

#### 17.24.115 OPERATING PERMITS: RECLAMATION PLANS

(1) The following provisions must be addressed in the reclamation plan:

(a) land disturbed by development or mining activities must be reclaimed for one or more specified uses, including, but not limited to: forest, pasture, orchard, cropland, residence, recreation, wilderness, industry, habitat (including food, cover or water) for wildlife or other uses. Proposed reclamation need not reclaim subject disturbed areas to a better condition or different use than that which existed prior to development or mining. The applicant must describe:

(i) current uses(s) of area to be disturbed;

(ii) current and proposed uses of nearby land that by its proximity may influence or guide the choice of a reclaimed use of the disturbed area;

(iii) pertinent climatic, topographical, soil, water and wildlife data that govern choice of proposed use of the reclaimed land.

(b) With the use of cross-sections, topographic maps or detailed prose, the proposed topography of the reclaimed land must be adequately described. As specific situations warrant, proper grading must provide for adequately designed contour trenches, benches and rock-lined channelways on disturbed areas. The applicant must submit evidence to assure the department that upon partial or complete saturation with water, graded fill, tailings or spoil slopes will be stable. The proposed grading methods must be described. Where practicable, soil materials from all disturbed areas must be stockpiled and utilized.

(c) The operator must establish vegetative cover commensurate with the proposed land use specified in the reclamation plan.

(d) Where operations result in a need to prevent acid drainage or sedimentation, on or in adjoining lands or streams, there shall be provisions for the construction of earth dams or other reasonable devices to control water drainage, provided the formation of such impoundments or devices shall not interfere with other landowner's rights or contribute to water pollution (as defined in Title 75, chapter 5, MCA) .

(e) All water, tailings or spoil impounding structures must be equipped with spillways or other devices that will protect against washouts during a 100 year flood.

(f) Upon abandonment, water from the development or mining activities shall be diverted or treated in a manner designed to control siltation, erosion or other water pollution damage to streams and natural water courses.

(g) All operations shall be conducted so as to avoid range and forest fires and spontaneous combustion.

(h) Proper precautions must be taken to assure that exposed cuts and tailings or spoil disposal areas will not be subject to wind erosion to the extent that airborne detritus becomes a public nuisance or detriment to the flora and fauna of the area.

(i) In a reclamation plan, the applicant shall provide the department with sufficiently detailed information regarding method(s) of disposal of mining debris, including mill tailings, and the location and size of such areas.

(j) Requirements regarding reclamation of stream channels and stream banks must be flexible to fit circumstances of each stream site. Many stream relocations, however, will be permanent and thus will represent the reclaimed condition of stream channels and stream banks. Accordingly, reclamation plans must contain the following provisions should stream channels or banks be permanently relocated:

(i) the relocation channel shall be of a length equal to or greater than the original channel, unless the department after consideration of the local circumstance shall grant a variance;

(ii) the relocation channel shall contain meanders, riffles and pools similar to those in the original channel;

(iii) stream banks shall be rounded to prevent slumping and sloughing and shall be revegetated in keeping with accepted agriculture or reforestation practices the first appropriate season following channel relocation;

(iv) rock riprap shall be used wherever appropriate.

(k) Sections [82-4-332](#) and [82-4-335](#), MCA, require that maps of the intended development or mining operation(s) accompany applications for permit. Should a copy of such maps, to scale, contain the following additional information (transparent overlays are acceptable), a separate map need not accompany the reclamation plan:

(i) outline of the area to be disturbed in the first year of operation;

(ii) outline of areas where soil materials will be replaced;

(iii) outline of intended revegetation areas showing plant or seed densities and species chosen;

(iv) location of such structures, drainage features, etc., as may be necessary to prevent erosion of bare slopes and subsequent siltation or other pollution of natural flowing streams or other natural water bodies.

(l) Reclamation shall be as concurrent with development or mining operations as feasible and must be completed within a specified reasonable length of time. Revegetation must be accomplished in the first appropriate season after necessary grading, in accordance with accepted agricultural or reforestation practices.

(m) All facilities constructed as part of the operating permit must be reclaimed for the approved postmine land use. The reclamation plan must provide for removal of buildings and other structures at closure consistent with the postmine land use.

(n) The plan must provide for postmine environmental monitoring programs and contingency plans for the postreclamation permit area. The monitoring programs and contingency plans must be related in scope and duration to the risk to public safety, water quality and adjacent lands they were designed to address.

History: [82-4-321](#), MCA; [IMP](#), [82-4-335](#), [82-4-336](#), MCA; Eff. 12/31/72; [TRANS](#), from DSL, 1996 MAR p. 2852; [AMD](#), 1999 MAR p. 640, Eff. 4/9/99; [AMD](#), 2002 MAR p. 3590, Eff. 12/27/02.

#### [17.24.116](#) OPERATING PERMIT: APPLICATION REQUIREMENTS

- (1) Applicant must obtain an operating permit for each mine complex on a form prescribed by the department.
- (2) To obtain an operating permit the applicant shall pay a \$500 fee.
- (3) In addition to the information required by [82-4-335](#) (4) , MCA, an application for an operating permit must describe the following:
  - (a) the existing environment;
  - (b) soil salvage and stockpiling activities and measures to protect soil from erosion and contamination;
  - (c) provisions for the prevention of wind erosion of all disturbed areas;
  - (d) the design, construction, and operation of the mine, mill, tailings, and waste rock disposal facilities;
  - (e) the facilities, buildings, and capacity of mill or processing;
  - (f) the proposed date for commencement of mining, the minerals to be mined, and a proposed conceptual life of mine operations;
  - (g) the designs of diversions, impoundments, and sediment control structures to be constructed reflecting their safety, utility, and stability;
  - (h) the location of access, haul, and other support roads and provisions for their construction and maintenance that control and minimize channeling and other erosion;
  - (i) the source and volume of incoming ore, tailings, or waste rock;
  - (j) the equipment and chemicals to be used in the operation by location and task;
  - (k) the general chemical processes and the purpose, amount, and source of water used in the operation and the disposition of any process waste water or solutions;
  - (l) the ground and surface water monitoring programs to be implemented and a contingency plan addressing accidental discharges to ground or surface water;
  - (m) a fire protection plan;
  - (n) a toxic spill contingency plan with certification that notice of the filing of the plan has been provided to the state fire marshal;
  - (o) the sewage treatment facilities and solid waste disposal sites;
  - (p) the power needs and source(s) , including fuel storage sites;
  - (q) the anticipated employment including direct and onsite contract employees;
  - (r) the transportation network to be used during the construction and operation phases, including a list of the type and amount of traffic at mine or mill capacity;
  - (s) the predicted noise levels by activities during construction and operations;

- (t) the protective measures for archaeological and historical values in the areas to be mined;
  - (u) the protective measures designed to avoid foreseeable situations of unnecessary damage to flora and fauna in or adjacent to the area.
- (4) The application must include a map or maps to scale of the mine area and area to be disturbed (such map must locate the proposed mine and facilities and must locate and identify streams, and proposed roads, railroads, and utility lines in the immediate area and residences and wells within one mile of the permit area) . All maps provided in the application must have a uniform base, a scale, and a north directional arrow.
- (5) The application must include a reclamation plan that meets the requirements of [82-4-336](#) , MCA, and this subchapter.
- History: [82-4-321](#), MCA; IMP, [82-4-336](#), MCA; Eff. 12/31/72; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2002 MAR p. 3590, Eff. 12/27/02.

#### [17.24.117](#) PERMIT CONDITIONS

- (1) The following conditions accompany the issuance of each permit:
- (a) The permittee shall conduct all operations as described in:
    - (i) the plan of operations including the approved operating, reclamation, monitoring, and contingency plans;
    - (ii) any express conditions which the department places on the permit to ensure compliance with the Act or this subchapter promulgated pursuant thereto;
    - (iii) written commitments made by the permittee in response to deficiencies identified by the department during the permit application review process;
    - (iv) mitigation measures mutually developed by the department and permittee pursuant to [75-1-201](#)(4)(b), MCA; and
    - (v) plans or assumptions used in calculating bond amounts that have been posted by the permittee.
  - (b) If the department issued the permit because the applicant was maintaining a good faith direct appeal in accordance with [82-4-335](#), MCA, the permittee will immediately submit proof upon resolution of the appeal that the violation has been or is being corrected to the satisfaction of the regulatory agency or the permittee will cease operations.
  - (c) Except as provided in ARM [17.24.144](#)(1)(f) and [17.24.146](#)(2), the permittee shall maintain in effect at all times a bond in the amount established by the department. Upon failure of the permittee to maintain such bond coverage because of expiration or cancellation of bond, the permit is suspended and the permittee shall cease mining operations until substitute bond is filed with and approved by the department.

History: [82-4-321](#), MCA; IMP, [82-4-335](#), [82-4-336](#), [82-4-351](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2002 MAR p. 3590, Eff. 12/27/02; AMD, 2022 MAR p. 1830, Eff. 9/24/22.

#### 17.24.118 ANNUAL REPORT

(1) Each permittee shall file an annual report with the department and pay an annual fee of \$100 within a time period specified in [82-4-339](#) , MCA, until such time as full bond is released. No less than 30 days prior to the permit anniversary date for the annual report, the department shall notify the permittee in writing that an annual report and renewal fee is due.

(2) The annual report must include the information outlined under [82-4-339](#) , MCA. In addition, the annual report must include:

(a) the number of acres of land affected by the operation during the preceding year and cumulatively;

(b) the extent of backfilling and grading performed during the preceding year and cumulatively;

(c) the area of land planted;

(d) the type of planting or seeding;

(e) the mixtures and amounts seeded;

(f) the species, location, and method of planting for site or species specific plantings;

(g) the date of seeding or planting;

(h) cumulative acres reseeded to date;

(i) cumulative acres of completed reclamation and the date each increment was completed; and

(j) maps showing the information required in (2) (a) through (i) .

(3) Each annual report must include an inventory of soils volumes which includes:

(a) cubic yards salvaged in the preceding year and cumulatively;

(b) cubic yards to be salvaged in the coming year;

(c) cumulative volume of soils contained in stockpiles; and

(d) replaced soil depths and volumes.

(4) Each annual report for those operations using cyanide or other metal leaching solvents or reagents or having the potential to generate acid must provide a narrative summary of water balance conditions during the preceding year and identify excess water holding capacity at the time of the annual report.

(5) When incremental bond has been approved, additional bond must be submitted, in the amount required, with the annual report and the status of incremental bonding must be described.

(6) If changes in facilities have occurred in the preceding year, the annual report must, pursuant to [82-4-339](#) (1) (f) , MCA, update the permit map required under ARM [17.24.115](#). The updated map must depict all approved surface features, as required by the department, in or associated with the permit area, reproduced at a scale applicable for field use.

(7) If cultural resource mitigations identified in the permit will be ongoing through the life of the operation, the annual report must include an updated cultural resource management table, including a list of sites mitigated and

disturbed in the preceding year and sites to be mitigated and disturbed in the coming year.

(8) If comprehensive water monitoring is required by the permit, each annual report must include an evaluation of water monitoring reports submitted during the preceding year. The evaluation must include trend analyses for those key site-specific parameters required by the department in the permit.

(9) If site-specific geologic conditions identified in the permit indicate the need for geologic monitoring, each annual report must include monitoring results and must report materials balances as required in the permit.

(10) If site-specific closure requirements identified in the permit include monitoring for cyanide or other metal leaching solvent or reagent neutralization, acid rock drainage development, or similar occurrences, the annual report must include an evaluation of monitoring and testing data required in the permit for closure under [82-4-335](#) , MCA.

(11) Each annual report must include the names of key personnel for maintenance and monitoring if the operation is shut down.

(12) Each annual report must include any other relevant information required by the permit.

(13) The department shall, by certified mail, notify a permittee, who fails to file an annual report and fee as required by this rule, that the permit will be suspended if the report and fee are not filed within 30 days of receipt of the notice.

(14) If a permittee fails to file an annual report and fee within 30 days of receipt of a notice, the department shall suspend the permit.

History: [82-4-321](#), MCA; IMP, [82-4-335](#), [82-4-336](#), [82-4-337](#), [82-4-338](#), [82-4-339](#), [82-4-362](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2000 MAR p. 473, Eff. 2/11/00; AMD, 2002 MAR p. 3590, Eff. 12/27/02.

#### [17.24.119](#) PERMIT AMENDMENTS

(1) An application for a major amendment must:

(a) contain a summary of changes in disturbances, in resources affected, and in construction, operating, reclamation, monitoring, and contingency plans;

(b) provide dated replacement or supplemental resource data, plans, and maps as outlined in ARM [17.24.115](#), or cross reference applicable data, plans, or maps in the previously permitted plan of operation, in order to identify the existing environment and resources affected, as well as changes in permit boundaries, in total disturbances, and in construction, operating, reclamation, monitoring, and contingency plans;

(c) identify any additional resource data necessary to the evaluation of the proposed amendment;

(d) provide an updated or comprehensive facilities map; and

(e) clearly indicate on the facilities map all bonding areas subject to pre-July 1, 1974, bonding levels. No action under this subsection affects a bond in effect under pre-July 1, 1974, bonding levels.

(2) For an application for a major amendment, the department shall implement the application, notice and hearing requirements for new permits pursuant to [82-4-337](#) and [82-4-353](#), MCA, and prepare necessary environmental analyses pursuant to the Montana Environmental Policy Act.

(3) An application for minor amendment must:

- (a) contain a summary of proposed changes in sufficient detail for the department to determine whether further environmental analysis under Title 75, chapter 1, MCA, is required;
- (b) contain dated replacement pages and necessary supplemental resource data and plans, and maps in order to identify changes in permit boundaries, total disturbances, and plans;
- (c) contain an updated or comprehensive facilities map;
- (d) contain a statement of the applicant's rationale for asserting nonsignificance pursuant to [82-4-342](#)(5), MCA;
- (e) identify previous environmental analyses relevant to the amendment; and
- (f) clearly indicate on the facilities map all bonding areas subject to pre-July 1, 1974, bonding levels. No action under this section affects a bond in effect under pre-July 1, 1974, bonding levels.

(4) For a minor amendment, the department shall not implement the application, notice and hearing requirements for new permits pursuant to [82-4-337](#) and [82-4-353](#), MCA. The department shall provide the permittee with a notice of decision on the adequacy of the minor amendment application within 30 days of receipt of the application.

History: [82-4-321](#), MCA; IMP, [82-4-337](#), [82-4-342](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2002 MAR p. 3590, Eff. 12/27/02; AMD, 2022 MAR p. 1830, Eff. 9/24/22.

#### [17.24.120](#) PERMIT REVISIONS

(1) An application for revision must include:

- (a) a general summary explaining the revision;
- (b) a statement of the applicant's rationale for asserting nonsignificance pursuant to [82-4-342](#)(5), MCA;
- (c) identification of previous environmental analyses relevant to the revision;
- (d) a reference to prior commitments to topsoil salvage, sediment control, reclamation, and other previously approved plans or standards that are applicable to the revision;
- (e) documentation of the adequacy of existing bonding, if appropriate;
- (f) updated replacement pages and permit map for the permitted plan of operations;
- (g) any necessary construction, operating, reclamation, monitoring, and contingency plans; and
- (h) an updated or comprehensive facilities map that clearly indicates all areas subject to pre-July 1, 1974, bonding levels. No action under this subsection affects a bond in effect under pre-July 1, 1974, bonding levels.

(2) The department shall provide the permittee with a notice of adequacy of proposed revisions within 30 days of receipt of the application.

History: [82-4-321](#), MCA; IMP, [82-4-337](#), [82-4-342](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 2022 MAR p. 1830, Eff. 9/24/22.

#### [17.24.121](#) PERMIT REVIEWS

(1) At any time during the life of an operation, the department may review an operating permit.

(2) If the department determines that the modification of the reclamation plan is authorized under [82-4-337](#)(4), MCA, it may require such modification under the procedures of (3) through (6).

(3) The department shall send an explanation of the need for modification and a conceptual plan for modification to the permittee, by certified mail, and provide opportunity for hearing, pursuant to Title 2, chapter 4, part 6, MCA.

(4) The permittee shall respond to the department with a request for hearing or a proposed schedule for modification or revision, not to exceed one year, within 30 days of receipt of a letter from the department.

(5) The department may extend the one-year time frame or the time for hearing request for good cause documented by the permittee in writing.

(6) A modification must be submitted in the form of an amendment or a revision and the department shall process the applicant's submittal in accordance with ARM [17.24.119](#) or [17.24.120](#).

History: [82-4-321](#), MCA; IMP, [82-4-337](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2022 MAR p. 1830, Eff. 9/24/22.

#### [17.24.122](#) PERMIT ASSIGNMENT

(1) The department may approve the assignment of a permit if the requirements of (2) and (3) are met.

(2) The permittee shall:

(a) provide the department with a completed application on a form, provided by the department, which includes:

(i) the name and address of the proposed assignee and the name and address of that person's resident agent, if any; and

(ii) the same information as is required in [82-4-335](#) (4) , (8) , and (9) , MCA, for applications for new permits.

(3) The assignee shall:

(a) commit in writing to conduct the operations in full compliance with the terms and conditions of the permit; and

(b) provide sufficient bond to guarantee performance of the Act, this subchapter and the permit.



History: [82-4-321](#), MCA; IMP, [82-4-335](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852.

#### [17.24.123](#) PERMIT CONSOLIDATION

- (1) In order to facilitate management of multiple permits for a contiguous area, a permittee may, with department approval, consolidate permits.
- (2) In order to obtain permit consolidation, the permittee must submit an application containing the following information:
  - (a) an explanation of the purpose of the consolidation and a summary of cumulative disturbances;
  - (b) a single map showing the entire proposed permitted area;
  - (c) a table showing the consolidated acreage of permitted areas, total permitted disturbance, and total acreage reclaimed to date;
  - (d) an updated facilities map showing all facilities modifications that have occurred since the issuance of the individual permits. This map may be combined with the permit area map required under (b) above if there is no loss in legibility;
  - (e) a consolidated bonding map showing what areas, if any, are subject to pre-July 1, 1974, bonding levels and showing which bonds cover which areas; and
  - (f) a consolidated operating and reclamation plan and supporting maps, showing, as appropriate, the area to which each plan applies. No action under this subsection affects a bond in effect under pre-July 1, 1974, bonding levels.
- (3) Following consolidation, annual reports must be submitted on the renewal date of the oldest of the permits to be consolidated.

History: [82-4-321](#), MCA; IMP, [82-4-335](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 2000 MAR p. 473, Eff. 2/11/00.

#### [17.24.128](#) INSPECTIONS: FREQUENCY, METHOD, AND REPORTING

- (1) The department shall conduct an inspection:
  - (a) at least once per calendar year for each permitted operation; and
  - (b) at least three times per year for each active operation that:
    - (i) uses cyanide or other metal leaching solvents or reagents;
    - (ii) has expected or ongoing acid rock drainage; or
    - (iii) exceeds 1000 acres in permit area.
- (2) The department shall provide copies of operating permit inspection reports to any appropriate state or federal land managing agency, if requested by the agency.
- (3) The department shall provide a copy of each report to the operator.

History: [82-4-321](#), MCA; IMP, [82-4-337](#), [82-4-339](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2000 MAR p. 473, Eff. 2/11/00; AMD, 2022 MAR p. 1830, Eff. 9/24/22.

#### 17.24.129 INSPECTIONS: RESPONSE TO CITIZEN COMPLAINTS

(1) Any person may request an inspection by the department of any operation by furnishing the department with a signed statement, or an oral report followed by a signed statement, giving the department reason to believe that there exists a violation of the Act, the rules adopted pursuant thereto, the permit, the license, or the exclusion; or that there exists a condition or practice that creates an imminent danger to the public or that is causing or can be reasonably expected to cause a significant, imminent environmental harm to land, air, or water resources. The statement must identify the basis for the allegation or provide corroborating evidence. The statement must be placed in the alleged violator's file and becomes a part of the permanent record. The identity of the person supplying information to the department must remain confidential with the department, if requested by that person.

(2) If the report provides the information required above and the department determines the request to present sufficient evidence to warrant a special inspection, the department shall conduct an inspection to determine whether the condition, practice, or violation exists or existed.

(3) Within 30 days of receipt of the requestor's written statement, the department shall send the requestor and the alleged violator a written response which includes the following:

(a) if an inspection was made, a description of the enforcement action taken, or, if no enforcement action was taken, an explanation of why no enforcement action was taken;

(b) if no inspection was made, an explanation of the reason why.

History: [82-4-321](#), MCA; IMP, [82-4-337](#), [82-4-354](#), MCA, and Article II, Sec. 9, Montana Constitution; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99.

#### 17.24.132 ENFORCEMENT: PROCESSING OF VIOLATIONS AND PENALTIES

(1) Except as provided in (4) , the department shall send a violation letter for a violation of the Act, this subchapter, or the permit, license, or exclusion. The violation letter must be served and must state that the alleged violator may, by filing a written response within a time specified in the notice, provide facts to be considered in further assessing whether a violation occurred and in assessing the penalty under (2) .

(2) The department may issue a notice of violation and administrative order for a violation identified in a violation letter. The administrative order may assess a penalty, require corrective action, or both.

(3) The alleged violator may, within 30 days of service of the notice of violation and order, respond in writing and may request an informal conference, a contested case hearing, or both, on the issues of whether the violation occurred, whether the corrective action ordered by the department is reasonable, and whether the penalty assessed is proper.

(4) If a contested case hearing has not been requested within 30 days of the date of service of the order, the notice of violation and order become final. If a contested case hearing has been requested, the board shall hold a hearing, make the findings of fact, issue the decision, and, if a violation is found, order payment of any penalty as provided in [82-4-361](#) , MCA.

History: [82-4-321](#), MCA; IMP, [82-4-337](#), [82-4-339](#), [82-4-361](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; AMD, 1996 MAR p. 2586, Eff. 10/4/96; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2006 MAR p. 1139, Eff. 5/5/06.

#### **17.24.133** ENFORCEMENT: ABATEMENT OF VIOLATIONS AND PERMIT SUSPENSION

(1) The director shall immediately issue an order suspending the license or permit for each violation of the Act, this subchapter, the license, or the permit, that is creating an imminent danger to the health or safety of the persons outside the permit area.

(2) The director may, after opportunity for an informal conference, suspend a permit or license for a violation of the Act, this subchapter, or the license or permit that:

(a) may reasonably be expected to create a danger to the health or safety of persons outside the permit area;

(b) may reasonably be expected to cause significant environmental harm to land, air, or water resources; or

(c) remains unabated subsequent to the deadline contained in a corrective action order.

History: [82-4-321](#), MCA; IMP, [82-4-357](#), [82-4-361](#), [82-4-362](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; AMD, 1996 MAR p. 2586, Eff. 10/4/96; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2006 MAR p. 1139, Eff. 5/5/06.

#### **17.24.134** ENFORCEMENT: ASSESSMENT OF PENALTIES

(1) The department shall consider the factors identified in [82-4-1001](#) , MCA, in determining the amount of a penalty for a violation.

History: [82-4-321](#), [82-4-361](#), MCA; IMP, [82-4-361](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; AMD, 1996 MAR p. 2586, Eff. 10/4/96; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2006 MAR p. 1139, Eff. 5/5/06.

#### **17.24.136** ORDERS: ISSUANCE AND SERVICE

(1) Orders issued pursuant to the Act must be served upon the person to whom it is directed promptly after issuance by:

(a) delivering a copy of the order in person to the violator; or

(b) sending a copy of the order by certified mail to the violator at the address on the violator's application for a license or permit or exclusion.

(2) Service is complete upon tender of the order in person. Service by mail is complete within three business days after the date of mailing and is not incomplete because of refusal to accept.

History: [82-4-321](#), MCA; IMP, [82-4-341](#), [82-4-357](#), [82-4-361](#), [82-4-362](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; AMD, 1996 MAR p. 2586, Eff. 10/4/96; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2006 MAR p. 1139, Eff. 5/5/06.

#### 17.24.137 NOTICES AND ORDERS: EFFECT

(1) Reclamation operations and other activities intended to protect public health and safety and the environment must continue during the period of any suspension order unless otherwise provided in the order.

(2) If a suspension order will not completely abate the imminent danger to the health or safety of persons outside the permit or license area in the most expeditious manner physically possible, the director or the director's authorized representative shall impose affirmative obligations on the person to whom it is issued to abate the condition, practice, or violation. The order must specify the time by which abatement must be accomplished and may require, among other things, the use of existing or additional personnel and equipment.

(3) A notice or order may not be vacated because of inability to comply.

(4) If a permit or license has been suspended or revoked, the operator or licensee may not conduct any operations or prospecting pursuant to the permit or license and shall:

(a) if the permit or license is revoked, complete reclamation within the time specified in the order;

(b) if the permit or license is suspended, abate all conditions, practices, or violations, as specified in the order.

History: [82-4-321](#), MCA; IMP, [82-4-361](#), [82-4-362](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2000 MAR p. 473, Eff. 2/11/00.

#### 17.24.140 BONDING: DETERMINATION OF BOND AMOUNT

(1) The department shall require submission of bond in the amount of the estimated cost to the department if it had to perform the reclamation, contingency procedures and associated monitoring activities required of an operator subject to bonding requirements under the Act, the rules adopted thereunder, and the permit, license or exclusion. This amount is based on the estimated cost to the state to ensure compliance with Title 75, chapters 2 and 5, MCA, the Act, the rules adopted thereunder, and the approved permit, license or any exclusion and shall include:

(a) costs estimated by using current machinery production handbooks and publications or other documented costs acceptable to the department;

(b) the additional estimated costs to the department which may arise from additional design work, applicable public contracting requirements or the need to bring personnel and equipment to the operating area after its abandonment by the operator;

(c) an additional amount based on factors of cost changes during the preceding five years for the types of activities associated with the reclamation to be performed; and

(d) the additional estimated cost to the department which may arise from management, operation, and maintenance of the site upon temporary or permanent operator insolvency or abandonment, until full bond liquidation can be effected.

(2) The total bond amount calculated by the department must be in place and accepted by the department prior to issuance of the permit, license, or exclusion unless:

(a) the applicable plan identifies phases or increments of disturbance which may be individually identified and for which individual, incremental bonds may be calculated. The plan must provide for bonding increments to be submitted with the annual report and must expressly state that the operator, licensee or small miner may not proceed to the next phase or increment until the bond is in place and has been approved in writing by the department; or

(b) mining will proceed through a progression of contiguous pits and the plan provides for concurrent backfill. In this case, the bond must include the amount necessary to backfill the largest volume pit.

(3) An incremental bond proposal must not be accepted if the operator has received a bonding noncompliance, notice of violation for exceeding the small miner or other acreage limitations, or a notice of violation for conducting activities outside the bonded operating area. This prohibition does not apply if the violation is vacated or if a court rules that a violation did not occur.

(4) Unless the provisions of the bond provide otherwise, the line items in the bond calculations are estimates only and are not limits on spending of any part of the bond to complete any particular task subsequent to forfeiture of the bond or settlement in the context of bond forfeiture proceedings.

(5) An operator may submit bond higher than the amount required by the department. The extra amount remains unobligated to any disturbance until applied against disturbances which result from additional activities approved under an operating permit, license, or exclusion.

(6) Bond released from completed activities may not be applied to subsequent activities or increments until the department has inspected the site, provided public notice and opportunity for comment on the release, and approved the request for release in compliance with [82-4-338](#), MCA.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2000 MAR p. 473, Eff. 2/11/00; AMD, 2002 MAR p. 3590, Eff. 12/27/02.

#### 17.24.141 BONDING: ADJUSTMENT OF AMOUNT OF BOND

(1) The amount of the performance bond must be reviewed for possible adjustment as the disturbed acreage is revised, methods of mining operation change, standards of reclamation change or when contingency procedures or monitoring change.

(2) The department shall conduct an overview of the amount of each bond annually and shall conduct a comprehensive bond review at least every five years. The department may conduct additional comprehensive bond reviews if, after modification of the reclamation or operation plan, and annual overview, or an inspection of the permit area, the department determines that an increase of the bond level may be necessary.

(3) If, at the time of an amendment under ARM [17.24.119](#), a comprehensive bond review is completed, the next comprehensive bond review must occur not more than five years after the issuance of the amendment.

(4) The department shall notify the operator of any proposed bond adjustment and provide the operator an opportunity for an informal conference on the adjustment.

(5) For bond reduction requests by the operator for release of undisturbed land, the operator shall submit a map of the area in question, revise the appropriate active operation maps and document that the area has not been disturbed as a result of previous operating activities. The department shall then conduct an inspection of the proposed area before responding to the request.

(6) An operator or an interested party may request an adjustment of the required performance bond amount upon submission of evidence to the department demonstrating that the method of operation or other circumstances will change the estimated cost to the department to complete the reclamation, contingency procedures, or monitoring activities and therefore warrant a change in the bond amount.

(7) A bond filed for an operating permit obtained under [82-4-335](#), MCA, may not be released or decreased until the public has been provided an opportunity for a hearing and a hearing has been held if requested. The department shall provide reasonable statewide and local notice of the opportunity for hearing including, but not limited to, circulation. The department shall provide a 30-day comment period in the notice. A request for hearing must be submitted to the department in writing within the comment period.

History: [82-4-321](#), MCA; [IMP](#), [82-4-338](#), [82-4-342](#), MCA; [NEW](#), 1994 MAR p. 2952, Eff. 11/11/94; [TRANS](#), from DSL, 1996 MAR p. 2852; [AMD](#), 1999 MAR p. 640, Eff. 4/9/99; [AMD](#), 2000 MAR p. 473, Eff. 2/11/00.

#### 17.24.142 BONDING: REPLACEMENT OF BOND

(1) The department may allow an operator to replace existing surety or collateral bonds with other surety or collateral bonds, if the liability that has accrued against the operator is transferred to such replacement bonds.

(2) The department may not release an existing performance bond until the operator has submitted and the department has approved an acceptable replacement performance bond. A replacement of performance bond pursuant to this rule does not constitute a release of bond under [82-4-338](#) , MCA.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99.

#### [17.24.143](#) BONDING: FORM OF BOND

(1) The form for the performance bond must be as provided by the department. The department shall allow for a surety bond or a collateral bond.

(2) Liability under any bond, including separate bond increments and indemnity agreements applicable to a single operation, must extend to the entire bonded area.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99.

#### [17.24.144](#) BONDING: SURETY BONDS

(1) In addition to the requirements of [82-4-338](#) , MCA, surety bonds are subject to the following requirements:

(a) The department may not accept a surety bond in excess of 10% of the surety company's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(b) The department may not accept a surety bond from a surety company for any person, on all permits held by that person, in excess of three times the company's maximum single obligation as provided in (a) above.

(c) The department may not accept a surety bond from a surety company for any person, on all permits held by that person, unless that surety is registered with the state auditor and is listed in the United States Department of the Treasury Circular 570 as revised.

(d) A power of attorney must be attached to the surety bond.

(e) The surety bond must provide a mechanism for the surety company to give prompt notice to the department and the operator of:

(i) any action alleging bankruptcy or insolvency of the surety or violation that would result in suspension or revocation of the license of the surety;

(ii) cancellation by the operator; and

(iii) cancellation or pending cancellation by the surety.

(f) Upon incapacity of a surety by reason of bankruptcy, insolvency or suspension or revocation of its license, the operator shall be deemed to be without bond coverage and shall promptly notify the department in the manner described in the bond. The department, upon notification, shall, in writing, notify the operator of a reasonable period, not to exceed 90 days, to replace bond coverage. If an adequate bond is not posted by the end of the period allowed, the operator shall cease mineral extraction, comply with the provisions of [82-4-336](#) (1), MCA, and immediately commence reclamation in accordance with the Act, this subchapter and the reclamation plan. Mining operations must not resume until the department has determined that an acceptable bond has been posted.

(g) Whenever operations are abandoned concurrent with cancellation of the bond, the department must reclaim the site and forfeit the bond within two years, consistent with [82-4-341](#), MCA, for any reclamation obligation incurred in the reclamation of the site.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), [82-4-341](#), [82-4-360](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD; 2000 MAR p. 473, Eff. 2/11/00.

#### [17.24.145](#) BONDING: CERTIFICATES OF DEPOSIT

(1) The department may accept as bond an assignment of a certificate of deposit in a denomination not in excess of \$100,000, or the maximum insurable amount as determined by FDIC and FSLIC, whichever is less. The department may not accept a combination of certificates of deposit for one operator on one institution in excess of that limit.

(2) The department may accept only automatically renewable certificates of deposit from a United States bank.

(3) The department shall require the operator to deposit sufficient amounts of certificates of deposit, to assure that the department will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required pursuant to ARM [17.24.140](#) and [17.24.141](#).

(4) The department shall require that each certificate of deposit be made payable to or assigned to the department, both in writing and in the records of



the bank issuing the certificate. The department shall require banks issuing these certificates to waive all rights of setoff or liens against these certificates.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99.

#### [17.24.146](#) BONDING: LETTERS OF CREDIT

(1) The department may accept as a bond a letter of credit subject to the following conditions:

(a) The letter must be issued by a bank organized or authorized to do business in the United States.

(b) The letter must be irrevocable prior to a release by the department pursuant to [82-4-338](#) , MCA.

(c) The letter must be payable to the department in part or in full upon demand and receipt from the department of a notice that the person has failed to comply with a provision of the Act, the rules adopted thereunder, or the permit, license, or exclusion, the failure of which authorizes forfeiture of the bond under the Act.

(d) The letter of credit must provide that, upon expiration, if the department has not notified the bank in writing that substitute bond has been provided or is not required, the bank will immediately pay the department the full amount of the letter less any previous drafts.

(e) The letter must not be for an amount in excess of 10% of the bank's capital surplus account as shown on a balance sheet certified by a certified public accountant.

(f) The department may not accept a letter of credit from a bank for any person, on all permits, licenses, or exemptions held by that person, in excess of three times the company's maximum single obligation as provided in (e) above.

(2) If the department determines that the bank has become unable to fulfill its obligations under the letter of credit, the department shall, in writing, notify the operator and specify a reasonable period, not to exceed 90 days, to replace bond coverage. If an adequate bond is not posted by the end of the period allowed, the operator shall cease mineral extraction and shall comply with the provisions of [82-4-341](#) , MCA, and shall immediately begin to conduct reclamation operations in accordance with the Act, this subchapter and

reclamation plan. Mining operations must not resume until the department has determined that an acceptable bond has been posted.

History: [82-4-321](#), MCA; IMP, [82-4-338](#), [82-4-341](#), [82-4-360](#), MCA; NEW, 1994 MAR p. 2952, Eff. 11/11/94; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2002 MAR p. 3590, Eff. 12/27/02.

#### [17.24.150](#) ABANDONMENT OR COMPLETION OF OPERATION

(1) For the purposes of administering the Act the department will presume that an operation is abandoned or completed (and thus subject to the reclamation time schedule outlined in [82-4-336](#) , MCA) as soon as ore ceases to be extracted for future use or processing. Should the operator wish to rebut said assumption, the operator must provide evidence satisfactory to the department that the operations have not in fact been abandoned or completed.

(2) Documentation of any of the following situations will be adequate evidence of intent not to abandon operations:

(a) the mine or mill work force is on strike while negotiating a new contract;

(b) the mine or mill is shut down because of some failure of the transportation network in moving ore or processed material;

(c) the mine or mill is shut down because of a natural catastrophe and plans to resume operations are being formulated;

(d) the mine or mill is seasonally shut down due to predictable annual variance in the mined product's market or because of inclement weather or seasonal inaccessibility;

(e) the mine or mill is shut down for maintenance or the construction of new facilities;

(f) the mine or mill is forced to temporarily shut down because of violation of other state or federal laws and efforts are being made to remedy the cause of the violation.

(3) At the discretion of the department, the following evidence and any other relevant evidence may be satisfactory to show intent to resume operations:

(a) exhibition of drill core and accompanying assay reports to show that ore minerals still remain in the mine and that they are present in veins or accumulations of sufficient size, grade and accessibility to warrant continued

development. Geological, geochemical or geophysical indications of valuable mineralization sufficient to warrant further development or mining will also be considered by the department;

(b) continued employment of a maintenance crew to dewater the mine or replace timbers, etc.;

(c) data recording present and predicted commodity prices, labor and transportation costs, etc., or any other evidence which may show that mining may soon resume on a profitable basis. Board comment: It is recognized that "abandonment or completion of mining" under the operating permit (see [82-4-336](#) , MCA) is an action commonly predicated upon complex and changing economic circumstances; that cessation of mining need not mean abandonment or completion; and that short of obtaining an operator's records and examining the mine development drill core, the department may be unable to determine the operator's true intent.

History: [82-4-321](#), MCA; IMP, [82-4-336](#), MCA; Eff. 12/31/72; TRANS, from DSL, 1996 MAR p. 2852; AMD, 2000 MAR p. 473, Eff. 2/11/00.

#### [17.24.151](#) ABANDONED PITS: OBJECTIONABLE EFFLUENTS (REPEALED)

[\(See the Transfer and Repeal Table\)](#)

History: [82-4-321](#), MCA; IMP, [82-4-336](#), MCA; Eff. 12/31/72; TRANS, from DSL, 1996 MAR p. 2852; REP, 1999 MAR p. 640, Eff. 4/9/99.

#### [17.24.152](#) DISCLOSURE OF INFORMATION (REPEALED)

[\(See the Transfer and Repeal Table\)](#)

History: [82-4-321](#), MCA; IMP, [82-4-336](#), MCA; Eff. 12/31/72; TRANS, from DSL, 1996 MAR p. 2852; REP, 1999 MAR p. 640, Eff. 4/9/99.

#### [17.24.153](#) GENERAL COMPLIANCE

(1) The operator shall comply with all federal and state laws, and such rules and regulations as are promulgated by the department under the Act.

History: [82-4-321](#), MCA; IMP, [82-4-336](#), MCA; Eff. 12/31/72; TRANS, from DSL, 1996 MAR p. 2852; AMD, 1999 MAR p. 640, Eff. 4/9/99; AMD, 2022 MAR p. 1830, Eff. 9/24/22.

#### 17.24.180 DEFINITIONS

As used in ARM [17.24.181](#) through [17.24.189](#), unless the context indicates otherwise, the following definitions apply:

- (1) "Commence reclamation within six months" means to commence reclamation within six months or the first seasonal opportunity after mining is not resumed after a seasonal closure;
- (2) "Live stream" means a stream with flowing water;
- (3) "Pay gravel" means gravels containing sufficient mineralization to be economic;
- (4) "Plant" means a support facility, including a wash or processing plant, for a placer or dredge operation;
- (5) "Sedimentation" means solid material settled from suspension in a liquid; mineral or organic solid material that is being transported or has been moved from its site of origin by air, water, or ice, and has come to rest on the earth's surface either above or below sea level; or inorganic or organic particles originating from weathering, chemical precipitation or biological activity.

History: [82-4-321](#), MCA; IMP, [82-4-305](#), [82-4-335](#), MCA; NEW, 1991 MAR p. 445, Eff. 4/12/91; TRANS, from DSL, 1996 MAR p. 2852.

#### 17.24.181 SMALL MINER PLACER AND DREDGE BONDING

(1) A small miner who operates a placer or dredge mine shall post a \$10,000 bond unless the department approves a lower amount based on the criteria outlined in (2) or unless it is documented that a bond for reclamation is posted with another government agency.

(a) Bond must be filed in the form of a surety, payable to the state of Montana or to the state and the appropriate federal agency, a cash deposit, an assignment of certificate of deposit, letter of credit, or other surety acceptable to the department.

(b) The bond must be accompanied by an appropriate map showing the location of the mine, anticipated disturbances, and perennial streams in the vicinity.

(c) A small miner placer or dredge mine operator that posted a bond with the department prior to May 15, 1997, for a mine is not required to post a bond in excess of \$5,000 for that mine.

(2) The department shall reduce the required bonding amount if the small miner submits an operating plan documenting that the cost of reclamation to the department would be less than \$10,000. The information needed to make such a determination includes the following:

- (a) a description of the proposed mining operation and foreseeable expansion;
- (b) a description of the mine support facilities;
- (c) the type of equipment and capacity of the plant;
- (d) an estimate of pit and pond sizes and volumes of all soil, overburden and placer gravel stockpiles;
- (e) description of mining sequence and maximum acreage to be disturbed and unreclaimed at any one time at the mine being bonded;
- (f) a description of any water diversions required by the operation;
- (g) a topographic map locating mine pit, ponds, diversions, roads, process area, and stream drainages and materials storage sites. This map should include a reference to existing locatable monuments or landmarks on the ground;
- (h) the depth of soil, overburden and pay zones to be excavated;
- (i) the average and maximum rate of pay gravel removal;
- (j) the length and width of roads and average size of the plant area;
- (k) any proposal to use suitable settling pond sediments as soil amendment if limited soil is available;
- (l) a proposed permanent seed mixture and rate of application (lbs/ac) ;
- (m) characterization of stream channel and riparian conditions for locations where disturbance is proposed;
- (n) identification of the construction method and materials to be used to reclaim soils, overburden, gravel stockpiles, and other disturbances and to reestablish functioning streams and associated floodplains where stream channels have been disturbed;
- (o) an erosion control plan which contains the appropriate elements from ARM [17.24.182](#);
- (p) whenever applicable, a description of the status of 404 permits issued pursuant to the federal Clean Water Act and plans of operation required by federal land management agencies; and
- (q) status of 310 permit compliance, pursuant to [75-7-101](#), MCA, et seq., and status of Montana pollution discharge elimination permit compliance pursuant to [75-5-401](#), MCA, et seq.

History: [82-4-321](#), MCA; [IMP](#), [82-4-305](#)(1), MCA; [NEW](#), 1991 MAR p. 445, Eff. 4/12/91; [TRANS](#), from DSL, 1996 MAR p. 2852; [AMD](#), 1999 MAR p. 640, Eff. 4/9/99; [AMD](#), 2022 MAR p. 1830, Eff. 9/24/22.

#### [17.24.182](#) (INTERPRETIVE RULE) OPERATIONAL RECOMMENDATIONS FOR SMALL MINERS

(1) In order for SMES placer and dredge operators to meet the requirements of [82-4-305](#) (1) , MCA, which requires that the small miner agree in writing not to pollute or contaminate any stream, the department recommends the

following best management practices as minimally necessary to assure that operations do not result in water quality violations:

(a) Mining equipment should not be operated in a live stream or diversion, or in any manner to cause bank caving or erosion of the bank of any live stream or diversion.

(b) The amount of make-up water should be limited to only the amount required to operate the wash plant with spent water being recirculated back to the wash plant.

(c) Runoff from undisturbed areas should be minimized through use of temporary berms.

(d) Adequate temporary berms and/or natural undisturbed areas of vegetation should be placed or left as a buffer zone around diversion ditches and live streams to prevent water quality degradation and erosion of disturbed areas as a result of runoff from a ten-year, 24-hour precipitation event.

(e) During operations, care should be taken to protect streambanks and streambank vegetation, streambanks, ditches, and diversions should be lined, riprapped, or otherwise stabilized to prevent excess erosion.

(f) Roads should:

(i) be constructed to provide controlled drainage, include culverts, waterbars, and slash filters necessary to facilitate drainage and minimize erosion and be constructed to reduce concentrated flows;

(ii) be located on well-drained soils and located back from stream bottoms in order to provide a buffer zone for preventing road sediments from washing into stream channels;

(iii) be located outside slide-prone areas characterized by seeps, steep slopes, highly weathered bedrock, clay beds, concave slopes, hummocky topography, and rock layers that dip parallel to the slope;

(iv) be constructed to stabilize sloped exposed surfaces by seeding, compacting, riprapping, benching, mulching or other suitable means prior to fall or spring runoff;

(v) not be left in an erosive condition over a winter season; and

(vi) be used only minimally during wet periods and spring breakup when damage to the roads, which would result in increased sedimentation, is likely to occur.

(g) Cut-and-fill slopes should be constructed at a stable angle and stabilized by seeding, mulching, benching or other suitable means during the same season as construction.

(h) Clearing, grubbing or logging debris should not be placed in streams or used for diversions or cause water quality degradation.

(i) Diversions and impoundments should be sized to pass the ten-year, 24-hour precipitation event. Diversions should be constructed with drop structures or energy dissipators whenever necessary to prevent erosion. Diversion ditch berms should be sloped to account for site-specific conditions, including soils, climate, height of structure and existing natural slopes, and should be revegetated, riprapped, or otherwise stabilized to minimize stream sedimentation.

(j) Before winter shutdown, a small miner should take the following precautions:

(i) Diversions should be sized to pass spring runoff (minimum ten-year, 24-hour event) or streams should be returned to original channels.

(ii) Ponds should have adequate freeboard to prevent over-topping during spring runoff from direct precipitation and over-land flow. Whenever ponds are located within a flood plain and diversions are not sized to pass the ten-year, 24-hour precipitation event, ponds should be filled and reclaimed prior to onset of winter.

(iii) Soil, overburden, and tailings stockpiles should not be placed near streams, unless necessary, and, or if so placed, should be bermed at the toe to prevent erosion of sediments into streams.

(iv) Fuel storage tanks should be drained before winter shut down and should be drained and disposed of in a manner which protects adjacent streams.

(k) Dikes should be constructed around fuel storage areas to prevent a spill or discharge of fuel to any waters.

(2) A placer or dredge operator who proposes a "project", as that term is defined in [75-7-103](#), MCA, on a perennial stream, must comply with the requirements of the Natural Streambed and Land Preservation Act, as

amended, by obtaining a permit required by the appropriate conservation district.

(3) In order for a SMES placer or dredge operator to meet the reclamation requirements for bond release, the following reclamation planning guidelines should be followed:

(a) A reclamation plan, or appropriate waiver, for all roads is necessary.

(b) The postmine land use should be identified and a reclamation timetable should be established.

(c) Soil should be salvaged from all areas to be disturbed and should be stockpiled for use in reclamation.

(d) Site disturbances should be recontoured to a minimum of 3:1 slopes or flatter by backfilling excavated material, unless otherwise approved by the department as achieving comparable stability and utility in the postmining landscape.

(e) Soil and approved soil amendments should be redistributed over all areas disturbed by mining.

(f) The site should be seeded with perennial nonweedy species.

(g) Stream channels should be reconstructed, using coarse placer tails as necessary to dissipate energy. Riprap, temporary synthetic erosion control, or biodegradable revegetation fabrics in combination with permanent vegetation should be used to stabilize streambanks, as necessary. Streams should be reconstructed with grades, pools, and meanders comparable to premine drainage.

(h) Clays and fines available on-site should be used to create a relatively impermeable layer beneath reclaimed channels and floodplains.

(i) The floodplain should be returned to original contour with the gravel, overburden, and soils replaced to resemble their original stratigraphy.

History: This rule is advisory only, but may be a correct interpretation of the law, [82-4-321](#), MCA; IMP, [82-4-305](#)(1), (3), (4), and (5), MCA; NEW, 1991 MAR p. 445, Eff. 4/12/91; TRANS, from DSL, 1996 MAR p. 2852.

[17.24.183](#) COMPARABLE UTILITY AND STABILITY OF RECLAIMED AREAS--STANDARDS FOR BOND RELEASE FOR SMALL MINERS



(1) In order for the department to release bond, the area must be reclaimed to a postmining land form and land use that are at least comparable to that of adjacent areas. Reclamation must provide for comparable stability and utility as that of adjacent areas, insure public safety, and prevent pollution of air and water and the degradation of adjacent lands.

(2) Bond may not be released unless the following reclamation standards for placer and dredging operations are achieved:

(a) Pits must be backfilled with overburden and washed gravels unless otherwise approved by the department as part of an alternate postmining land use that provides comparable stability and utility.

(b) Excess overburden must also have been appropriately placed and graded.

(c) Soils and soil substitutes must have been respread and graded on the backfilled, regraded overburden surface.

(d) Slopes must have been reduced to a grade which achieves comparable utility and stability in the postmining landscape.

(e) Disturbed areas must have been revegetated with appropriate perennial nonweedy species similar to that of adjacent areas.

(f) Roads must have been reclaimed to approximate original contour consistent with the postmining land form and land use in compliance with (1) unless otherwise approved by the department and concurred with by the landowner.

(g) Stream and floodplain disturbances must be reclaimed to their approximate premining condition so that comparable beneficial uses, such as fisheries, comparable flow capacity, and fluvial functions are restored. In most instances, this will require removal of berms.

(h) Noxious weeds must have been controlled, consistent with county weed board requirements.

History: [82-4-321](#), MCA; IMP, [82-4-305](#)(3), (4), and (5), MCA; NEW, 1991 MAR p. 445, Eff. 4/12/91; TRANS, from DSL, 1996 MAR p. 2852.