

ENVIRONMENTAL QUALITY

CHAPTER 4

PROCEDURAL RULES

Subchapter 5

Major Facility Siting Act

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## Subchapter 5

## Major Facility Siting Act

17.4.501 OPPORTUNITY FOR PUBLIC COMMENT AFTER APPLICATION RECEIVED (1) Within one month after an application is received pursuant to 75-20-216, MCA, the department shall publish notice of the following:

(a) the name and address of the applicant; a general description of the size, purpose and pollutants discharged from the proposed facility; solid or hazardous wastes generated; any other aspects of the proposed facility which require a permit or license from the department; and the location of any alternative sites;

(b) if an MPDES permit must be obtained, the name of the state water receiving the discharge, a brief description of the discharge's location, and whether the discharge is new or existing;

(c) that the department will accept written public comment on the application;

(d) the deadlines by which the above comments must be submitted, which must be no less than 30 days after the date the notice is first published in a legal advertisement pursuant to (2)(a) below;

(e) the name, address, and phone number of the department and the person within each bureau from whom information on the application may be obtained;

(f) the name and address of the person to whom comments may be submitted;

(g) the fact that a public hearing will be held after a preliminary decision to grant or deny the relevant permits is made.

(2) Notice of the opportunity for public comment described in (1) of this rule must be published as follows:

(a) publishing legal notice two times within two weeks in a newspaper of general circulation in Butte, Missoula, Helena, Great Falls, Miles City, Kalispell, and Billings, and in a newspaper of general circulation within 50 miles of the site of the proposed facility and any alternative site;

(b) submitting the notice to a state-wide wire service;

(c) mailing to any person, group, or agency upon written request, and to the following state agencies:

(i) Environmental Quality Council;

(ii) Department of Public Service Regulation;

(iii) Department of Fish, Wildlife and Parks;

(iv) Department of Natural Resources and Conservation;

(v) Department of Commerce;

(vi) Department of Transportation; and

(vii) Department of Revenue. (History: 75-2-111, 75-5-201,

75-20-105, MCA; IMP, 75-20-216(3), MCA; NEW, 1980 MAR p. 3114, Eff. 12/27/80; AMD, 1981 MAR p. 1100, Eff. 10/1/81; TRANS, from DHES, 1996 MAR p. 1497; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

#### 17.4.502 PUBLIC HEARING AFTER PRELIMINARY DECISION

(1) After an application for a certificate is accepted as complete, the department shall:

(a) make a preliminary decision whether to grant or deny relevant permits for the proposed site and each alternative location for which approval is sought; and

(b) hold a hearing to receive public comments on those decisions.

(2) The notice of public hearing shall be published as follows:

(a) publishing legal notice two times within two weeks in a newspaper of general circulation in Butte, Missoula, Helena, Great Falls, Miles City, Kalispell, and Billings, and in a newspaper of general circulation within 50 miles of the site of the proposed facility and any alternative site;

(b) submitting the notice to a state-wide wire service;

(c) at least 30 days prior to the date of hearing, mailing to any person or group upon written request, the Environmental Quality Council; the state departments of Public Service Regulation; Fish, Wildlife, and Parks, Natural Resources and Conservation, Commerce, Transportation, and Revenue; and, in the case of an application for an MPDES permit, those listed in ARM 17.30.1372(5).

(3) The notice of public hearing shall contain the following:

(a) the name and address of the applicant, a general description of the size, purpose, and pollutants discharged from the proposed facility, solid or hazardous wastes generated, any other aspects of the proposed facility which require a permit or license from the department, the location of the alternative sites, the preliminary decision for each site to grant or deny any relevant permit, and the fact that only one site will be approved by the Board of Natural Resources and Conservation;

(b) if an MPDES permit is applied for, the name and address of the discharger, if different from the applicant;

(c) if an MPDES permit must be obtained, the name of the state water receiving the discharge and a brief description of the discharge's location;

(d) the name, address, and phone number of the department;

(e) the time, date and location of the public hearing, the date to be at least 30 days after the notice is first published; and the fact that written comments may be submitted until that date;

(f) the name and address of the presiding officer and the fact that written comments should be submitted to that person;

(g) the name, address, and phone number of the person from whom information concerning each relevant permit may be obtained, including, if an MPDES permit is applied for, a draft permit, a fact sheet as required by ARM 17.30.1371, and copies of MPDES forms and related documents must also be included; and

(h) a brief description of the nature and purpose of the hearing, including the rules and procedure to be followed.

(4) The presiding officer shall accept information, comments, and data from members of the public relevant to all aspects of the proposed facility which require a license or permit from the department at the proposed site and proposed and alternative locations for a linear facility orally or in writing at the hearing and in writing prior to the hearing. The hearing is not subject to the contested case procedure of the Montana Administrative Procedure Act, and no cross-examination will be allowed. The presiding officer has the discretion to limit repetitive testimony and prescribe rules to ensure orderly submission of statements.

(5) All written and oral comments submitted to the department from the date the above notice is issued until the termination of the public hearing must be retained by the department and considered in the formation of its final decision on relevant permits. The department shall issue a response to all significant comments.

(6) The department shall complete the procedures required in this rule so that all permits are issued by the applicable deadline established in 75-20-216 or 75-20-231, MCA. (History: 75-2-111, 75-5-201, 75-20-105, MCA; IMP, 75-20-216(3), 75-20-231, MCA; NEW, 1980 MAR p. 3114, Eff. 12/27/80; AMD, 1981 MAR p. 1100, Eff. 10/1/81; TRANS, from DHES, 1996 MAR p. 1497; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

