

**Action-Specific Applicable or Relevant and Appropriate Requirements
Upper Blackfoot Mining Complex
Lincoln, Montana**

		Description
Federal		
Safe Drinking Water Act	42 USC § 300	
National Primary Drinking Water Regulations	40 CFR Part 141	Establishes health-based standards, maximum contaminant levels (MCLs), for public water systems.
National Secondary Drinking Water Regulations	40 CFR Part 143	Establishes aesthetic standards (secondary MCLs) for public water systems.
Water Pollution Prevention & Control Act	33 USC §§ 1251-1387	
Water Quality Standards	40 CFR Part 131	Sets criteria for water quality based on toxicity to aquatic organisms and human health.
Clean Air Act	42 USC § 7409	
National Primary and Secondary Ambient Air Quality Standards	40 CFR Part 50	Establishes air quality levels that protect public health.
Resource Conservation and Recovery Act	42 USC § 7601	
Lists of Hazardous Wastes	40 CFR Part 261, Subpart D and C	Defines those solids wastes which are subject to regulation as hazardous wastes under 40 CFR Parts 262-265 and Parts 124, 270, and 271.
State of Montana		
Montana Water Quality Act	75-5-101 et seq., MCA 75-5-605, MCA	It is unlawful to cause pollution of any state waters, to place any wastes in a location where they are likely to cause pollution of any state waters, or to violate any permit provision.

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Regulations Establishing Ambient Surface Water Quality Standards	ARM 17.30.623	Provides the water use classification for various streams and imposes specific water quality standards per classification. The specific parts that apply to this stream segment are the B-1 standards at 17.30.623.
General Prohibitions for State Surface Waters	ARM 17.30.637	Requires that the State's surface waters be free from, among other things, substances that will create concentrations or combinations of materials that are harmful to human, animal, plant or aquatic life. No waste may be discharged and no activities may be conducted that can reasonably be expected to violate any of the standards.
Non-Degradation of Water Quality	ARM 17.30.705-717 75-5-303, MCA	Applies non-degradation requirements to any activity that would cause a new or increased source of pollution to state waters and outlines review procedures.
Montana Groundwater Pollution Control System Regulations	ARM 17.30.1006	Classifies groundwater into Classes I through IV based on the present and future most beneficial uses of the groundwater, and states that groundwater is to be classified based upon actual quality or actual use, whichever places the groundwater in a higher class.
	ARM 17.30.1011	Requires that any groundwater whose existing quality is higher than the standard for its classification must be maintained at that high quality unless degradation is allowed under the principles established in 75-5-303, MCA, and the non-degradation rules at ARM 17.30.705 et seq.

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Clean Air Act of Montana and Clean Air Act	75-2-101, MCA et seq. and 42 USC 7401 et seq.	
Ambient Air Quality Regulations	ARM 17.8.206	Establishes sampling, data collection, and analytical requirements to ensure compliance with ambient air quality standards.
	ARM 17.8.220	Settled particulate matter shall not exceed a 30-day average of 10 grams per square meter.
	ARM 17.8.222	Lead emissions to ambient air shall not exceed a 90-day average of 1.5 micrograms per cubic liter of air.
	ARM 17.8.223	PM-10 concentrations in ambient air shall not exceed a 24-hour average of 150 micrograms per cubic meter of air and an annual average of 50 micrograms per cubic meter of air.
Federal		
Resource Conservation and Recovery Act	42 USC § 7601	
Hazardous and Solid Waste Regulations	40 CFR Part 264.18	Location standards and restrictions for hazardous waste treatment, storage, and disposal (TSD) facilities
	40 CFR §§ 257.3-1 through 257.3-4	Location standards and restrictions for municipal solid waste (MSW) facilities.
National Historic Preservation Act	16 USC § 470; 36 CFR Part 800 40 CFR 6.301(b)	Requires Federal Agencies to take into account the effect of any Federally assisted undertaking or licensing on any property with historic, architectural, archeological, or cultural value that is included in or eligible for inclusion in the National Register of Historic Places.

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Archeological and Historic Preservation Act	16 USC § 469 40 CFR 6.301(c)	Establishes procedures to provide for preservation of significant scientific, prehistoric, historic, and archeological data that might be destroyed through alteration of terrain as a result of a Federal construction project or a Federally licensed activity or program.
Historic Sites Act	16 USC §§ 461-467 40 CFR 6.301(a) 36 CFR 62	Requires Federal agencies to consider the existence and location of potential and existing National Natural Landmarks to avoid undesirable impacts on such landmarks.
Protection of Wetlands Executive Order No. 11990	40 CFR Part 6; Appendix A, 40 CFR 6.302(a)	Avoid adverse impacts associated with the destruction or loss of wetlands and avoid support of new construction in wetlands if a practicable alternative exists.
Dredge and Fill Regulations	33 USC § 1344, 33 CFR 323.1 et. seq.	Prohibits discharge of dredged or fill material into waters of the United States without a permit
Fish and Wildlife Coordination Act	16 USC Chapter 49, §§ 2901-2912; 40 CFR 6.302(g)	Requires consultation when Federal department or agency proposes or authorizes any modification of any stream or other water body to assure adequate protection of fish and wildlife resources.

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		Description
Floodplain Management Executive Order No. 11988	40 CFR Part 6, Appendix A 40 CFR 6.302(b)	Requires Federal agencies to evaluate the potential effects of actions they may take in a floodplain to avoid the adverse impacts associated with direct and indirect development of a floodplain to the extent possible.
Endangered Species Act	16 USC §§ 1531-1543; 40 CFR 6.302 (h); 50 CFR Part 402	Activities may not jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify a critical habitat.
Bald Eagle Protection Act	16 USC §§ 668 et seq.	Requires continued consultation with the USFWS during response design and response construction to ensure that any cleanup of the site does not unnecessarily adversely affect the bald or golden eagle.
Migratory Bird Treaty Act	16 USC §§ 703 et seq.	Establishes federal responsibility for the protection of the international migratory bird resource and requires continued consultation with the USFWS during response design and response construction to ensure that the cleanup of the site does not unnecessarily impact migratory birds.
State of Montana		
Montana Solid Waste Management Act	75-10-201, MCA et seq.	
Solid Waste Management Regulations	ARM 17.50.505	Location standards and restrictions for solid waste management facilities. State equivalent of Federal Part 257 regulations.

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		Description
Floodplain and Floodway Management Act	76-5-401, MCA et seq.	
Floodplain Management Regulations	ARM 36.15.216 76-5-406, MCA	The factors to consider in determining whether a permit should be issued to establish or alter an artificial obstruction or nonconforming use in the floodplain or floodway are provided in this section.
	ARM 36.15.601 76-5-401, MCA 76-5-402, MCA	Open space uses allowed in the floodway without a permit.
	ARM 36.15.602	Provides a list of allowable uses (if permitted) and conditions for those uses in designated floodways. Two of the uses that are listed – excavation of pits and pools in the floodway and the construction of stream crossings – may occur during the removal.
	ARM 36.15.603	Proposed diversions or changes in place of diversions must be evaluated by the DNRC to determine whether they may significantly affect flood flows and, therefore, require a permit.
	ARM 35.15.604	Prohibits new artificial obstructions or nonconforming uses that will increase the upstream elevation of the base flood 0.5 of a foot or significantly increase flood velocities.

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Floodplain Management Regulations (continued)	ARM 36.15.605, 76-5-403, MCA	Identifies artificial obstructions and nonconforming uses that are prohibited within the designated floodway except as allowed by permit and includes “a structure or excavation that will cause water to be diverted from the established floodway, cause erosion, obstruct the natural flow of water, or reduce the carrying capacity of the floodway...” Solid waste disposal and storage of highly toxic, flammable, or explosive materials are also prohibited.
	ARM 36.15.606	Identifies flood control works including dams, levies, flood walls, rip-rap, and channelization projects that are allowed within designated floodways pursuant to permit and certain conditions.
	ARM 36.15.701	Describes allowed uses in the flood fringe. Liquid and solid waste treatment and disposal are allowed as long as the activities are approved under the appropriate laws and the disposal is flood proofed to insure that no pollutants enter flood waters.
	ARM 36.15.702	Prohibits residential, commercial, and industrial structures in the floodplain.
	ARM 36.15.703	Lists prohibited uses within the flood fringe. Solid and hazardous waste disposal and storage of toxic, flammable, or explosive materials. (Language is inconsistent with ARM 36.15.701, which allows solid waste disposal in the flood fringe.)
	ARM 36.15.801	Allowed uses where the floodway is not designated or where no flood elevations are available.

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Endangered Species	87-5-106, 107, and 111, MCA ARM 12.5.201	Endangered species should be protected in order to maintain and, to the extent possible, enhance their numbers. Certain activities are prohibited.
Natural Streambed and Land Preservation Standards	75-7-101 et seq., MCA ARM 36.2.401, et seq.	Fish and wildlife resources are to be protected and no construction project or hydraulic project shall adversely affect game or fish habitat.
Federal		
Clean Water Act	33 USC § 1342	
National Pollutant Discharge Elimination System	40 CFR Part 122.26	In general, Part 122 provides permit requirements for the discharge of pollutants from any point source into waters of the United States. Part 122.26 requires permits for storm-water discharges.
Surface Mining Control and Reclamation Act	30 USC §§ 1201-1328	Performance standards for surface mining activities.
Hazardous Materials Transportation Act	49 USC §§ 1801-1813	Regulates transportation of hazardous materials.
Hazardous Materials Transportation Regulations	49 CFR Parts 10, 171-177	
Resource Conservation and Recovery Act	46 USC § 7601	
Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal (TSD) Facilities	40 CFR Part 264	Requirements for proper handling, treatment, storage, and disposal of hazardous wastes. Part 264.258 (Subpart L) concerns closure of waste piles. If wastes remain after all reasonable efforts have been made to effect removal or decontamination of wastes in waste piles, then closure will be per the landfill closure regulations at Part 264.310 (Subpart N)

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Land Disposal Restrictions	40 CFR Part 268	Discusses the land ban.
Criteria for Municipal Solid Waste (MSW) Landfills	40 CFR Part 258.50-56	Requirements for ensuring appropriate assessment, monitoring, and protection of groundwater due to engineered disposal facilities.
	40 CFR Part 258.60(a)(1-3)	Closure criteria for MSW facilities.
State of Montana		
Clean Air Act of Montana	75-2-101, MCA et seq.	
Emission Standards	ARM 17.8.304	No person shall cause opacity of 40% over 6 minutes.
	ARM 17.8.308(2)	Reasonable precautions shall be taken to control emissions of airborne particulate matter during the use of streets, roads, and parking lots.
	ARM 17.8.308(3)	Reasonable precautions shall be taken to control emissions of airborne particulate matter from a construction site or demolition project.
	ARM 17.8.604	Lists certain wastes that may not be disposed of by open burning, including oil or petroleum products, RCRA hazardous wastes, chemicals, and treated lumber and timbers.
Air Resources Protection for Reclamation Activities	ARM 17.24.761	Requires that a fugitive dust control program be implemented in reclamation operation, and lists specific components of such a program.

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		Description
Montana Dam Safety Act	85-5-201 et seq., MCA	Addresses removal of dams
	ARM 36.14.501	Sets forth high hazard dam criteria
	ARM 36.14.502	Sets forth hydrologic standard for emergency and principal spillways
	ARM 36.14.503	Sets forth certain monitoring instrumentation requirements
	ARM 36.14.504	Sets forth requirements for breach or removal of an earthen dam
	ARM 36.14.306	Sets forth requirements for repair measures
	ARM 36.14.309	Requires actions to correct dangerous or emergency conditions
	ARM 36.14.404	Requires a safe drawdown rate for the reservoir
	ARM 36.14.405	Requires removal and prevention of the accumulation of deleterious materials from the upstream face of the dam and spillway system and maintenance of adequate vegetation to prevent erosion
Montana Groundwater Act	85-2-516, MCA	States that within 60 days after any well is completed, the driller must file a well log report with DNRC and the appropriate county clerk and recorder.
	ARM 36.21.701-810	Requirements for abandoning monitoring wells.

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Montana Water Quality Act	75-5-101 et seq., MCA	
Regulations Establishing General Treatment Standards	ARM 17.30.635	Imposes treatment requirements to restore and maintain the quality of surface water to applicable water use.
	ARM 17.30.1332 and 1341	Requires a storm water discharge permit. The state has general permits for construction activities and for mining activities including inactive and abandoned mines. Generally, the permits require best management practices to minimize or prevent any discharge from adversely affecting human health or the environment.
Montana Solid Waste Management Act	75-10-201, et seq. MCA	
	ARM 17.50.505	Establishes standards for landfills
	ARM 17.50.511(1)(j)	Describes run-on and run-off control requirements for the active portion of an operating landfill
	ARM 17.50.523	Solid waste must be transported in such a manner as to prevent its discharge, dumping, spilling or leaking from the transport vehicles.
	ARM 17.50.530	Establishes closure requirements for landfills.
	ARM 17.50.531	Establishes post-closure care requirements for Class II landfills.
	ARM 17.50.706	Establishes location and number of monitoring wells at landfill sites.
	ARM 17.50.707	Establishes monitoring well construction requirements
	ARM 17.50.722	Establishes monitoring well abandonment requirements

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Montana Solid Waste Management Act (continued)	ARM 17.50.724	Establishes monitoring well network maintenance requirements
Montana Hazardous Waste Act	75-10-401, MCA, et seq., ARM Title 17, Chapter 54	Establishes a regulatory structure for the generation, transportation, treatment, storage, and disposal of hazardous wastes. These requirements would be applicable if any substances at the site are listed hazardous wastes.
Montana Strip and Underground Mine Siting Act	82-4-101, MCA et seq.	
Backfilling and Grading Requirements	ARM 17.24.501	These sections give general backfilling and grading requirements.
	ARM 17.24.504	Provides that permanent impoundments may be retained under certain circumstances.
	ARM 17.24.507	Provides requirements for storage and final disposal of garbage and other debris generated during mining activities.
	ARM 17.24.519	Requires that regraded areas be monitored for settlement

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Requirements Pertaining to Transportation Facilities, Use of Explosives, and Hydrology	ARM 17.24.631	In accordance with this section, reclamation operations must be planned and conducted to minimize disturbance to the prevailing hydrologic balance. Changes in water quality and quantity must be minimized and reclamation practices that will prevent or minimize water pollution should be emphasized. Proper pollution control and minimization practices include but are not limited to stabilizing disturbed areas, diverting runoff, regulating channel velocity of water, achieving quickly germinating and growing stands of temporary vegetation, and lining drainage channels.
	ARM 17.24.633	Specifies that “all surface drainage from the disturbed area, including disturbed areas that have been graded, seeded, or planted must be treated by the best technology currently available.” Sediment control must be maintained until the disturbed area has been restored and revegetation requirements have been met.
	ARM 17.24.634	Drainage system design shall emphasize premining channel and floodplain configurations that blend with the undisturbed drainage above and below; will meander naturally; remain in dynamic equilibrium with the system; improve unstable premining conditions, provide for floods, provide for long-term stability of the landscape, and establish a premining diversity of aquatic habitats and riparian vegetation.
	ARM 17.24.635-637	Set forth requirements for temporary and permanent diversions.

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Requirements Pertaining to Transportation Facilities, Use of Explosives, and Hydrology (continued)	ARM 17.24.638	Sediment control measures shall be designed using the best technology currently available to prevent additional sediment to streamflows, meet the more stringent of federal or state effluent limitations, and minimize erosion.
	ARM 17.24.639	Provides specific design requirements for detention time, flood flow, etc. for temporary and permanent sedimentation ponds.
	ARM 17.24.640	Provides that discharge from sedimentation ponds, permanent and temporary impoundments, and diversions shall be controlled by energy dissipaters, riprap channels, and other devices, where necessary, to reduce erosion, prevent deepening or enlargement of stream channels, and to minimize disturbance.
	ARM 17.24.641	Sets forth methods for prevention of drainage from acid- and toxic-forming spoils into ground and surface waters.
	ARM 17.24.642	Prohibits permanent impoundments with certain exceptions, and set standards for temporary and permanent impoundments.
	ARM 17.24.643	Provides for groundwater protection by controlling discharge of acid, toxic, or otherwise harmful mine drainage waters into groundwater. Requirement that any backfill material be placed to minimize adverse effects on groundwater flow and quality.

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Requirements Pertaining to Transportation Facilities, Use of Explosives, and Hydrology (continued)	ARM 17.24.644	Provides for the protection of groundwater recharge. The groundwater recharge shall be restored to pre-mining conditions.
	ARM 17.24.645	Provides requirements for groundwater monitoring prior to permit issuance, during mining, and post-mining.
	ARM 17.24.646	Provides requirements for surface water monitoring prior to permit issuance, during mining, and post-mining.
	ARM 17.24.649	Prohibits the discharge, diversion, or infiltration of surface and groundwater into existing underground mine workings.
	ARM 17.24.650	All permanent sedimentation ponds, diversions, impoundments, and treatment facilities must be renovated post-mining, to meet criteria specified in the design plan. All such temporary structures shall be regraded to the approximate original contour.
Top Soiling, Revegetation, and Protection of Wildlife and Air Resource Regulations	ARM 17.24.701-702	Requirements on removal, redistribution, and stockpiling soil during the mining operation to be used for reclamation.
	ARM 17.24.703	Requirements for getting state approval for substituting material other than soil for reclamation.
	ARM 17.24.711	Vegetative cover requirements
	ARM 17.24.713	Timing of seed application

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Top Soiling, Revegetation, and Protection of Wildlife and Air Resource Regulations (continued)	ARM 17.24.714	Pursuant to this section, as soon as practicable, a mulch or cover crop of small grains, grasses or legumes or both must be used on all regraded and resoiled areas to control erosion, promote germination of seeds and increase the moisture retention of the soil until adequate permanent cover is established.
	ARM 17.24.716	Establishes the required method of revegetation and provides that introduced species may be substituted for native species as part of an approved plan.
	ARM 17.24.717	Whenever tree species are necessary, trees adapted for local site conditions and climate shall be used.
	ARM 17.24.718	Soil amendments must be used as necessary to aid in the establishment of permanent vegetative cover. Irrigation, management, fencing, or other measures may also be used after review and approval by the department.
	ARM 17.24.719	Livestock grazing on reclaimed land is prohibited until revegetation is established to sustain managed grazing.
	ARM 17.24.721	In accordance with this section, rills and gullies may need to be filled, graded or otherwise stabilized and the area reseeded.
	ARM 17.24.723	Requires periodic monitoring of vegetation, soils, and wildlife.
	ARM 17.24.724	Success of revegetation shall be evaluated.
	ARM 17.24.726	Sets means of measuring productivity.
	ARM 17.24.728	Sets requirements for composition of vegetation – must be 51% native vegetation.

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Top Soiling, Revegetation, and Protection of Wildlife and Air Resource Regulations (continued)	ARM 17.24.730	The revegetated area must furnish palatable forage in comparable quantity and quality during the same grazing period as the reference areas.
	ARM 17.24.731	Where toxicity to plants or animals is suspected, then toxicity testing may be required.
	ARM 17.24.733	Sets requirements and measurement standards for trees, shrubs, and half-shrubs.
	ARM 17.24.751	Pursuant to this section, required site activities must be conducted so as to avoid or minimize impacts to important fish and wildlife species, including critical habitat and any threatened or endangered species identified at the site.
Noxious Weed Regulations	7-22-2152 MCA and ARM 4.5.201 to 204	Requires submittal of written plan for addressing noxious weeds to county weed board