



ADMINISTRATIVE RULES OF MONTANA

17.24.1264 THE DEPARTMENT'S OBLIGATIONS REGARDING THE APPLICANT/VIOLATOR SYSTEM

- (1) The department shall enter into the applicant/violator system (AVS) the following data:
 - (a) information that the applicant is required to submit under ARM 17.24.303(1)(f), (g), and (h);
 - (b) information submitted by the applicant pursuant to ARM 17.24.303(1)(m) and (n) pertaining to violations which are unabated or uncorrected after the abatement or correction period has expired; and
 - (c) any additional information of the kind described in (1)(a) or (b) submitted or discovered during the department's permit application review, upon verification by the department of that additional information.
- (2) If, at any time, the department discovers that any person owns or controls an operation with an unabated or uncorrected violation, the department shall take appropriate enforcement action. The department shall enter the results of each enforcement action, including administrative and judicial decisions, into AVS.
- (3) The information provided to or obtained by the department must be entered into AVS pursuant to the following table:

The department shall enter into AVS all:	Within 30 days after:
1. permit records	the permit is issued or subsequent changes are made
2. unabated or uncorrected violations	the abatement or correction period for a violation expires
3. changes to information initially required to be provided by an applicant under ARM 17.24.303(1)(g)(i) through (iv) and (h)	receiving notice of a change
4. changes in violation status	abatement, correction, or termination of a violation, or a decision from an administrative or judicial tribunal
5. additional information submitted or discovered during the department's permit application, permit renewal application, or permit amendment application review	verification by the department of the additional information

- (4) If, at any time, the department identifies a person who owns or controls an entire coal mining operation or any relevant portion or aspect of a coal mining operation, the department shall issue a written preliminary finding to the person and the applicant or permittee describing the nature and extent of ownership or control. The preliminary finding must be based on evidence sufficient to establish a prima facie case of ownership or control.
- (5) A person subject to a preliminary finding under (4) has 30 days in which to submit to the department information tending to demonstrate that person's lack of ownership and control. If, after reviewing the submitted information, the department determines the person is not an owner or controller, the department shall serve written notice of that determination on that person. If, after reviewing the submitted information, the department determines the person is an owner or controller or if no information is submitted during the 30-day period, the department shall issue its finding in writing and shall enter that finding into AVS.
- (6) A person identified as an owner or controller under (5) may challenge the finding using the provisions of ARM 17.24.1266.
- (7) Whenever a court of competent jurisdiction enters a judgment against a person under 82-4-254(4) or convicts a person under 82-4-254(6) or (7), MCA, the department shall update the AVS.

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

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

History: NEW, 2012 MAR p. 1349, Eff. 4/13/12; AMD, 2024 MAR p. 260, Eff. 2/10/24.