

## **207.8 Determining if land is unsuitable for mining.**

1. The division by rule shall designate a site unsuitable for coal mining if the division determines on the basis of an application or petition that reclamation as required by this chapter is not technologically and economically feasible and may designate a site unsuitable for coal mining if such operations will:

*a.* Be incompatible with existing state or local land use plans or programs.

*b.* Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or esthetic values or 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, and such lands to include aquifers and aquifer recharge areas.

*d.* Affect natural hazards lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

2. The requirements of this section do not apply to lands on which coal mining operations are being conducted as of August 3, 1977, or under a permit issued pursuant to this chapter or pursuant to section 83A.12, Code 1979, or where substantial legal and financial commitments in an operation were in existence prior to January 4, 1977.

3. Prior to designating a land area as unsuitable for coal mining operations, the division shall prepare a detailed statement on the potential coal resources of the area, the demand for coal resources, and the impact of the designation on the environment, the economy, and the supply of coal.

4. A person having an interest which is or may be adversely affected may petition the division to have an area designated or to have the designation terminated. The petition shall contain allegations of facts with supporting evidence tending to establish the allegations. Within ten months after receipt of the petition the division shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of the hearing. After a person has filed a petition and before the hearing, any person may intervene by filing allegations. Within sixty days after the hearing, the division shall issue and furnish to the petitioner and any other party to the hearing a written decision regarding the petition and the reasons. If all the petitioners stipulate agreement prior to the hearing and withdraw their request, the hearing need not be held.

5. Subject to valid existing rights, coal mining operations, except those which exist on the effective date of this chapter, shall not be permitted on any of the following:

*a.* Lands within the boundaries of units of the national park systems, the national system of trails, the national wilderness preservation system, the national wildlife refuge systems, the wild and scenic rivers system, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and national recreation areas designated by Act of Congress.

*b.* Lands which will adversely affect any publicly owned park or places included in the national register of historic sites unless approved jointly by the division and the federal, state, or local agency with jurisdiction over the park or the historic site.

*c.* Within one hundred feet of the outside right-of-way line of a public road, except where mine access roads or haulage roads join the right-of-way line and except that the division may permit such roads to be relocated

or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected.

*d.* Within three hundred feet of an occupied dwelling or a privately owned building, unless waived by the owner, or within three hundred feet of a public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

[C77, 79, § 83A.13; C81, § 83.8]

C93, § 207.8

2006 Acts, ch 1010, §62