FORESTRY

BURNING PERMITS

1. **Types of Activities Regulated**

   A. Burning in Forested Areas: During the forest fire season (May 1 - September 30, or as extended), a permit is required from the recognized protection agency for the area (county, state or federal) to ignite a forest fire, slash-burning fire, land-clearing fire, debris-burning fire or an open fire on forest lands. A permit is not required in a designated, improved campground.

   B. County Permits: The county governing body may establish its own controlled burning seasons annually and require an official written permit or permission to ignite a fire, including a slash-burning, land-clearing, debris-burning or open fire within the county protection area on any residential or commercial property, forest land, range land or cropland.

   If a person or entity has entered into and is in compliance with a fire hazard reduction agreement with the Montana Department of Natural Resources and Conservation, open burning may be conducted, subject to section 76-13-121, MCA, between October 1 and April 30 without obtaining a written permit or permission to set a fire if the person or entity obtains air quality and ventilation forecasts before igniting or setting the fire and notifies the county of the location of the burn area.

   C. Air Quality Permits for Burning: Air quality permits for major burns (open burning of approximately 100 acres in a given year) are required from the Montana Department of Environmental Quality (DEQ). All open burners, major and minor, must comply with restrictions issued from September 1 through November 30 on the Ventilation Hotline (1-800-225-6779) or at the Monitoring Unit's web site at http://smokemu.org. To conduct open burning during December through February, a person conducting a major or minor burn must submit a written request to the DEQ demonstrating that the burn must be conducted prior to reopening of open burning in March, receive permission from the department for each burn, and adhere to dispersion forecast recommendations by calling the DEQ on the day of the burn. See AIR QUALITY PERMITS, p. 36.

   The DEQ may issue conditional air quality open burning permits for certain materials, including clean untreated wood waste at landfills and industrial sources, as well as the burning of prohibited materials for the training of

firefighters, or open burning in emergency situations, if certain departmental requirements described in ARM 17.8.611-17.8.612 are followed.

Statute: 7-33-2205, MCA (county permits)
76-13-121, MCA (burning in forested areas)
76-13-401, *et seq.* (fire hazard reduction)

Rule: ARM 17.8.601, *et seq.* (air quality permits)

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices (see APPENDIX 2), or
Forestry Division
Fire and Aviation Management Bureau

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Air Resources Management Bureau

2. Fees

Air quality open burning permit fees are calculated by the DEQ. Contact the Air Resources Management Bureau.

Rule: ARM 17.8.514

CABIN SITES

1. Types of Activities Regulated

Leases for cabin sites on state forest lands may be obtained from the Montana Department of Natural Resources and Conservation. State law and department rules govern lease fees and the use and maintenance of these sites.

Statute: 77-1-208, 77-1-235, and 77-1-236 [1] MCA

Rule: ARM 36.11.101 and 36.25.1001, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Real Estate Management Bureau

HAZARD REDUCTION

1. Types of Activities Regulated

Before conducting any timber cutting or timber stand improvements on private lands or right-of-way clearing on private forest lands, the person conducting the work must be issued an exemption certificate or enter into a fire hazard reduction agreement with the Montana Department of Natural Resources and Conservation (DNRC), except where a minimum slash hazard exists. Exemption certificates are issued for lands that are within the exterior boundary of an incorporated town and release the applicant from the requirements for slash and hazard reduction. Applicants entering into fire hazard reduction agreements must pay administrative fees and post a bond to cover the potential cost to the DNRC in case of default of abatement measures. The department will issue a certificate of clearance and return the bond when the fire hazard has been appropriately reduced and the agreement for reduction of fire hazard has been executed. The DNRC must be notified at least 10 days prior to any clearing for right-of-way.

Statute: 76-13-401 through 76-13-415, MCA

Rule: ARM 36.11.221-36.11.232

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Land and Unit Offices (see APPENDIX 2)

Forestry Division
Forestry Assistance Bureau

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[1] Senate Bill No. 409 (2011) and the associated rules concerning cabin site leasing are under a temporary injunction at the date of this publication (November 2014) until the court issues a final decision in the case.

STREAMSIDE MANAGEMENT ZONES

1. Types of Activities Regulated

While no permit is required to conduct forest practices in streamside management zones, special management standards do apply within and to varying widths on either side of a stream, lake, or other water body. The practices of broadcast burning, clearcutting, road construction (except when necessary to cross a stream or wetland), the operation of vehicles, use of hazardous or toxic materials, and the deposition of slash or sidecasting of road materials are prohibited except as provided for by alternative practices approved by the Montana Department of Natural Resources and Conservation.

Statute: 77-5-301 through 77-5-307, MCA

Rule: ARM 36.11.302-36.11.313

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Forestry Assistance Bureau

TIMBER CONSERVATION LICENSE

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC), under the direction of the Board of Land Commissioners, may issue a timber conservation license in lieu of the sale of timber on state trust lands (see TIMBER SALES, p. 62). The successful applicant for a license must furnish a surety bond and pay fees for forest improvement. Fees are not assessed on Morrill Act trust lands.

Statute: 77-5-204 and 77-5-208, MCA

Rule: ARM 36.11.451-36.11.456

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

2. Application Requirements

During the environmental review process (see MONTANA ENVIRONMENTAL POLICY ACT, p. 130) for a proposed timber sale, the applicant for a timber conservation license

must submit a written request to the DNRC to defer the sale or a portion of the sale. If the request is not received before the completion of the review process, the department may not issue a license.

3. Permitting Procedures

Once the DNRC receives a written request, it will prepare the sale for consideration by the Board using the alternatives of the sale with and the sale without the timber conservation license. The DNRC will solicit bids for each alternative to ensure that full, fair market value for the sale is secured.

TIMBER HARVESTS/BEST MANAGEMENT PRACTICES

1. Types of Activities Regulated

Timber owners and operators must notify the Montana Department of Natural Resources and Conservation (DNRC) prior to conducting a forest practice. Forest practices include timber cutting, road construction or reconstruction, site preparation, reforestation, or management of logging slash.

Within five working days of receiving notification of a forest practice, the DNRC will provide the operator with information on forestry Best Management Practices (BMPs) and issue a notice that the forest practice may proceed or request an onsite consultation. The DNRC encourages the use of BMPs to protect and conserve water, range, soil, and forest resources.

Statute: 76-13-101 and 76-13-420 through 76-13-424, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Forestry Division
Forestry Assistance Bureau

TIMBER SALES

1. Types of Activities Regulated

Timber sales on state forest lands are administered by the Montana Department of Natural Resources and Conservation (DNRC) and final approval is granted by the Board of Land Commissioners. Timber or forest products on state trust lands may be sold by a stumpage

or lump-sum method or marketed through the state's contract harvesting program.[1] See also TIMBER CONSERVATION LICENSE, p. 61.

Permits may be issued by the DNRC for the removal of green or salvage timber from state forests, without advertising the sale, to Montana citizens for commercial cutting, at commercial rates, in quantities less than 100,000 board feet, and in cases of emergency because of fire, insect, fungus, parasite or blow-down, or to address forest health, in quantities less than 500,000 board feet.

For sales in excess of the above limits, the sales must be advertised and competitively bid.

If the timber is on county forests, a permit is required from the Board of County Commissioners. Both the U.S. Department of the Interior, Bureau of Land Management (BLM) and the U.S. Forest Service require permits for fuel wood and Christmas tree cutting on BLM lands and national forest lands.

Statute: 7-8-2608, 7-8-2609, and 77-5-201 through 77-5-223, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Trust Land Management Division
Forest Management Bureau

BOARD OF COUNTY COMMISSIONERS

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

2. Application Requirements

To apply for a timber permit for quantities less than 100,000 board feet, or in cases of emergency because of fire, insect, fungus, parasite, or blow-down or to address forest health, in quantities less than 500,000 board feet, a person must submit an application to the DNRC Office that is responsible for the management of the state land where the proposed sale is located (see APPENDIX 2 for the locations of regional offices). The

[1] Under a contract harvest, the state pays a contractor to conduct the timber removal but then markets and sells the products.

applicant must also mark the area of the proposed sale with ribbon and designate the roads that will be used for timber removal on an approved map.

Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper in the county in which the timber is located for at least 30 days, during which time the DNRC may receive sealed bids up to the hour of the bid closing. In cases of emergency due to fire, pest or blow-down, or in cases when the DNRC must act immediately to take advantage of access granted by permission of an adjoining landowner, a sale of up to 1,000,000 board feet may be advertised for not less than 10 days. In cases when the DNRC must act immediately to take advantage of access granted by permission of an adjoining landowner and there is only one potential buyer with legal access, the department may negotiate a sale of timber not in excess of 1,000,000 board feet without offering the timber for bid if the sale is for fair market value. On the award of sale, the purchaser must execute a formal agreement, approved by the Board, which describes the area where the timber is to be cut, the approximate quantity to be cut, by species, and the rate for each product of each species.

All timber permits require proof of vehicle liability insurance and $1 million in commercial general liability insurance naming the state of Montana as an additional insured. For sales under 30,000 board feet, a performance bond of $1,000 is required. For sales of 30,000 board feet or more, the performance bond is five percent of the estimated value of the timber sold.

Statute: 77-5-201*, et seq.*, MCA

3. Fees

Timber or other forest products removed from state land must not be sold for less than fair market value. The minimum value is appraised under the direction of the DNRC and approved by the Board of Land Commissioners. The Board also approves fees for forest improvement on state lands. Contact the DNRC for fee amounts.

Statute: 77-5-204, MCA

4. Additional Information

A detailed bill of sale is required before more than five coniferous trees may be transported over state highways. Also, transportation of more than 200 pounds of boughs from coniferous trees requires written authorization of the owner of the boughs.

Statute: 76-13-601, MCA