



ADMINISTRATIVE RULES OF MONTANA



17.24.762 POSTMINING LAND USE

- (1) The postmining land use must satisfy 82-4-203(28) and 82-4-232(7), MCA. In applying 82-4-232(7), MCA, the following principles apply:
 - (a) The premining uses of the land to which the postmining land use is compared are those that the land previously supported or could have supported if the land had not been mined and had been properly managed.
 - (b) The postmining land use for land that has been previously mined and not reclaimed must be judged on the basis of the land use that existed prior to any mining. If the land cannot be reclaimed to the use that existed prior to any mining because of the previously mined condition, the postmining land use must be judged on the basis of the highest and best use that can be achieved and is compatible with surrounding areas.
 - (c) The postmining land use for land that has received improper management must be judged on the basis of the premining use of surrounding lands that have received proper management.
 - (d) If the premining use of the land was changed within five years of the beginning of mining, the comparison of postmining use to premining use must include a comparison with the use of the land prior to the change as well as its uses immediately preceding mining.
- (2) Alternative postmining land uses may be proposed and must be determined in accordance with 82-4-232(7) and (8), MCA, and ARM 17.24.821 and 17.24.823.
- (3) Certain premining facilities may be replaced pursuant to 82-4-232(10), MCA.

Authorizing statute(s): 82-4-205, 82-4-232, MCA

Implementing statute(s): 82-4-233, MCA

History: NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; AMD, 1999 MAR p. 811, Eff. 4/23/99; AMD, 2004 MAR p. 2548, Eff. 10/22/04; AMD, 2024 MAR p. 258, Eff. 2/10/24.