

Areas Unsuitable for Mining Program

Bureau of Mining and Reclamation Department of Environmental Protection

The Areas Unsuitable for Mining (UFM) Program operates in response to formal “petitions” being submitted to the Pennsylvania Department of Environmental Protection by a person, business concern, environmental organization, local or state government agency, or any other public agency or citizen organization. A UFM “petition” is a written request with supporting technical documentation similar to that of a mining permit application, which formally asks the Department to consider designating a particular area, in which they have an interest, as unsuitable for surface coal mining operations, or to have a previous designation terminated (revoked). Note: this program is only applicable to surface coal mining activities. This petition process obligates the Department to consider petition requests deemed to be complete and that have merit as a result of the evidence submitted. The Department will then conduct a technical study, provide for public participation through notifications and public hearings, and make a recommendation to the Environmental Quality Board (EQB) for possible rulemaking.

Upon request, the Bureau of Mining and Reclamation provides petition application forms and instructional materials to any person interested in this program. The Bureau also conducts informal public informational workshops to explain program requirements and procedures, and identifies other agencies and informational sources which may provide support concerning the specific area of interest. The Bureau’s technical staff acts in an advisory capacity to answer questions, discuss the appropriateness of a petition for the area of concern, and identify other Departmental programs which may be applicable to the area.

In submitting a petition, the petitioner must identify the important qualities of the area for which protection is being sought and provide allegations of facts and supporting evidence which would tend to establish that the area is unsuitable for coal mining operations. Because the law authorizing designations stipulates certain criteria upon which designations are to be based, a petitioner’s concerns must be arranged as allegations of fact which relate directly to these criteria. Petition allegations must be based upon only those criteria which are applicable to the petition area and are substantiated with supporting evidence.

The criteria for designation of areas unsuitable for mining are separated into two distinct categories, identified as mandatory and discretionary criteria. The mandatory criterion requires designation in the event it can be demonstrated that reclamation of an area is not technologically and economically feasible. This criterion is narrow in scope and up to now has been used exclusively where surface mining operations would, in all probability, result in the production of mine drainage which would cause significant environmental damage.

The discretionary criteria are broad in scope and provide for protection of areas where reclamation could feasibly be accomplished under current laws, but where surface mining operations would cause significant damage to or long term losses of important environmental features. There are four discretionary criteria, relating to coal mining operations that may: (1) be incompatible with land use plans; (2) affect fragile or historic lands; (3) affect renewable resource lands with loss or reduction of water supply or of food or fiber products; or (4) affect natural hazard lands where surface mining operations could endanger life or property.

The Department acknowledges receipt of all petitions by written notice to the petitioner. The Department also notifies the appropriate District Mining Office of receipt of the petition and determines the status of any pending mine permit applications within the petition area.

Department regulations require coal mine operators submitting mine permit applications to provide public notice of their intent to conduct mining operations. A petition received after the first public notice for an administratively complete permit application, will not prevent the Department from issuing a decision on that mine permit application.

Within 30 days of receipt of a petition, the Department is required to determine whether or not the petition is complete and if any identifiable coal resources exist in the area covered by the petition. Petitions which do not contain sufficient information to adequately support the allegations of fact are returned to the petitioner as incomplete with an explanation of what is needed to make the petition complete. The petitioner then has a period of 30 days to complete the petition and return it to the Department.

If the Department finds that there are no mineable coal resources within the petition area or the petition is found to be still incomplete following resubmission, the petition is rejected and returned to the petitioner as frivolous. If after the initial review of the petition, the allegations are found to lack serious merit, the petition may also be returned as frivolous.

Petitions which are determined to be complete may be accepted for technical study, and a public record of all correspondence and technical findings is established and maintained at the Bureau of Mining and Reclamation and at the appropriate District Mining Office.

Upon beginning the technical study, the Department identifies known surface and mineral owners within the petition area and provides written notification to the property owners that the area is being considered for designation as unsuitable for coal mining operations. Public notification also is accomplished by local newspaper announcements and publication in the Pennsylvania Bulletin.

Anyone with an interest within the petition area that may be affected by an unsuitable for mining designation may become an intervenor, for or against the UFM proceedings, by filing allegations of fact, supporting evidence, a short statement identifying the petition to which the allegations pertain, which interests that could be affected, and a request for intervenor status including name, address, and phone number. Requests for intervenor status are accepted until three days before the public hearing on the petition.

The technical study includes an evaluation of the relevant physical, environmental, and cultural features found within the petition area. The study provides a detailed documentation and discussion of the geologic and hydrologic characteristics, previous mining history, coal reserves, and potential environmental impacts that coal mining may have on the resources of the area.

The technical study area, and possible subsequent designation area, may differ in extent from the original petition area, because the Department will make appropriate geographic adjustments which are necessary to protect the interests of the petitioner, or to delete areas which were found to be ineligible for designation, or which have already been designated as unsuitable for coal mining by existing statutes.

Within 10 months from receipt of a complete petition, and near completion of the technical study, the Department schedules a public hearing in the locality of the petition area. This public hearing is legislative and fact-finding in nature. A verbatim transcript is made of the public hearing and the Department prepares a Comment and Response Document addressing comments presented at the public hearing and comments submitted during a public comment period following the public hearing.

Upon completion of the Department's technical study and the evaluation of all public comments, the Department presents a recommendation to the Environmental Quality Board, accompanied by the final report of the technical study, the Comment and Response Document, and documents related to the proposed regulation, if the recommendation is to designate. As the Environmental Quality Board reviews the recommendation and the accompanying documents, the Department answers any questions that the Environmental Quality Board may have and supplies any additional information that may be requested.

The decision of the Environmental Quality Board whether or not to designate the area as unsuitable for mining operations is published in the Pennsylvania Bulletin and the petitioner and any intervenors are notified directly.

If the decision is to designate the area as unsuitable for mining operations, a second public comment period is provided. The decision is drafted as proposed rulemaking. The proposed regulation is reviewed by the House of Representatives Environmental Resources and Energy Committee, the Senate Environmental Resources and Energy Committee, and by the Independent Regulatory Review Commission. At the end of the public comment period for the proposed rulemaking, all comments and Committees' reports are evaluated by the Department. The Department then decides whether to submit a final rulemaking package to the Environmental Quality Board, which, if it agrees with the Department's recommendation, issues an unsuitable for mining designation in the form of a regulation. Designation of areas as unsuitable for coal mining become effective upon publication of the final regulation in the Pennsylvania Bulletin.

If the Environmental Quality Board does not designate the petition area as unsuitable for mining, the process stops with public notice in the Pennsylvania Bulletin.

Any person may petition to have the designation of an area as unsuitable for mining terminated. The administrative procedures and processes for termination of a designation are essentially the same as those used for designation. Petitions to terminate a designation must identify the petitioners' interest which is, or could be, adversely affected by continuation of the designation. The petitioner must present allegations of newly discovered facts, with newly discovered supporting evidence not contained in the record of the proceedings in which the area was designated unsuitable for coal mining. This evidence must tend to establish that the designation should be terminated. Allegations and supporting evidence should correspond to the criteria used as the basis for the designation of the area as unsuitable for coal mining.

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