



ADMINISTRATIVE RULES OF MONTANA



36.2.538 RECORD OF DECISION FOR ACTIONS REQUIRING ENVIRONMENTAL IMPACT STATEMENTS

- (1) At the time of its decision concerning a proposed action for which an EIS was prepared, the agency shall prepare a concise public record of decision. The record, which may be integrated into any other documentation of the decision that is prepared by the agency, is a public notice of what the decision is, the reasons for the decision, and any special conditions surrounding the decision or its implementation.
- (2) The agency may include in the final EIS, in addition to a statement of its proposed decision, preferred alternative, or recommendation on the proposed action, the other items required by (1) , and additional explanation as provided for in (3) below. If the final decision and the reasons for that final decision are the same as set forth in the final EIS, the agency may comply with (1) by preparing a public notice of what the decision is and adopting by reference the information contained in the final EIS that addresses the items required by (1) . If the final decision or any of the items required by (1) are different from what was presented in the final EIS, the agency is responsible for preparing a separate record of decision.
- (3) There is no prescribed format for a record of decision, except that it must include the items listed in (1) . The record may include the following items as appropriate:
 - (a) brief description of the context of the decision;
 - (b) the alternatives considered;
 - (c) advantages and disadvantages of the alternatives;
 - (d) the alternative or alternatives considered environmentally preferable;
 - (e) short and long-term effects of the decision;
 - (f) policy considerations that were balanced and considered in making the decision;
 - (g) whether all practical means to avoid or minimize environmental harm were adopted, and if not, why not; and
 - (h) a summary of implementation plans, including monitoring and enforcement procedures for mitigation, if any.
- (4) This rule does not define or affect the statutory decision making authority of the agency.

Authorizing statute(s): Sec. 2-3-103, 2-4-201, MCA

Implementing statute(s): Sec. 2-3-104, 75-1-201, MCA



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History: NEW, 1988 MAR p. 2692, Eff. 12/23/88.