



ADMINISTRATIVE RULES OF MONTANA



17.24.1145 DESIGNATION OF LANDS UNSUITABLE: NOTICE AND ACTION ON PETITION

(1)

- (a) Within 30 days of receipt of a petition, the department shall notify the petitioner by certified mail whether or not the petition is complete under ARM 17.24.1144(2) or (3).
- (b) The department shall determine whether any identified coal resources exist in the area covered by the petition, without requiring any showing from the petitioner. If the department finds there are no identified coal resources in that area, it shall provide the petitioner with a statement of the findings.
- (c) Once the requirements of ARM 17.24.1144 are met, no party bears any burden of proof, but each accepted petition must be considered and acted upon by the department pursuant to the procedures of this rule.
- (d) When considering a petition for an area which was previously and unsuccessfully proposed for designation, the department shall determine if the new petition presents new allegations of facts. If the petition does not contain new allegations of facts, the department may not consider the petition and shall provide the petitioner with a statement of its findings and a reference to the record of the previous designation proceedings where the facts were considered.
- (e) If the department determines that the petition or a portion thereof is incomplete or frivolous, it shall provide the petitioner with a written statement of the reasons for the determination and the categories of information needed to make the petition complete. A frivolous petition is one in which the allegation of harm lacks serious merit. The department is not required to process a petition that is incomplete, frivolous, or filed by a person who does not have an interest that is or may be adversely affected.
- (f) The department shall notify the person who submits a petition of any application for a permit received that contains a proposal to include any area covered by the petition.
- (g) The receipt of any petition after the close of the public comment period on a permit application relating to the same mine plan area does not prevent the department from issuing a decision on that permit application. The department may refuse to process any petition received thereafter and shall provide the petitioner with a statement why the department cannot consider the petition. For the purposes of this rule, "close of the public comment period" means at the close of any informal conference held under ARM 17.24.403, or, if no conference is requested, the close of the period for filing written comments and objections under 17.24.402.

(2)

- (a) Promptly after receipt of the petition, the department shall notify the general public that a petition has been filed. The notice must be a newspaper advertisement in the newspaper providing the broadest circulation in the locale of the petition area. The notice must be published once a week for 2 consecutive weeks. A similar notice must be placed in the Montana Administrative Register. The notice must include a request for submission of relevant information.
 - (b) Within 3 weeks after the determination that a petition is complete, the department shall circulate copies of the petition to, and request submissions of relevant information from, other interested governmental agencies, the petitioner, intervenors, persons with an ownership interest of record in the property, and other persons known to the department to have an interest in the property.
 - (c) Promptly after the determination has been made that a petition is complete, the department shall request submissions of relevant information from the general public by a newspaper advertisement placed once a week for 2 consecutive weeks in the newspaper of broadest circulation in the locale of the petition area, and in the Montana Administrative Register.
- (3) Until 3 days before the department holds a hearing under ARM 17.24.1146, any person may intervene in the proceeding by filing allegations of facts, supporting evidence, a short statement identifying the petition to which the allegations pertain, and the intervenor's name, address, and telephone number.
 - (4) Beginning immediately after a complete petition is filed, the department shall compile and maintain a record consisting of all documents relating to the petition filed with or prepared by the department. The department shall make the record available for public inspection free of charge and for copying at reasonable cost during all normal business hours at all its offices or, upon request, at a county courthouse or library.

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

Implementing statute(s): 82-4-227, MCA

History: NEW, 1980 MAR p. 725, Eff. 4/1/80; AMD, 1989 MAR p. 30, Eff. 1/13/89; TRANS, from DSL, 1996 MAR p. 3042; AMD, 2024 MAR p. 260, Eff. 2/10/24.