



ADMINISTRATIVE RULES OF MONTANA



17.24.642 PERMANENT IMPOUNDMENTS AND FLOOD CONTROL IMPOUNDMENTS

- (1) Permanent impoundments are prohibited unless constructed in accordance with ARM 17.24.504 and 17.24.639 and have open-channel spillways that will safely discharge runoff resulting from a 100-year, six-hour precipitation event, assuming the impoundment is at full pool for spillway design or larger event specified by the department. The department may approve a permanent impoundment upon the basis of a demonstration that:
 - (a) the quality of the impounded water will be suitable on a permanent basis for its intended use and, after reclamation, will meet applicable state and federal water quality standards;
 - (b) discharge of water from the impoundment will not degrade the quality of receiving waters to less than the water quality standards established pursuant to applicable state and federal laws;
 - (c) the level of water will be sufficiently stable to support the intended use;
 - (d) adequate safety and access to the impounded water will be provided for proposed water users;
 - (e) water impoundments will not result in the diminution of the quality or quantity of water used by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses;
 - (f) the design, construction, and maintenance of structures will achieve the minimum design requirements applicable to structures constructed and maintained under the Watershed Protection and Flood Prevention Act. PL 83-566 (16 USC 1006). Requirements for impoundments that meet the size or other criteria of the mine safety and health administration, 30 CFR 77.216(a) are contained in U.S. soil conservation service's Technical Release No. 60 (210-VI-TR60, October 1985, as revised through January 1991), "Earth Dams and Reservoirs," (TR-60). Requirements for impoundments that do not meet the size or other criteria contained in 30 CFR 77.216(a) are contained in U.S. soil conservation service's Practice Standard 378, "Ponds," October 1978. The technical release and practice standard are hereby incorporated by reference. Technical Release No. 60 and Practice Standard 378 are on file and available for inspection at the Helena office of the Department of Environmental Quality, 1520 E. 6th Ave., Helena, MT 59601; and
 - (g) the impoundment will be suitable for the approved postmining land use.
- (2) All permanent impoundments must meet the design and performance requirements of ARM 17.24.639.

- (3) All permanent impoundments must be routinely maintained during the mining operations. Ditches and spillways must be cleaned.
- (4) All permanent impoundments must be inspected and certified to the department by a qualified licensed professional engineer, immediately after construction and annually thereafter, as having been constructed and maintained to comply with the requirements of this section. Inspection reports must be submitted until phase IV bond release. Certification reports must be submitted to the department annually, either concurrently with the annual report (ARM 17.24.1129) or with the second semi-annual hydrology report (ARM 17.24.645(8) and 17.24.646(2)). The operator shall retain a copy of each report at or near the minesite. Certification reports must include statements on:
 - (a) existing and required monitoring procedures and instrumentation;
 - (b) the design depth and elevation of any impoundment waters at the time of the initial certification report or the average and maximum depths and elevations of any impounded waters over the past year for the annual certification reports;
 - (c) existing storage capacity of the impoundment; and
 - (d) any other aspects of the impoundment affecting stability.
- (5)
 - (a) Flood control impoundments are located upstream of disturbance areas for the purpose of preventing or controlling flooding or discharge and are not designed for sediment control or to be permanent.
 - (b) Flood control impoundments with embankments must be constructed in accordance with (1)(f) and ARM 17.24.639(7) through (21), and be inspected, maintained and certified according to (3), (4)(a), (4)(d), and (6) and ARM 17.24.639(22) and (23).
 - (c) Excavated flood control impoundments:
 - (i) must be in compliance with ARM 17.24.639(18);
 - (ii) must have perimeter slopes that are stable; and
 - (iii) must be protected against erosion where surface runoff enters the impoundment area.
 - (d) An initial pond certification report and inspections must be made for excavated flood control impoundments in accordance with ARM 17.24.639(28)(b). If the volume of the flood control impoundment is used in determination of required volume for a downstream pond, annual certification reports are required in accordance with (4)(a), (4)(c), and (4)(d).
 - (e) Prior to construction, flood control impoundments must be approved by the department.
- (6) Permanent impoundments and flood control impoundments with embankments meeting the size or other criteria of 30 CFR 77.216(a) or the Class B or C criteria for dams in TR-60 must be routinely inspected by a qualified licensed professional engineer or by someone under the supervision of a qualified licensed professional engineer, in accordance with 30 CFR 77.216-3.
- (7) Plans for any enlargement, reduction in size, reconstruction, or other modifications of permanent impoundments and flood control impoundments must be submitted to the department and must comply with the requirements of this subchapter. Except where a modification is required to

eliminate an emergency condition constituting a hazard to public health, safety, or the environment, the modification must not be initiated until the department approves the plans.

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

Implementing statute(s): 82-4-231, MCA

History: NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; AMD, 1994 MAR p. 2957, Eff. 11/11/94; 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, 2012 MAR p. 737, Eff. 4/13/12; AMD, 2024 MAR p. 258, Eff. 2/10/24.