



ADMINISTRATIVE RULES OF MONTANA



12.14.150 COMMERCIAL USE PERMITTING DECISIONS

- (1) The department has discretion over whether to issue a commercial use permit. Permitting decisions are based on the following factors to the extent that they are relevant:
 - (a) conformance with laws, rules, policies, management plans, and land use plans;
 - (b) conformance with strategic vision and goals for the department;
 - (c) contribution to the overall mission, goals, and objectives of the site;
 - (d) public safety;
 - (e) conflicts with other users in regard to type of use, timing, duration, location, site capacity, and other similar considerations;
 - (f) impacts to natural and cultural resources;
 - (g) extent to which the public interest is served;
 - (h) effects on adjacent land;
 - (i) whether in the past the applicant complied with the terms of his/her permit or other authorization from the department and other agencies;
 - (j) whether the department has the fiscal and human resources to administer the proposed use; and
 - (k) such other circumstances that the department finds appropriate.
- (2) The availability, terms, and conditions of a commercial use permit may vary based on the regulations and management plan in place at the site where the use would occur. Permitting decisions for commercial use at a wildlife management area must comply with a statewide plan for authorizing and administering commercial use at wildlife management areas. The statewide commercial use plan for wildlife management areas shall:
 - (a) identify the types of commercial use that may be authorized;
 - (b) establish the general terms and conditions that may be authorized; and
 - (c) establish the methods for allocating commercial use permits.
- (3) The department's statewide river recreation rules shall govern permitting decisions that would ration, allocate, or otherwise restrict water-based outfitting and guiding opportunities on rivers and fishing access sites. This does not include permitting decisions when the applicant or permit holder has violated the terms of a permit or violated department rules or regulations.

- (4) Upon adoption of these rules, the department may continue to issue permits that were established prior to the adoption of these rules. The department shall administer these permits consistent with these commercial use rules.
- (5) For permit systems established prior to the adoption of these commercial use rules, when a commercial use permit expires, the department shall review the previously authorized commercial use and may issue a new commercial use permit to the permit holder upon application so long as the applicant complied with the terms of his/her permit or other authorization from the department and other agencies and so long as the applicant complied with the laws, rules, and policies of the department and other agencies. The department may adjust the terms and conditions of the new permit, including the allocated units of use.
- (6) For permit systems established after the adoption of these commercial use rules, the department may develop a permit renewal system under which the previous permit holder and other commercial users are eligible to apply for the new permit. The department's statewide river recreation rules shall govern the development of a permit renewal system for water-based outfitting and guiding on rivers and fishing access sites.
- (7) A person who has been denied a commercial use permit or a person whose commercial use permit has been suspended or revoked may appeal the permitting decision in writing to the director within 30 days of the date of mailing of the notice of the permitting decision. Persons not appealing within 30 days have waived their right to appeal.
- (8) The director or the director's designee shall issue a written decision on the appeal. The director's decision is final.

Authorizing statute(s): 23-1-105, 23-1-106, 87-1-301, 87-1-303, MCA

Implementing statute(s): 23-1-105, 23-1-106, 23-1-111, 87-1-303, MCA

History: NEW, 2007 MAR p. 88, Eff. 1/26/07; AMD, 2009 MAR p. 2245, Eff. 11/26/09; AMD, 2014 MAR p. 2648, Eff. 10/24/14.