



ADMINISTRATIVE RULES OF MONTANA



36.11.447 CATEGORICAL EXCLUSIONS

- (1) Forest management activities that are classified as categorical exclusion shall not require an environmental assessment or environmental impact statement.
 - (a) Categorical exclusions include activities on state trust lands conducted by others under the authority of the department as well as activities conducted by the department itself.
- (2) Categorical exclusions shall not apply where extraordinary circumstances may occur. This includes, but is not limited to, activities affecting one or more of the following:
 - (a) sites with high erosion risk;
 - (b) federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS;
 - (c) within municipal watersheds;
 - (d) the SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures;
 - (e) state natural area;
 - (f) Native American religious and cultural sites;
 - (g) archaeological sites;
 - (h) historic properties and areas;
 - (i) several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review; or
 - (j) violations of any applicable state or federal laws or regulations.
- (3) Pursuant to ARM 36.2.523, the department adopts the following additional categorical exclusions for forest management activities conducted on state trust lands:
 - (a) Minor temporary uses of land involving negligible or no disturbance of soil or vegetation and having no long-term effect on the environment.
 - (b) Plans or modifications of plans adopted or approved by the department that would not essentially pre-determine future individual department actions affecting the physical or biological environment.

- (c) The issuance, renewal, or assignment of a lease or license on land when the uses of the land authorized under the lease or license will remain essentially the same.
- (d) Acquisition of fee title, easements, rights-of-way, or other interests in land that do not tend to commit the department to other actions.
- (e) Maintenance and repair of existing roads.
- (f) Reconstruction or modification of an existing bridge on essentially the same alignment, or replacement of a culvert, including temporary diversion or channelization of the stream, if done in accordance with all applicable state and federal laws and regulations and with BMPs to minimize sedimentation.
- (g) Crossings of Class 3 stream segments by means of culvert, bridge, ford, or other means, in accordance with BMPs and pursuant to ARM 36.11.304.
- (h) Issuing permits for temporary use of or easements for permanent access on existing roads.
- (i) The closure of existing roads including installation of gates, berms, debris, or other facilities necessary to close existing roads to motorized public use.
- (j) Removal of materials that have been stockpiled from previous excavation.
- (k) Back filling of earth into previously excavated land with material compatible with the natural features of the site.
- (l) Gathering small quantities of forest products for personal or commercial use, such as:
 - (i) firewood;
 - (ii) Christmas trees; or
 - (iii) posts.
- (m) Regeneration of an area to native tree species, through planting or other means, including site preparation that does not involve the use of herbicides or result in conversion of the vegetation type.
- (n) Seed procurement, growing, lifting, and distributing nursery stock, and associated non-chemical disease and pest control.
- (o) Drilling of water wells for domestic use and for irrigation of lawns and gardens for existing cabin sites or home sites.
- (p) Herbicide or pesticide treatments, done in accordance with registered label instructions and uses, for control of pests or nuisance vegetation, using spot applications on less than 160 acres within a 640 acre section, during a calendar year.
- (q) The handling of hazardous materials for fire suppression or other purposes (e.g., fuel for a helicopter seeding project) when done according to specifications of the United States department of transportation, state and federal regulations, and label specifications.
- (r) Fence construction, which may include cutting minor amounts of live timber not in excess of 5000 board feet, if the fence is no more than 42 inches high and the bottom wire is at least 16 inches from the ground.

- (s) Installation of water pipelines to improve livestock distribution or otherwise benefit grazing allotments.
- (t) Mechanical removal of trees less than two feet tall that are encroaching on range or non-commercial forest lands, on up to 60 contiguous acres, not to exceed a total of 160 acres within a 640 acre section, during a calendar year.
- (u) Removal of hazardous trees from around structures, recreation areas, and roads, not to exceed 5000 board feet.
- (v) Activities associated with cone collection to provide seed for reforestation.
- (w) Individual timber permits of up to 500,000 board feet if no extraordinary circumstances occur as outlined in ARM 36.11.447(2)(a) through (j).
- (x) low-intensity forest management activities as defined in ARM 36.11.403(43).

Authorizing statute(s): 77-1-202, 77-1-209, 77-5-201, 77-5-204, MCA

Implementing statute(s): 77-5-116, 77-5-204, 77-5-206, 77-5-207, MCA

History: NEW, 2003 MAR p. 397, Eff. 3/14/03; AMD, 2020 MAR p. 2239, Eff. 12/12/20.