



ADMINISTRATIVE RULES OF MONTANA



17.24.911 SUBSIDENCE CONTROL

- (1) Underground mining operations must be planned and conducted to prevent or minimize subsidence and subsidence-related material damage to the surface to the extent technologically and economically feasible, to maintain the value and reasonably foreseeable use of surface lands, and to prevent contamination, diminution, and interruption of domestic water supplies. This may be accomplished by leaving adequate coal in place, backfilling, or other measures to support the surface, or by conducting underground mining in a manner that provides for planned and controlled subsidence.
- (2) If the operator utilizes planned and controlled subsidence in the mining operation, all necessary measures must be taken to prevent material damage to non-commercial buildings and occupied residential dwellings and all structures related thereto. Such measures are not required if the operator has the written consent of the owners of such structures.
- (3) Nothing herein prohibits the standard method of room and pillar mining.
- (4) A person engaged in underground mining operations shall comply with all provisions of the subsidence control plan prepared pursuant to ARM 17.24.901 and approved by the department.
- (5) A mining schedule must be distributed by mail to all owners of property and residents within the area above the underground workings and adjacent areas. The operator shall notify each such person by mail at least 6 months prior to mining beneath his or her property or residence. The notification must contain, at a minimum:
 - (a) identification of specific areas in which mining will take place;
 - (b) dates of mining activities that could cause subsidence and affect specific structures; and
 - (c) measures to be taken to prevent or control adverse surface effects.
- (6) Upon request to the department by a resident or owner of a structure within the affected area, the operator shall promptly conduct a premining survey of the dwelling or structure as follows:
 - (a) Any survey requested more than 30 days before the planned initiation of said operations must be completed by the operator before the initiation of the operations.
 - (b) The survey must determine the condition of the dwelling or structure and document any premining damage. It should identify any physical features which could reasonably be affected by subsidence caused by mining. Special attention must be given to the premining condition of wells and other water systems used for human, animal, or agricultural purposes and to the quantity and quality of that water. Assessment of such features as pipes, cables, transmission lines, wells, or other water systems must be limited to the surface condition and relatively available data.

- (c) If a structure is renovated or added to subsequent to a premining survey, then upon request to the department a survey of such additions or renovations must be performed.
 - (d) A written report of the survey must be prepared and signed by the person conducting the survey. Copies of the report must be provided to the person requesting the report and to the department. If the person requesting the survey disagrees with the results of the survey, he or she may notify, in writing, both the operator and the department of the specific areas of disagreement.
- (7) An operator who conducts underground mining which results in subsidence that causes material damage or reduces the value or reasonably foreseeable use of the surface lands shall, in accordance with 82-4-243, MCA, and with respect to each surface area affected by subsidence:
- (a) restore, rehabilitate, or remove and replace each damaged structure, feature or value promptly after the damage is suffered to the condition it would have been in if no subsidence had occurred and restore the land to a condition capable of supporting the reasonably foreseeable uses it was capable of supporting before subsidence; or
 - (b) purchase the damaged structure or feature for its fair market, presubsidence value, and, after subsidence occurs, to the extent technologically and economically feasible, promptly restore the land surface to a condition capable of and suitable for supporting the purchased structure and other foreseeable uses it was capable of supporting before mining. Nothing in this section grants or authorizes an exercise of the power of condemnation or the right of eminent domain by any person engaged in underground mining operations; or
 - (c) compensate the owner of any surface structure in the full amount of the diminution in value resulting from subsidence, by purchasing, prior to mining, a noncancellable, premium-prepaid insurance policy or other means approved by the department, thereby assuring before mining begins that payment will occur; indemnify every person with an interest in the surface for all damages suffered as a result of the subsidence; and, to the extent technologically and economically feasible, fully restore the land to a condition capable of maintaining reasonably foreseeable uses which it could support before subsidence.
- (8) If damage to any non-commercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption of causation of the damage by subsidence exists. The presumption applies to a 30-degree angle of draw.
- (a) An operator or permit applicant may request that the presumption apply to an angle of draw different from 30 degrees. The department may approve application of the presumption to a site-specific angle of draw different from 30 degrees if an operator or applicant demonstrates and the department determines in writing that the proposed angle of draw has a more reasonable basis than 30 degrees, based on a site-specific geotechnical analysis of the potential surface impacts of the mining operation.
 - (b) If the operator or applicant is denied access to the land or property for the purpose of conducting the presubsidence survey in accordance with ARM 17.24.901(1)(c)(i)(G) , no rebuttable presumption exists.
 - (c) The presumption of causation must be rebutted, if the evidence establishes that:
 - (i) the damage predated the mining in question;

- (ii) the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence; or
 - (iii) the damage occurred outside the surface area circumscribed by the angle of draw.
- (d) In any determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and available information will be considered by the department.
- (9) Within a schedule approved by the department, the operator shall submit a detailed plan of the underground workings. The plan shall include maps and descriptions of significant features of the underground workings, including the size, configuration, and approximate location of pillars and entries, extraction ratios, measures taken to prevent subsidence and related damages, areas of full extraction, and other information required by the department.
- (10) If subsidence-related damage occurs, additional bond in accordance with ARM 17.24.1104(2) may be required.

Authorizing statute(s): 82-4-205, 82-4-231, MCA

Implementing statute(s): 82-4-227, 82-4-231, 82-4-243, 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.