



ADMINISTRATIVE RULES OF MONTANA



36.11.432 GRIZZLY BEAR MANAGEMENT AND PROGRAMMATIC RULES

- (1) The department commits to following programmatic rules regarding grizzly bears, which include:
 - (a) provide written brochures that describe risks and concerns regarding humans living and working in bear habitat to contractors and their employees conducting forest management activities in forested state trust lands prior to start of operations;
 - (b) provide grizzly bear encounter avoidance training to new department personnel within one year of their employment date and refreshing the training for veteran employees every five years;
 - (c) prohibit department employees, contractors, and their employees from carrying firearms while on duty, unless the person is specifically authorized to carry a firearm under DNRC Policy 30621 to reduce direct mortality risk for grizzly bears;
 - (d) minimize human-bear conflicts by requiring department personnel, contractors, and their employees to:
 - (i) store all human or pet food, livestock food, garbage, and other attractants in a bear-resistant manner;
 - (ii) ensure all burnable attractants such as food leftovers or bacon grease will not be buried, discarded, or burned in an open campfire;
 - (e) minimize construction of new open roads in riparian management zones (RMZs), wetland management zones (WMZs), and avalanche chutes to reduce adverse effects of open roads on grizzly bear populations, however:
 - (i) in instances where construction of a new open road in an RMZ, WMZ, or avalanche chute is necessary for project or near-term management objectives, the department will minimize this occurrence to the extent possible and document the circumstances in the environmental analysis;
 - (f) suspend all motorized forest management activities within 0.6 mile (1 kilometer) of an active den site from the date of discovery through May 31 to protect active grizzly bear dens when encountered, unless:
 - (i) the department confirms that bears have vacated the den site vicinity prior to May 31, whereupon the department may proceed with the suspended activities;
 - (g) provide visual screening for grizzly bears in RMZs through the implementation of riparian timber harvest prescribed in ARM 36.11.425, and in WMZs through implementation prescribed in ARM 36.11.426;

- (h) design helicopter operations requiring flights less than 500 meters (1,640 feet) above ground level for forest management activities in a manner that avoids or minimizes flight time, and where practicable, at least one mile from:
 - (i) known seasonally important areas in NROH or recovery zones;
 - (ii) scattered parcels in rest within recovery zones;
 - (iii) grizzly bear security zones; and/or
 - (iv) federally designated security core areas in recovery zones to minimize disturbance impacts to grizzly bears;
 - (i) following federal delisting, the department shall:
 - (i) consider grizzly bears as a sensitive species warranting special management consideration; and
 - (ii) adhere to the measures contained in the Northern Continental Divide Ecosystem conservation strategy for grizzly bears (Appendix 9 and 10) when on trust land management division projects.
- (2) In NROH, as defined by Wittinger, et al., 2002, where grizzly bear programmatic rules ARM 36.11.432(1) also apply, the department commits to:
- (a) minimize construction of new open roads, where:
 - (i) new roads will only be managed as open when necessary to meet project or near-term management objectives;
 - (ii) restricted existing roads will generally remain restricted, except in cases where access easements are granted; but
 - (iii) there is no target or cap on total road densities;
 - (b) discourage granting of future easements that relinquish control of roads, except for reciprocal access agreements, cost share agreements, and other federal road agreements;
 - (c) minimize effects to grizzly bears during the spring period by implementing the following measures:
 - (i) apply restrictions in the Stillwater block on all restricted roads during the spring period as indicated on the Stillwater Transportation Plan;
 - (ii) prohibit the following forest management activities in spring habitat during the spring period:
 - (A) commercial forest management activities, including salvage harvests;
 - (B) pre-commercial thinning;
 - (C) heavy equipment slash treatment;
 - (iii) allow ten days total annually on each administrative unit during the spring period in spring habitat for the purposes of mechanical site preparation, road maintenance, and bridge replacement, applicable to any combination of these activities:

- (iv) minimize motorized activities on restricted roads during the spring period in spring habitat, with specific restrictions pursuant to ARM 36.11.436 that apply in the Cabinet-Yaak recovery zone and Cabinet-Yaak NROH; however
 - (v) allow motorized use to conduct the following low-intensity forest management activities in spring habitat during the spring period:
 - (A) sale preparation;
 - (B) road location;
 - (C) tree planting;
 - (D) prescribed burning;
 - (E) data collection (including monitoring);
 - (F) non-heavy-equipment slash treatment, including chainsaws;
 - (G) patrol of fall/winter slash burns;
 - (H) noxious weed management; and
 - (vi) allow commercial forest management activities, including salvage harvests, and low-intensity forest management activities, within 100 feet of an open road during the spring period in spring habitat;
 - (d) design new clearcut and seed tree cutting units to provide topographic breaks in view or to retain visual screening for bears by ensuring that vegetation or topographic breaks be no greater than 600 feet in at least one direction from any point in the unit; however
 - (i) where impracticable the department will minimize sight distance to the extent possible, given the site-specific circumstances
 - (e) managing gravel development in accordance with the HCP.
- (3) In federally defined grizzly bear recovery zones, where grizzly bear programmatic rules, ARM 36.11.432(1), and NROH rules, ARM 36.11.432(2) also apply, the department commits to:
- (a) assess impacts to important grizzly bear habitat when designing timber sale projects in recovery zones, elements of which include:
 - (i) berry fields;
 - (ii) avalanche chutes;
 - (iii) riparian areas;
 - (iv) wetlands;
 - (v) white bark pine stands; and
 - (vi) unique congregation or feeding areas;
 - (b) develop site-specific mitigation measures that minimize impacts to these elements typically involving scheduling activities while bears are not likely to be using an area, or locating roads or skid trails to conserve important vegetative features, such as dense stands or thickets that provide visual screening;

- (c) leave up to 100 feet of vegetation between open roads and clearcut or seed tree harvest units;
 - (i) leaving vegetation may not be practicable in areas such as:
 - (A) landings and skid trails near roads;
 - (B) clearings for traffic safety at road intersections;
 - (C) in localized fuels reduction areas;
 - (D) units harvested by aerial cable;
 - (E) salvage units with limited standing live vegetation near the roadway; and
 - (F) prescribed burn units where open roads serve as control boundaries;
 - (ii) the department will provide screening to the extent practicable when such conditions are present;
- (d) design new clearcut and seed tree cutting units to provide topographic breaks in view or to retain visual screening for bears by ensuring that vegetation or topographic breaks be no greater than 600 feet in at least one direction from any point in the unit; however
 - (i) in instances of impracticability, the department shall minimize sight distance to the extent practicable; and
 - (ii) the department will document the circumstances in the environmental analysis;
- (e) examine all primary road closures in recovery zones annually and repair ineffective closures within one year of identifying the problem;
- (f) prohibit motorized activities at elevations above 6,300 feet on slopes greater than 45 percent from April 1 through May 31;
- (g) ensure that when issuing or granting easements within grizzly bear recovery zones, except federal road agreements such as cost-share agreements with the U.S. Forest Service or road agreements with the Bureau of Land Management:
 - (i) the forest management bureau will have an active role in the review and authorization of future easements across classified forest land in a recovery zone;
 - (ii) easements granted for existing restricted routes or newly proposed routes require the applicant to demonstrate that all other access possibilities have been explored prior to the department considering the application for access across trust lands;
 - (iii) work with easement applicants to incorporate easement terms to avoid or mitigate impacts to bears, which may include, but are not limited to:
 - (A) gated entry;
 - (B) maintenance of visual screening along routes;
 - (C) absorbing costs of gating associated with secondary and primary access routes;
 - (iv) document for each access easement granted in a recovery zone:
 - (A) how the granting of the easement was evaluated for each access easement granted in a recovery zone;

- (B) how alternative routes were considered for each access easement granted in a recovery zone;
 - (C) how mitigations were considered and applied for each access easement granted in a recovery zone;
 - (v) work with the existing and future grantees to avoid or mitigate impacts to grizzly bears associated with motorized use as pertaining to access agreements on roads in grizzly bear recovery zones where the department is the grantor.
- (4) In the Stillwater Block, where the grizzly bear programmatic rules, ARM 36.11.432(1), NROH rules, ARM 36.11.432(2), and recovery zone rules, ARM 36.11.432(3) also apply, the department commits to:
 - (a) manage transportation according to specific requirements in the Stillwater Transportation Plan, which includes:
 - (i) allowable road miles by road class, activity category, restriction type, and road locations;
 - (ii) permanent routes needed but not yet constructed;
 - (iii) changes to the plan may only occur following review and approval by the forest management bureau;
 - (b) document the circumstances if a road is encountered that is not in the Stillwater Transportation Plan, and evidence suggests that the road existed prior to February 2012;
 - (c) add segment(s) to the Stillwater Transportation Plan and consider the addition(s) part of the original baseline only following adequate documentation and review by the forest management bureau;
 - (d) maintain up to 15 miles of usable temporary roads within the block, which shall be built to a minimum standard and reclaimed within one operating season following completion of project-related activities;
 - (i) no more than two miles of temporary roads may be maintained on the Swift-BPA portion of the block;
 - (ii) no more than five miles of temporary roads may be maintained on the Lazy-Swift portion of the block;
 - (e) establish an accurate revised baseline, as applicable, for roads that may be added or removed from the Stillwater Transportation Plan when lands are acquired or disposed in the Stillwater block;
 - (f) maintain informational signs and provide public information pertaining to bear presence and bear awareness on the Stillwater and Coal Creek State Forests;
 - (g) apply the following to seven geographically distinct security zones in the Stillwater block that comprise 22,007 acres:
 - (i) no additional permanent roads will be constructed in security zones;
 - (ii) access needed for management activities will be from existing roads or temporary roads;

- (iii) motorized activities including public, department administrative, and department commercial forest management activities are prohibited during the grizzly bear non-denning season from April 1 through November 15 each year;
 - (iv) commercial forest management activities shall only be allowed during the denning season below 6,300 feet in security zones;
 - (v) the department shall construct and reclaim temporary roads and skid trails after completion of project activities in a manner that prevents future use by motorized vehicles, including off-road vehicles, during the non-denning season;
 - (vi) when conducting commercial forest management activities near identified security zones during the non-denning season, the department will minimize the duration of ground-based harvest activities to the extent practicable, particularly in known areas of seasonal importance for bears;
 - (vii) the department will minimize the duration of administrative activities near security zones to the extent practicable;
 - (viii) the department shall make efforts to design helicopter flight routes in a manner that avoids and/or minimizes flight time across security zones, and/or known seasonally secure areas during the non-denning season;
 - (ix) when conducting commercial forest management activities near identified security zones during the non-denning season, the department will minimize the duration of air-based harvest activities to the extent practicable, particularly in known areas of seasonal importance for bears;
 - (x) where practicable, the department shall design flight paths to occur greater than one mile from potentially affected security zones and/or areas of known seasonal importance during the non-denning season;
 - (xi) short-term disturbance will be allowed in any security zones at any time and for the necessary duration to address road sedimentation corrective actions;
 - (xii) commercial forest management activities, including salvage, are allowed in security zones during the winter period of November 16 through March 31 below 6,300 feet;
- (h) limit the number of active gravel pits on the Stillwater block as described in the HCP.
- (5) In the Swan River State Forest, where grizzly bear programmatic rules, ARM 36.11.432(1), NROH rules, ARM 36.11.432(2), and recovery zone rules, ARM 36.11.432(3) also apply, the department commits to:
- (a) manage access and security for grizzly bears by adhering to the Swan River State Forest Transportation Plan which will specify:
 - (i) five defined management subzones;
 - (ii) existing road segments by road class, restriction type, and location; and
 - (iii) permanent routes needed, but not yet constructed by the department;
 - (b) document the circumstances if a road is encountered that is not in the Swan River State Forest Transportation Plan, and evidence suggests that the road existed prior to February 2012;

- (c) add segment(s) to the Swan River State Forest Transportation Plan and consider the addition(s) part of the original baseline only following adequate documentation and review by the forest management bureau;
- (d) adjust numbers to accurately reflect baseline road amounts if a Swan River State Forest parcel is sold or traded;
- (e) minimize the risk of death or injury to bears, and reduce displacement of bears due to the presence of roads by:
 - (i) limiting new road construction to the approximate locations and lengths indicated on the Swan River State Forest Transportation Plan map, including caps on additional restricted road amounts allowed under the forest management HCP;
 - (ii) ensuring temporary roads on the Swan River State Forest will not exceed 6.5 miles in length in any given year;
 - (A) building these roads to a minimum standard and reclaimed within one operating season following completion of project-related activity;
- (f) maintain informational signs and provide public information pertaining to bear presence and bear awareness on the Swan River State Forest;
- (g) considering opportunities to work with adjacent landowners in a cooperative manner to support grizzly bear conservation efforts;
- (h) conducting commercial forest management activities in each of the defined management subzones, including salvage harvest, for a maximum period of three years, followed by a mandatory rest period of at least six years, where:
 - (i) each subzone will have its own management schedule independent of the other subzones;
 - (ii) the three-year management period may be extended due to management delays beyond the control of the department, such as:
 - (A) extreme weather events;
 - (B) fire events;
 - (C) area closures due to fire danger; and
 - (D) legal injunction;
 - (iii) contractor equipment failure and extensions to address market fluctuations are not considered allowable delays;
- (i) allowing the following activities in rested subzones:
 - (i) commercial forest management activities are allowed in winter below 6,300 feet without limitation during rest periods as rest status does not apply during the winter period of November 16 through March 31; and
 - (ii) low-intensity forest management activities are allowed during the rest period, except for restrictions during the spring period as described in ARM 36.11.432(2)(c);

- (iii) commercial forest management activities for minor projects, including salvage, are allowed for a limited number of days after the spring period;
 - (A) for the Swan River State Forest, a total of 30 operating days in aggregate are allowed per year, per rested subzone;
 - (B) these days can only be used June 16 through September 15;
 - (C) this 30-day allowance may also be applied to resting subzones that have exceeded rest beyond six years and are not yet ready for large-scale planned commercial harvest;
 - (D) when tracking the number of operating days allowed for minor projects:
 - (I) two commercial operations within 0.5-mile radius of one another count as one operation for those days both are active;
 - (II) operations more than 0.5-mile radius apart are considered distinct and days must be tallied separately;
 - (III) commercial forest management activities within 100 feet of an open road do not count toward the allowable operating day limits;
- (j) conducting salvage harvest activities when necessary on management subzones in rest status under the following order of preference when economically and operationally practicable:
 - (i) conduct salvage during the winter period;
 - (ii) for salvage harvest that must occur outside of the winter period, conduct the harvest in an expedient manner;
 - (iii) days used for operating salvage harvest from June 16 through September 15 shall count toward the 30 days allowed for minor projects;
 - (iv) the department will forgo unused annual operating days in other inactive subzones to compensate for the number of days required to complete such projects;
- (k) extending salvage projects that cannot be accomplished by applying ARM 36.11.432(5)(i) above between 31 and 150 days during non-denning period under the following conditions:
 - (i) following a 31 to 150-day extension for salvage, the department would be required to restart the rest period; where
 - (A) in this situation, a full uninterrupted six-year rest period must be achieved before allowing another 31 to 150-day interruption; and
 - (B) if a salvage harvest during the restarted rest period requires more than 30 days to complete, the action shall require review and approval by the forest management bureau;
 - (ii) the department will document the necessity for interrupting the rest period;
 - (iii) a department wildlife biologist will develop a site-specific mitigation plan addressing potential effects on grizzly bears through habitat considerations, timing restrictions, and transportation management and access, examples of which include:

- (A) important secure areas;
 - (B) berry fields;
 - (C) avalanche chutes;
 - (D) riparian areas;
 - (E) wetlands;
 - (F) white bark pine stands; and
 - (G) unique congregation or seasonal feeding areas;
- (iv) a copy of the mitigation documentation highlighting those measures implemented by the project leader and decision maker, after considering input from the department wildlife biologist, will be submitted to the forest management bureau for review prior to a project decision;
- (l) limit the number of active gravel pits on the Swan River State Forest as described in the HCP.
- (6) On scattered parcels in recovery zones, where grizzly bear programmatic rules, ARM 36.11.432(1), NROH rules, ARM 36.11.432(2), and recovery zone rules, ARM 36.11.432(3) also apply, the department commits to:
 - (a) evaluate each open road segment occurring within a forest management project to assess the potential to restrict access on that segment;
 - (b) not exceed baseline open road amounts at the administrative unit level, established August 31, 2018, on classified forest lands, but increases in open road densities at the project level to address road relocation considerations would not count against the unit-level cap;
 - (c) conduct commercial forest management activities and salvage harvest for each scattered parcel in a recovery zone for a maximum management period of four years, followed by a mandatory rest period of at least eight years, where each parcel will have its own management schedule independent of other parcels;
 - (d) extend the four-year management period, when necessary, due to management delays beyond the control of the department, such as:
 - (i) extreme weather events;
 - (ii) fire events;
 - (iii) area closures due to fire danger; and
 - (iv) legal injunction;
 - (e) write an explanation of the extension and submit it to the forest management bureau for approval at the time the extension is invoked;
 - (i) contractor equipment failure is not considered an allowable delay;
 - (f) within rested parcels:
 - (i) the rest status does not apply during the winter period of November 16 through March 31, and commercial forest management activities are allowed in winter below 6,300 feet without limitation during rest periods;

- (ii) low-intensity forest management activities will be allowed during the rest period, except for restrictions during the spring period, as described in ARM 36.11.432(2)(c);
- (iii) commercial forest management activities for minor projects, including salvage, are allowed for a limited number of days after the spring period from June 16 through November 15;
- (iv) each administrative unit shall have a maximum number of allowable operating days per year on rested scattered parcels as follows:
 - (A) Clearwater Unit - 45 days;
 - (B) Helena Unit - 45 days;
 - (C) Kalispell Unit - 60 days;
 - (D) Stillwater Unit (scattered parcels) - 45 days;
- (v) when tracking the number of operating days allowed for minor projects two commercial operations within 0.5-mile radius of one another count as one operation for those days both are active;
- (vi) operations more than 0.5-mile radius apart are considered distinct, and operating days must be considered additive and tallied separately;
- (vii) commercial forest management activities within 100 feet of an open road do not count toward the allowable operating day limits;
- (g) conduct salvage harvest activities when necessary on scattered parcels in rest status under the following order of preference when economically and operationally practicable:
 - (i) conduct salvage during the winter period;
 - (ii) conduct salvage harvest in an expedient manner when it must occur outside of the winter period;
 - (iii) days used for operating salvage harvest from June 15 through November 15 shall count against the allowable days per administrative unit for minor projects;
 - (iv) the department will forgo unused annual allowable operating days usable in other inactive parcels to compensate for the number of days required to complete such larger projects;
- (h) salvage harvest that cannot be accomplished using the four approaches listed above may be extended up to 150 days;
- (i) the department is not required to restart the 8-year rest period on scattered parcels, but only one interruption is allowed per 8-year rest period per parcel for this purpose:
 - (i) document the necessity for interrupting the rest period;
 - (ii) a department wildlife biologist will develop a site-specific mitigation plan addressing potential effects on grizzly bears through timing restrictions, transportation management and access, and habitat considerations, examples of which include:
 - (A) important secure areas;
 - (B) berry fields;

- (C) avalanche chutes;
 - (D) riparian areas;
 - (E) wetlands;
 - (F) white bark pine stands; and
 - (G) unique congregation areas;
- (iii) a copy of the mitigation documentation highlighting those measures implemented by the project leader and decision maker, after considering input from the biologist, will be submitted to the forest management bureau for review prior to a project decision;
- (j) One gravel pit per administrative unit may be operated as described in the HCP.
- (7) On scattered lands in the Cabinet-Yaak ecosystem (CYE) and associated NROH, where grizzly bear programmatic rules, ARM 36.11.432(1), NROH rules, ARM 36.11.432(2), recovery zone rules, ARM 36.11.432(3), and rules for scattered parcels in recovery zones ARM 36.11.432(6) also apply, the department commits to:
 - (a) allow commercial forest management activities, including salvage harvests after the spring period, as it pertains to minor projects implemented during the eight-year rest period in ARM 36.11.432(6)(f), for parcels in both the CYE recovery zone and the CYE NROH, but are limited to the following number of annual operating days per administrative unit:
 - (i) Libby unit - 90 days total (30 west and 60 east);
 - (ii) Plains unit - 45 days;
 - (A) within these maximum operating days, commercial forest management activities and salvage harvest are limited to a total of ten parcels per non-denning season for each unit;
 - (B) when applying the allowable days, the duration of such management is limited to 15 days in aggregate on each parcel for each unit;
 - (b) prepare a mitigation plan when conducting salvage projects following ARM 36.11.432(6)(g) on parcels in rest status in the CYE and CYE NROH, as required under ARM 36.11.432(6)(i)(ii), and the project leader will submit the mitigation plan to the forest management bureau for approval prior to a project decision;
 - (c) conduct motorized use associated with low-intensity forest management activities on up to 50 percent of the parcels as deemed necessary in the CYE recovery zone and CYE NROH in spring habitat during the spring period;
 - (i) these uses include:
 - (A) tree planting;
 - (B) prescribed burning;
 - (C) patrol of slash burns; and
 - (D) noxious weed management;
 - (ii) any combination of the aforementioned activities is limited to ten days per parcel within the spring period each year;

- (iii) motorized activity in spring habitat during the spring period associated with sale preparation, road location, data collection, and slash treatment is prohibited;
 - (iv) up to ten days total per year per administrative unit may be used for the purposes of road maintenance, mechanical site preparation, and bridge replacement;
- (d) design, for scattered parcels in the CYE recovery zone only, helicopter operations less than 500 meters (1,640 feet) above ground level for commercial log yarding to avoid important areas for grizzly bears by requiring flight paths to be at least one mile from scattered parcels in rest or federally designated security core areas;
 - (i) where practicable, flight paths will also be designed to avoid or minimize disturbance to any known seasonally important areas;
- (e) limit, for scattered parcels in the CYE recovery zone and NROH only, helicopter use associated with activities to those requiring less than 48 hours to complete, including, but not limited to:
 - (i) weed control;
 - (ii) prescribed burning ignition and control actions;
 - (iii) aerial seeding; and
 - (iv) moving large pieces of equipment or materials to remote and/or rugged locations.

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, 2016 MAR p. 589, Eff. 4/9/16; AMD, 2020 MAR p. 2239, Eff. 12/12/20.