



Montana Legislative Services Division

Legal Services Office

TO: Environmental Quality Council
FROM: Helen Thigpen
DATE: January 9, 2012
RE: Legislative Administrative Rule Review Report

Pursuant to 75-1-324 and 5-5-215, MCA, the Environmental Quality Council is responsible for reviewing administrative rules within its jurisdiction. Staff for the Environmental Quality Council has prepared this report for informational purposes only. This report does not represent any action or opinion of the Environmental Quality Council and does not preclude additional action that may be taken by the Environmental Quality Council pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER:

17-324

AGENCY/BOARD:

Board of Environmental Review

RULE CLASSIFICATION: (e.g. substantive/interpretative/emergency/temporary)

Substantive

SUBJECT:

Strip and Underground Mine Reclamation Act

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice)

Notice of Public Hearing on Proposed Amendment, Adoption, and Repeal

SUMMARY OF RULE(S):

The Board of Environmental Review is proposing to amend, adopt, and repeal rules implementing the Strip and Underground Reclamation Act, 82-4-201, MCA, *et seq.*

In general, the rules are being amended to comply with federal requirements and to allow DEQ to retain primacy under the Surface Mining Control and Reclamation Act of 1977. Specifically, DEQ is proposing to adopt rules to govern its utilization of the Applicant/Violator System (AVS), which is defined in the rule proposal as an “automated information system of applicant, permittee, operator, violation, and related data that the

Office of Surface Mining (OSM) maintains to assist in implementing the Surface Mining Control and Reclamation Act of 1977.” In the past, DEQ met its obligations for the AVS through a memorandum of understanding with the OSM, but the OSM has directed the Board to adopt rules to ensure compliance with federal rules regarding the AVS.

The rules also delete redundant statutory language to conform to the Montana Administrative Procedure Act, which prohibits rules from unnecessarily repeating statutory language. In addition, the Board is proposing to amend the rules to conform to Senate Bill No. 286 from the 2011 Legislature. SB 286 revised certain coal prospecting laws and modified procedures for coal prospecting. The proposal also corrects grammatical, formatting, and internal reference errors.

NOTES: (e.g. hearing dates)

The Board will hold a hearing on January 18, 2012, at 1:30 p.m., in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana. Comments must be submitted to DEQ no later than January 23, 2012.

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