



ADMINISTRATIVE RULES OF MONTANA



17.24.218 PLAN OF OPERATION (SITE CHARACTERIZATION, SITE PREPARATION, SOIL AND OVERBURDEN HANDLING, MINING, AND PROCESSING PLANS) AND PERFORMANCE STANDARDS

- (1) An application for a standard permit or standard permit amendment requires a plan of operation that complies with 82-4-432, MCA and includes the following:
 - (a) unless otherwise approved in writing by the department, a markers section that includes a statement that the operator clearly marked on the ground all required boundaries and permitted access roads to be improved or constructed and will maintain the markings as required by this rule. Boundary and road markers must be placed so that no less than two consecutive markers are readily visible in any direction from any point on a line. The following requirements apply to marking boundaries and permitted access roads to be improved or constructed:
 - (i) markers must be in place prior to submitting an application for a permit or an amendment;
 - (ii) markers should be durable stout steel, wood, or similar quality posts and painted or flagged to be readily visible, except that a prominent, permanent feature such as a pole, tree, or large rock, flagged or painted, may serve as a marker;
 - (iii) road markers may be removed as the road is constructed, but each boundary marker must be maintained in place and readily visible until the adjacent permit area is reclaimed and released;
 - (iv) the following areas and features must be marked according to this rule:
 - (A) proposed permit or proposed amended permit boundaries;
 - (B) non-bonded areas;
 - (C) proposed permitted access roads to be improved or constructed;
 - (D) phase 1 release areas previously approved by the department; and
 - (E) prior to submission of an application for bond release, areas that are the subject of an application for phase I or phase II bond release;
 - (v) the requirements of (1)(a) do not apply to active hayland, cropland, or existing roads to be permitted;
 - (b) an access road construction and use section that is consistent with the landowner's acknowledgements contained in the landowner consultation form required by ARM 17.24.206;

- (c) a soil and overburden characterization section that includes the average soil and overburden thicknesses in the permit area determined on the basis of no less than three test holes spaced representatively to describe proposed permit areas of less than nine acres and one test hole per each three-acre area for proposed permit areas of nine acres or more, with a maximum of 20 representatively spaced test holes for proposed permit areas that exceed 60 acres, or as otherwise approved by the department in the permit;
 - (i) for the purposes of this subsection:
 - (A) test holes must be of sufficient depth to measure the thicknesses of soil and overburden;
 - (B) representative test holes must be located in both bonded and non-bonded areas;
 - (C) exposures of the soil and overburden profile, such as a roadcut, may be used in lieu of a test hole; and
 - (D) clearly labeled photos showing the top three feet of the soil profile with a visible scale must be taken and provided to the department for each test hole;
- (d) a soil and overburden handling section that includes a statement that the operator shall:
 - (i) upon commencing opencut operations, strip and stockpile overlying soil to the depth specified in the permit before excavating overburden and materials;
 - (ii) before mining, remove and stockpile overburden separately from soil and designate soil and overburden stockpiles with signage that is legible, readily visible, and placed so that equipment operators and inspectors may readily identify the type of stockpile for the life of the stockpile;
 - (iii) never stockpile overburden or soil on slopes greater than 3:1 or in drainages or in a manner that will cause pollution to state waters;
 - (iv) remove all soil and overburden from a minimum ten-foot-wide strip along the crest of a highwall;
 - (v) haul soil and overburden directly to areas prepared for backfill and grading or resoiling or to separate stockpiles;
 - (vi) never stockpile overburden or conduct any opencut operations on areas where soil has not been stripped to the depth required by the permit; and
 - (vii) use best management practices to prevent erosion, commingling, contamination, compaction, and unnecessary disturbance of soil and overburden stockpiles including, but not limited to, at the first seasonal opportunity, shape and seed, with approved perennial species, the soil and overburden stockpiles that are capable of sustaining plant growth, and that remain in place for more than two years and maintain the accessibility of all overburden and soil stockpiles in the permit area prior to reclamation in accordance with the plan of operation;
 - (viii) where required by 82-4-434, MCA, berms constructed of soil and/or overburden, must be a minimum of 6 feet high, protected from erosion, commingling, contamination, compaction, and unnecessary disturbance. At the first seasonal opportunity, the

operator must shape and seed, with weed-free seed mix, any berm capable of sustaining plant growth;

- (e) a construction, mining, processing, and hauling section that includes:
 - (i) a description of the materials to be sold or used by the operation;
 - (ii) a construction project plan that describes the locations and construction schedules for all areas to be disturbed and location of all facilities including offices, parking, vehicle staging areas, roads designated by the landowner as affected land, and processing plants;
 - (iii) a description of the methods and equipment to be used to mine, haul, and process material;
 - (iv) a description of the anticipated general mining progression, including the location of the first stripping and excavation, the direction of mining progress, and timing for the mobilization and setup of processing facilities such as a screen, crusher, asphalt plant, wash plant, batch plant, pug mill, and other facilities; and
 - (v) other information necessary to fully describe the nature and progress of opencut operations;
 - (f) a water resources section that includes:
 - (i) identification of the sources of the information reported, such as landowners, field observations, and water well logs;
 - (ii) the estimated seasonal high and seasonal low water table levels in the permit area and the information sources used, such as landowners, field observations, nearby surface water, and water well logs.
 - (g) a statement by the operator that:
 - (i) opencut operations may not occur within prohibited areas described in the permit;
 - (ii) no opencut operations will occur within an easement unless written permission to do so is obtained from the holder of the dominant estate; and
 - (iii) before commencing opencut operations, the operator, on a form provided by the department, notified the weed board in the county or counties in which the proposed operation is located. A copy of the form that the applicant submitted to the weed board must be attached to the application;
 - (h) an additional commitments section that includes a statement that the operator will:
 - (i) inform key personnel and subcontractors involved in opencut operations of the requirements of the plan of operation;
 - (ii) promptly notify the state historic preservation office archaeological or historical values are found.
- (2) An application for a dryland permit or to amend a dryland permit does not require submission of a plan of operation.
- (3) Approval of an application does not relieve the operator from the requirements of any applicable federal, state, county, or local statute, regulation, rule, or ordinance, including requirements to

obtain any other permit, license, approval, or permission necessary for the actions described in or required by the application and the permit.

- (4) 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.