



ADMINISTRATIVE RULES OF MONTANA



8.2.303 DEFINITIONS

- (1) "Action" means a project, program or activity directly undertaken by the agency; a project or activity supported through a contract, grant, subsidy, loan or other form of funding assistance from the agency, either singly or in combination with one or more other state agencies; or a project or activity involving the issuance of a lease, permit, license, certificate, or other entitlement for use or permission to act by the agency, either singly or in combination with other state agencies.
- (2)
 - (a) "Alternative" means:
 - (i) an alternate approach or course of action that would appreciably accomplish the same objectives or results as the proposed action;
 - (ii) design parameters, mitigation, or controls other than those incorporated into a proposed action by an applicant or by an agency prior to preparation of an EA or draft EIS;
 - (iii) no action or denial; and
 - (iv) for agency-initiated actions, a different program or series of activities that would accomplish other objectives or a different use of resources than the proposed program or series of activities.
 - (b) The agency is required to consider only alternatives that are realistic, technologically available, and that represent a course of action that bears a logical relationship to the proposal being evaluated.
- (3) "The agency" means department of commerce.
- (4) "Applicant" means a person or any other entity who applies to the agency for a grant, loan, subsidy, or other funding assistance, or for a lease, permit, license, certificate, or other entitlement for use or permission to act.
- (5) "Categorical exclusion" refers to a type of action which does not individually, collectively, or cumulatively require an EA or EIS, as determined by rulemaking or programmatic review adopted by the agency, unless extraordinary circumstances, as defined by rulemaking or programmatic review, occur.
- (6) "Compensation" means the replacement or provision of substitute resources or environments to offset an impact on the quality of the human environment. The agency may not consider compensation for purposes of determining the significance of impacts (see ARM 8.2.304(4)) .

- (7) "Cumulative impact" means the collective impacts on the human environment of the proposed action when considered in conjunction with other past and present actions related to the proposed action by location or generic type. Related future actions must also be considered when these actions are under concurrent consideration by any state agency through pre-impact statement studies, separate impact statement evaluation, or permit processing procedures.
- (8) "Emergency actions" include, but are not limited to:
- (a) projects undertaken, carried out, or approved by the agency to repair or restore property or facilities damaged or destroyed as a result of a disaster when a disaster has been declared by the governor or other appropriate government entity;
 - (b) emergency repairs to public service facilities necessary to maintain service; and
 - (c) projects, whether public or private, undertaken to prevent or mitigate immediate threats to public health, safety, welfare, or the environment.
- (9) "Environmental assessment" (EA) means a written analysis of a proposed action to determine whether an EIS is required or to serve one or more of the other purposes described in ARM 8.2.304(2) .
- (10) "Environmental impact statement" (EIS) means the detailed written statement required by 75-1-201, MCA, which may take several forms:
- (a) "Draft environmental impact statement" means a detailed written statement prepared to the fullest extent possible in accordance with 75-1-201(1) (b) (iii) , MCA, and these rules;
 - (b) "Final environmental impact statement" means a written statement prepared to the fullest extent possible in accordance with 75-1-201, MCA, and ARM 8.2.311 or 8.2.312 and which responds to substantive comments received on the draft environmental impact statement;
 - (c) "Joint environmental impact statement" means an EIS prepared jointly by more than one agency, either state or federal, when the agencies are involved in the same or a closely related proposed action.
- (11) "Environmental quality council" (EQC) means the council established pursuant to Title 75, chapter 1, MCA, and 5-16-101, MCA.
- (12) "Human environment" includes, but is not limited to biological, physical, social, economic, cultural, and aesthetic factors that interrelate to form the environment. As the term applies to the agency's determination of whether an EIS is necessary (see ARM 8.2.304(1)) , economic and social impacts do not by themselves require an EIS. However, whenever an EIS is prepared, economic and social impacts and their relationship to biological, physical, cultural and aesthetic impacts must be discussed.
- (13) "Lead agency" means the state agency that has primary authority for committing the government to a course of action or the agency designated by the governor to supervise the preparation of a joint environmental impact statement or environmental assessment.
- (14) "Mitigation" means:
- (a) avoiding an impact by not taking a certain action or parts of an action;
 - (b) minimizing impacts by limiting the degree or magnitude of an action and its implementation;
 - (c) rectifying an impact by repairing, rehabilitating, or restoring the affected environment; or

- (d) reducing or eliminating an impact over time by preservation and maintenance operations during the life of an action or the time period thereafter that an impact continues.
- (15) "Programmatic review" means an analysis (EIS or EA) of the impacts on the quality of the human environment of related actions, programs, or policies.
- (16) "Residual impact" means an impact that is not eliminated by mitigation.
- (17) "Scope" means the range of reasonable alternatives, mitigation, issues, and potential impacts to be considered in an environmental assessment or an environmental impact statement.
- (18) "Secondary impact" means a further impact to the human environment that may be stimulated or induced by or otherwise result from a direct impact of the action.
- (19) "State agency" means an office, commission, committee, board, department, council, division, bureau, or section of the executive branch of state government.

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

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

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