



ADMINISTRATIVE RULES OF MONTANA



17.24.219 PLAN OF OPERATION, RECLAMATION PLAN, AND PERFORMANCE STANDARDS

- (1) An application for a dryland permit or to amend a dryland permit does not require a plan of operation. An application for a standard permit or to amend a standard permit must include a plan of operation that complies with 82-4-434, MCA and the following:
 - (a) a postmining land uses section that includes a description of the type, location, and size of each postmining land use area in the permit area. Postmining land use types include, but are not limited to, internal roads, material stockpile areas, pond, wetland, riparian area, grassland, rangeland, shrubland, woodland, pasture, hayland, cropland, wildlife habitat, recreation site, and residential, commercial, and industrial building sites;
 - (b) a surface cleanup section that includes a statement that the operator will:
 - (i) at the conclusion of opencut operations, except as provided in (1)(b)(ii), use or haul away from the permit area all excavated or processed material for backfill as provided in (1)(c);
 - (ii) upon the request by the landowner, on the landowner consultation form, segregate specific types, grades, and quantities of material into stockpiles maintained in one location, along with a separate stockpile of the quantity of soil required to reclaim the area where the material is stockpiled, shaped, and seeded and placed within 100 feet of a material stockpile;
 - (iii) a stockpile of materials for the landowner as provided by (1)(b)(ii) must be free of excess fines or other waste materials that would render the material unsuitable for commercial use;
 - (iv) provide a description of the types, grades, and quantities of material proposed to remain stockpiled as provided by (1)(b)(ii) and (iii), and justify the quantities stockpiled for landowner use based on current and expected demand for the materials;
 - (v) at the conclusion of opencut operations, haul away and properly dispose of all refuse, oiled surfacing, contaminated materials, concrete that is not clean-fill, and unused clean fill from affected lands;
 - (vi) haul away all asphaltic pavement from the permit area, except on-site-generated asphaltic pavement may be used as mined-area backfill in accordance with (1)(b)(vii) and with the consent of the landowner;
 - (vii) place on-site-generated asphaltic pavement, coarse clean fill, and other clean fill unsuitable for plant growth under at least three feet of material suitable for sustaining the postmining vegetation;

- (viii) place on-site-generated asphaltic pavement in an unsaturated condition at least 25 feet above the seasonal high water table; and
 - (ix) for the purposes of (1)(b)(ii) and (iii), the operator remains responsible for reclamation of the areas occupied and affected by material and soil stockpiles until the department has approved phase II reclamation for the areas where the stockpiles are located or assignment of the permit to the landowner or another party;
- (c) a backfill and grading section that includes a statement that the operator will:
 - (i) use only overburden and materials from the permit area, or otherwise only clean fill from any source, to reclaim affected land to a stable condition with 5:1 or flatter slopes for hayland and cropland, 4:1 or flatter slopes for sandy surfaces, and 3:1 or flatter slopes for other sites and surfaces appropriate to the designated postmine land use;
 - (ii) reclaim premine drainage systems to blend into the surrounding topography and drainages;
 - (iii) drain off-site or concentrate water in low areas identified in the permit;
 - (iv) backfill and grade to at least three feet above the seasonal high water table level for dryland reclamation and at approved depths below the seasonal low water table level for pond reclamation;
 - (v) record the average thickness of overburden replaced and never cover soil with overburden;
 - (vi) if available, up to 24 inches of soil and overburden must be stripped, salvaged, and replaced for reclamation. If overburden is a mine material or will be used as binder, an appropriate quantity must first be stripped and salvaged to satisfy the soil plus overburden replacement thickness requirement (24 inches cumulative);
 - (vii) for the purposes of (1)(c)(i) and (ii), the department may consider steeper slopes for certain postmining land uses based on a design or a slope stability analysis prepared by a professional engineer licensed in accordance with Title 37, chapter 67, part 3, MCA, or a geologist with five years of post-graduate academic or professional work experience in the field of soil or rock mechanics;
 - (viii) if required by the department, conduct postmining monitoring of ground water levels to ensure that appropriate reclaimed surface elevations are established;
- (d) a description of the locations and designs for any special reclamation features such as ponds, waterways with defined channels, and building sites. Reclaimed waterways with defined channels must be located in their approximate premine locations and have channel and floodplain dimensions and gradients that approximate premine conditions, unless otherwise approved by the department. Reclaimed waterways with defined channels must connect to undisturbed waterways in a manner that avoids disruption or accelerated erosion of the reclaimed waterway or adjoining areas;
- (e) an access road reclamation section describing:
 - (i) reclamation of access, haulage, or other roads included on affected land with the landowner's consent; and

- (ii) for private roads to remain open at the request of the landowner, reclamation of the road to a width appropriate to the landowner's anticipated use or as may otherwise be required by applicable land use regulations;
- (f) a section that explains how the operator will reclaim water diversion, retention, discharge, and outflow structures constructed for opencut operations;
- (g) an overburden and soil conditioning section that includes a statement that the operator will:
 - (i) till replaced overburden, graded surfaces, and other compacted surfaces:
 - (A) to a depth of at least 12 inches, or to another depth required by the department prior to replacing soil, except that:
 - (I) tillage is not required for relatively non-compactible materials such as sands, materials with a rock fragment content of 35 percent or more by volume, or bedrock; and
 - (II) tilling deeper than the soil thickness is not required when cobbly material or bedrock underlies the soil;
 - (B) on the contour and when the overburden and soil are dry enough to shatter; and
 - (C) in a manner that protects tilled areas from recompaction;
 - (ii) record the thicknesses of soil replaced on the permit areas as required by the permit;
 - (iii) till through replaced soil and into the surface of the underlying backfill prior to seeding or planting unless otherwise required by the department; and
 - (iv) the soil surface must be free of rocks that are not characteristic of the soil prior to disturbance;
- (h) a revegetation section that:
 - (i) describes the types and rates of fertilizer and other soil amendment applications, methods of seedbed preparation, and methods, species, and rates of seeding or planting; and
 - (ii) includes a statement that the operator will:
 - (A) establish vegetation to protect the soils from erosion and that is capable of sustaining the designated postmining land uses;
 - (B) seed all affected land for vegetation species that are consistent with the premining species composition, cover, production, density, and diversity, or otherwise as appropriate for the designated postmining land use;
 - (C) ensure that areas seeded or planted to perennial species are adequately protected and managed from the time of seeding or planting through two consecutive growing seasons or until the vegetation is established, whichever is longer;
 - (D) use seed that is as weed free as is reasonably possible;
 - (E) ensure that seedbed preparation and drill seeding is done on the contour;

- (F) apply drill seeding at the rate of no less than ten pounds per acre or at another rate approved by the department;
 - (G) apply broadcast seeding at a rate that is at least 100 percent higher than drill seeding rates and drag or press the surface to cover the seed unless otherwise required by the department;
 - (H) provide seeding rates as pounds of pure live seed per acre;
 - (I) seed during the late fall or early spring seeding seasons;
 - (J) apply cover crop seeding and mulch as needed to help stabilize an area or establish vegetation;
 - (K) achieve revegetation of a non-cropland area by establishing vegetation capable of sustaining the designated postmining land use;
 - (L) achieve revegetation of a cropland area when a crop has been harvested from the entire area and the yield is comparable to those of crops grown on similar sites under similar growing conditions; and
 - (M) agree that reclamation for cropland areas will be considered complete upon inspection by the department or notification by the landowner to the department in writing that the crop yield on the reclaimed land is acceptable;
- (i) a reclamation schedule section that includes:
- (i) a statement that the operator will complete phase I and phase II reclamation on an area no longer needed for opencut operations, or on areas that the operator no longer has the right to use for opencut operations, within one year after the cessation of such operations or termination of such right. If it is not practical for the operator to reclaim a certain area until other areas are also available for reclamation, the operator may propose an alternate reclamation schedule for that area; and
 - (ii) a reasonable estimate of the month and year by which phase II reclamation will be completed considering the estimated demand for material, expected rate of production, accessible material reserves, and the time required to complete revegetation as required by (1)(g) and (h). Final reclamation must be completed by the date given.
- (2) Upon issuance of the permit, the operator shall comply with all commitments required by this rule and with the requirements for the conduct of operations contained in this rule.

Authorizing statute(s): 82-4-422, MCA

Implementing statute(s): 82-4-402, 82-4-422, 82-4-431, 82-4-432, 82-4-434, MCA

History: NEW, 2004 MAR p. 317, Eff. 2/13/04; AMD, 2016 MAR p. 513, Eff. 3/19/16; AMD, 2022 MAR p. 2009, Eff. 10/8/22; AMD, 2025 MAR, 17-451, Eff. 3/29/25.