



ADMINISTRATIVE RULES OF MONTANA



17.24.1133 AREAS UPON WHICH COAL MINING IS PROHIBITED: PROCEDURES FOR DETERMINATION

- (1) Upon receipt of an application for a strip or underground coal mining operation permit, the department shall review the application to determine whether strip or underground coal mining operations are limited or prohibited under 82-4-227(7) or (13), MCA, or ARM 17.24.1131, on the lands which would be disturbed by the proposed operation.
- (2) Whenever a proposed operation would be located on any lands listed in 82-4-227(7) or (13), MCA, (except for proximity to public roads) or ARM 17.24.1131, the department shall reject the application unless:
 - (a) the applicant has valid existing rights for the proposed permit area; or
 - (b) the operation existed when the land came under the protection of 82-4-227(7) or (13), MCA, (except the proximity of public roads) or ARM 17.24.1131. This exception applies only to land within the permit area as it exists when the land comes under this protection.
- (3) Procedures for submitting requests and for determining valid existing rights must be conducted in accordance with 30 CFR 761.16 (2003), which is incorporated into this rule by this reference. Copies of 30 CFR 761.16 may be obtained from the department at its Helena office.
- (4) If the department is unable to determine whether the proposed operation is located within the boundaries or distances described in 82-4-227(7) or (13), MCA, or ARM 17.24.1131, of any of the lands described in the same provisions of the Act and rules, the department shall transmit a copy of the relevant portions of the permit application to the appropriate federal, state, or local government agency for a determination or clarification of the relevant boundaries or distances, along with a request for response within 30 days. The department shall notify the national park service or the fish and wildlife service of any request for determination of valid existing rights pertaining to areas within their boundaries or areas under their jurisdiction and shall grant them 30 days from receipt of the notice to respond. The department, upon request by the appropriate agency, shall grant an additional 30 days for response. If no response is received within the response period or extension, the department may make its determination based on the information it has available.

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

Implementing statute(s): 82-4-227, 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, 2004 MAR p. 2548, Eff. 10/22/04; AMD, 2024 MAR p. 260, Eff. 2/10/24.