



ADMINISTRATIVE RULES OF MONTANA



17.20.1605 ENERGY GENERATION FACILITIES, DECISIONS

- (1) In making its decision under 75-20-301(3), MCA, the department shall identify all:
 - (a) significant environmental impacts; and
 - (b) reasonable, cost-effective mitigation measures for those impacts.
- (2) For those significant environmental impacts that cannot be mitigated below the level of significance, the department shall determine whether there is a threat of serious injury or damage to the environment, the social and economic conditions of inhabitants of the affected area, and the health, safety, or welfare of area inhabitants.
- (3) In determining the reasonableness of mitigating measures under 75-20-301(3)(a), MCA, the department shall consider appropriate factors including, but not limited to, whether the measure:
 - (a) is within or can reasonably be expected to be within an applicant's or the department's ability to implement;
 - (b) is technologically feasible as shown through research, successful prototype testing, or successful implementation in similar situations;
 - (c) is likely to succeed in mitigating the identified significant impact when implemented individually or in conjunction with other adopted measures; and
 - (d) can be monitored for implementation and effectiveness.
- (4) In determining whether a mitigating measure is cost-effective under 75-20-301(3)(a), MCA, the department shall use the following analysis:
 - (a) estimate the net present value of the cost of implementing the mitigating measure;
 - (b) estimate the net present value of the benefits of implementing the measure, including:
 - (i) reductions in adverse environmental impacts of the facility and any other benefits, that are readily quantifiable and valued in monetary terms; and
 - (ii) reductions in adverse impacts, and any other benefits, that are not readily quantifiable or not readily valued in monetary terms.
 - (c) if (4)(a) is greater than (4)(b)(i), and (4)(b)(ii) is not deemed significant, the mitigating measure is not cost-effective; and
 - (d) if (4)(a) is less than or equal to (4)(b)(i), or if (4)(a) is greater than (4)(b)(i) and (4)(b)(ii) is deemed to be significant and sufficient to outweigh the value of (4)(a) minus (4)(b)(i), the mitigating measure is cost-effective.

- (5) All mitigating measures upon which the department relies in its decision must be made conditions of the certificate.
- (6) For each facility and associated facilities, a certificate of environmental compatibility must contain:
 - (a) an approved reclamation plan;
 - (b) an approved monitoring plan;
 - (c) any construction and reclamation bonds required by the department;
 - (d) a set of environmental specifications addressing measures to reduce impacts of construction, operation, and decommissioning; and
 - (e) a map, in electric format acceptable to the department, showing section lines, the site boundary, location of the facility, facility components, and any associated facility(ies).
- (7) A certificate holder must comply with all terms of a certificate of environmental compatibility including, but not limited to, the items in (5) and (6) above.

Authorizing statute(s): 75-20-105, MCA

Implementing statute(s): 75-20-301, MCA

History: NEW, 2001 MAR p. 2410, Eff. 12/7/01; AMD, 2023 MAR p. 764, Eff. 8/5/23.