR REVOCATION OF A PERMIT.

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1 (5) A PENALTY EQUAL TO 10% OF THE AMOUNT DUE, OR \$1,000.00,
2 WHICHEVER IS GREATER, SHALL BE ASSESSED AGAINST THE METALLIC MIN-
3 ERAL OPERATOR FOR A FEE THAT IS NOT PAID WHEN DUE. AN UNPAID FEE
4 AND PENALTY SHALL CONSTITUTE A DEBT AND BECOME THE BASIS OF A
5 JUDGMENT AGAINST THE OPERATOR. PENALTIES PAID PURSUANT TO THIS
6 SECTION SHALL BE USED FOR THE IMPLEMENTATION, ADMINISTRATION, AND
7 ENFORCEMENT OF THIS PART.

8 (6) RECORDS UPON WHICH THE ANNUAL REPORT OF PRODUCTION IS
9 BASED SHALL BE PRESERVED FOR 3 YEARS AND ARE SUBJECT TO AUDIT BY
10 THE DEPARTMENT.