

49-405b. Area designated as unsuitable for surface coal mining operations, when; petition to have area so designated or designation terminated; hearing; duties of secretary. (a) (1) Upon petition pursuant to subsection (b), the secretary shall designate an area as unsuitable for all or certain types of surface coal mining operations if the secretary determines that reclamation pursuant to the requirements of this act is not technologically and economically feasible.

(2) Upon petition pursuant to subsection (b), a surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will:

(A) Be incompatible with existing land use plans or programs;

(B) affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems;

(C) affect renewable resource lands in which such operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products, such lands shall include aquifers and aquifer recharge areas; or

(D) affect natural hazard lands in which such operations could substantially endanger life and property, such lands shall include areas subject to frequent flooding and areas of unstable geology.

(3) The secretary shall develop by regulations a process which includes:

(A) Responsibility of the secretary for surface coal mining lands review;

(B) a data base and an inventory system which permits proper evaluation of the capacity of different land areas to support and permit reclamation of surface coal mining operations;

(C) a method or methods for implementing land use planning decisions concerning surface coal mining operations; and

(D) proper notice, opportunities for public participation, including a public hearing prior to making any designation or redesignation, pursuant to this section.

(4) Determinations of the unsuitability of land for surface coal mining, as provided for in this section, shall be integrated as closely as possible with present and future land use planning and regulation processes at the federal, state, and local levels.

(5) The requirements of this section shall not apply to lands on which surface coal mining operations are being conducted on August 3, 1977, or under a permit issued pursuant to this act, or where substantial legal and financial commitments in such operation were in existence prior to January 4, 1977.

(b) Any person having an interest which is or may be adversely affected shall have the right to petition the secretary to have an area designated as unsuitable for surface coal mining operations, or to have such a designation terminated. The petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations. Within 10 months after receipt of the petition the secretary or the secretary's designee shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of such hearing. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this subsection, any person may intervene by filing allegations of fact with supporting evidence which would tend to establish the allegations. Within 60 days after such hearing, the secretary shall issue and furnish to the petitioner and any other party to the hearing, a written decision regarding the petition, and the reasons therefor. In the event that all petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.

(c) Prior to designating any land areas as unsuitable for surface coal mining operations, the secretary shall prepare a detailed statement on (i) the potential coal resources of the area, (ii) the demand for coal resources, and (iii) the impact of such designation on the environment, the economy, and the supply of coal.

History: L. 1979, ch. 169, § 11; L. 1988, ch. 192, § 11; July 1.