



ADMINISTRATIVE RULES OF MONTANA



17.55.114 DELISTING A FACILITY ON THE CECRA PRIORITY LIST

- (1) Except as provided in (3) , the department shall delist a facility from the CECRA priority list if:
 - (a) the department determines that all requirements of CECRA have been fully met, including the requirement that conditions at the facility assure present and long term protection of public health, safety and welfare, and the environment;
 - (b) the department determines that the facility should not have been listed based on subsequent investigation; or
 - (c) another state program assumes jurisdiction of the facility and that state program is addressing all the releases and threatened releases of all hazardous or deleterious substances at the facility.
- (2) In determining whether to delist a facility from the CECRA priority list, the department shall consider whether:
 - (a) documented investigations or facility-specific risk analysis demonstrate that taking additional remedial actions is not appropriate to address the release or threatened release of hazardous or deleterious substances;
 - (b) liable persons or other persons have completed all appropriate remedial actions, including a final long term remedy, required by the department; and
 - (c) other relevant information or conditions exist that pertain to the issue of delisting the facility from the CECRA priority list.
- (3) The department may not delete from the CECRA priority list a facility that is subject to continuing engineering controls or institutional controls unless the engineering or institutional controls consist of:
 - (a) deed restrictions or restrictive covenants that run with the land and that have been approved by the department and duly recorded;
 - (b) zoning restrictions; or
 - (c) a designated controlled ground water area as provided for in 85-2-506 , MCA.
- (4) The department may list on the CECRA priority list a facility that has previously been delisted from the CECRA priority list if a new release occurs or if the department receives new or different information regarding the need for further remedial action. In relisting, the department shall comply with the requirements of ARM 17.55.108.

- (5) A facility at which remedial actions are being conducted under the Voluntary Cleanup and Redevelopment Act is eligible for delisting from the CECRA priority list after a petition for closure has been granted by the department pursuant to 75-10-738 , MCA, and the other requirements of this rule are met.
- (6) Prior to delisting a facility on the priority list, the department shall provide the opportunity for public comment, as follows:
 - (a) The department shall publish a notice of the proposed delisting in a daily newspaper of general circulation in the county where the community most likely to be threatened by the facility that is proposed for delisting is located.
 - (b) The notice must provide 30 days for submission of written comments to the department regarding the proposed delisting.
 - (c) The department shall notify the county commissioners, local boards of health created pursuant to 50-2-104 through 50-2-107 , MCA, and governing bodies of cities, towns, or consolidated local governments in the community most likely to be threatened by the facility that is proposed for delisting.
 - (d) The department may conduct a public meeting in the community most likely to be threatened by the facility that is proposed for delisting without a specific request for such meeting.
 - (e) The department shall conduct a public meeting in the community most likely to be threatened by the facility that is proposed for delisting upon written request within the comment period by 10 or more persons, by a group composed of 10 or more members, or by a local governing body of a city, town, or county.
 - (f) The department shall consider and respond in writing to relevant written comments properly submitted during the comment period or at the public meeting.
- (7) Any person may submit a request to the department to delist a facility on the priority list. The request must be in writing, contain the rationale for the delisting, and indicate with specificity how the requirements of this rule have been met. If the department determines delisting is appropriate, compliance with (6) is required.

Authorizing statute(s): 75-10-702, MCA

Implementing statute(s): 75-10-702, MCA

History: NEW, 1999 MAR p. 837, Eff. 4/23/99.