

CHECKLIST ENVIRONMENTAL ASSESSMENT

Project Name: Administrative Rule Revision for Log Exports and Timber Permits

Proposed

Implementation Date: July 30, 2010

Proponent: Montana DNRC, Trust Land Management Division

Location: N/A

County: N/A

I. TYPE AND PURPOSE OF ACTION

The Trust Land Management Division of the Montana Department of Natural Resources and Conservation (DNRC) proposes to repeal ARM 36.11.111, which prohibits the export of state logs. In 1993, the Ninth Circuit Court of Appeals, in *Board of Natural Resources of Washington v. Brown*, 992 F. 2d 937 (9th Circuit 1993) ruled that export-prohibition provisions of Section 491 of the Federal Act, violated the 10th Amendment to the United States Constitution, because it unlawfully compelled the states to enact or administer a federal regulatory program. The Ninth Circuit Court of Appeals ruled that 16 USC §§620c(d)(2) and -(d)(3)(a) were unconstitutional. This ruling invalidated the legal need for ARM 36.11.111. DNRC wishes to conform its administrative rules to the federal ruling by eliminating the requirement that purchasers of state timber sales and state timber permits sign a non-export agreement.

DNRC also proposes to amend ARM 36.11.450, which authorizes the department to issue timber permits, up to a specified volume, without advertising. The 2009 Montana Legislature passed HB78 to revise 77-5-212, MCA, increasing the allowable size limit of emergency salvage timber permits from 200,000 board feet to 500,000 board feet. 77-5-212 also establishes the amount of time the department can spend processing a timber permit application. ARM 36.11.450 was originally adopted in consideration of this time limitation, and authorizes the department to issue individual timber permits without approval from the Land Board. DNRC wishes to conform ARM. 31.11.450 to the revised statute and increase the allowable size of emergency salvage from 200,000 board feet to 500,000 board feet. The rules apply to the forested lands portion of the total 5.2 million acres of school trust lands administered by DNRC.

II. PROJECT DEVELOPMENT

1. PUBLIC INVOLVEMENT, AGENCIES, GROUPS OR INDIVIDUALS CONTACTED:

Provide a brief chronology of the scoping and ongoing involvement for this project. List number of individuals contacted, number of responses received, and newspapers in which notices were placed and for how long. Briefly summarize issues received from the public.

On April 29, 2010, the department initiated the formal rulemaking process under MAPA to repeal ARM 36.11.111 and amend ARM 36.11.450. A public comment period for the proposed rules was open for 60 days. As a part of this process, two public hearings were held in Missoula (May 20, 2010 and June 16, 2010): No one testified at these two hearings. No written comments were received. Due to the size, type, and complexity of this proposal, the department determined that additional project scoping was not necessary.

2. OTHER GOVERNMENTAL AGENCIES WITH JURISDICTION, LIST OF PERMITS NEEDED:

Examples: cost-share agreement with U.S. Forest Service, 124 Permit, 3A Authorization, Air Quality Major Open Burning Permit.

The rule repeal and revision are administrative actions that would not result in specific project work that requires permitting or consultation.

3. ALTERNATIVE DEVELOPMENT:

Describe alternatives considered and, if applicable, provide brief description of how the alternatives were developed. List alternatives that were considered but eliminated from further analysis and why.

No Action -- Under the No Action Alternative, forest management rules would not be amended or repealed at this time. Forest management activities would continue under the direction provided by the existing forest management rules.

Action Alternative -- Under the Action Alternative, DNRC would repeal ARM 36.11.111 and amend ARM 36.11.450. These actions would be formally made under MAPA procedures.

III. IMPACTS ON THE PHYSICAL ENVIRONMENT

- *RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.*
- *Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.*
- *Enter "NONE" if no impacts are identified or the resource is not present.*

4. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE:

Consider the presence of fragile, compactable or unstable soils. Identify unusual geologic features. Specify any special reclamation considerations. Identify direct, indirect, and cumulative effects to soils.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts geology or soils.

5. WATER QUALITY, QUANTITY AND DISTRIBUTION:

Identify important surface or groundwater resources. Consider the potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality. Identify direct, indirect, and cumulative effects to water resources.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts water resources.

6. AIR QUALITY:

What pollutants or particulate would be produced (i.e. particulate matter from road use or harvesting, slash pile burning, prescribed burning, etc)? Identify the Airshed and Impact Zone (if any) according to the Montana/Idaho Airshed Group. Identify direct, indirect, and cumulative effects to air quality.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts air quality.

7. VEGETATION COVER, QUANTITY AND QUALITY:

What changes would the action cause to vegetative communities? Consider rare plants or cover types that would be affected. Identify direct, indirect, and cumulative effects to vegetation.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts vegetation.

8. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS:

Consider substantial habitat values and use of the area by wildlife, birds or fish. Identify direct, indirect, and cumulative effects to fish and wildlife.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts wildlife habitat.

9. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES:

Consider any federally listed threatened or endangered species or habitat identified in the project area. Determine effects to wetlands. Consider Sensitive Species or Species of special concern. Identify direct, indirect, and cumulative effects to these species and their habitat.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts these species or their habitat.

10. HISTORICAL AND ARCHAEOLOGICAL SITES:

Identify and determine direct, indirect, and cumulative effects to historical, archaeological or paleontological resources.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts historical or archaeological sites.

11. AESTHETICS:

Determine if the project is located on a prominent topographic feature, or may be visible from populated or scenic areas. What level of noise, light or visual change would be produced? Identify direct, indirect, and cumulative effects to aesthetics.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts aesthetics.

12. DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AIR OR ENERGY:

Determine the amount of limited resources the project would require. Identify other activities nearby that the project would affect. Identify direct, indirect, and cumulative effects to environmental resources.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts resource demands.

13. OTHER ENVIRONMENTAL DOCUMENTS PERTINENT TO THE AREA:

List other studies, plans or projects on this tract. Determine cumulative impacts likely to occur as a result of current private, state or federal actions in the analysis area, and from future proposed state actions in the analysis area that are under MEPA review (scoped) or permitting review by any state agency.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that results in cumulative impacts.

<p style="text-align: center;">IV. IMPACTS ON THE HUMAN POPULATION</p>

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| <ul style="list-style-type: none">• <i>RESOURCES potentially impacted are listed on the form, followed by common issues that would be considered.</i>• <i>Explain POTENTIAL IMPACTS AND MITIGATIONS following each resource heading.</i>• <i>Enter "NONE" if no impacts are identified or the resource is not present.</i> |
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14. HUMAN HEALTH AND SAFETY:

Identify any health and safety risks posed by the project.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts human health and safety.

15. INDUSTRIAL, COMMERCIAL AND AGRICULTURE ACTIVITIES AND PRODUCTION:

Identify how the project would add to or alter these activities.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts industrial, commercial, and agricultural activities.

16. QUANTITY AND DISTRIBUTION OF EMPLOYMENT:

Estimate the number of jobs the project would create, move or eliminate. Identify direct, indirect, and cumulative effects to the employment market.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts employment.

17. LOCAL AND STATE TAX BASE AND TAX REVENUES:

Estimate tax revenue the project would create or eliminate. Identify direct, indirect, and cumulative effects to taxes and revenue.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts tax revenues.

18. DEMAND FOR GOVERNMENT SERVICES:

Estimate increases in traffic and changes to traffic patterns. What changes would be needed to fire protection, police, schools, etc.? Identify direct, indirect, and cumulative effects of this and other projects on government services

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts government services.

19. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS:

List State, County, City, USFS, BLM, Tribal, and other zoning or management plans, and identify how they would affect this project.

On June 17, 1996, the Land Board approved the State Forest Land Management Plan (SFLMP). The SFLMP provides the philosophy adopted by DNRC through programmatic review (DNRC 1996a) for managing School Trust Lands. In 2003, the DNRC adopted Administrative Rules for Forest Management (Administrative Rules of Montana [ARMs] 36.11.401 through 456; DNRC 2003). The ARMs provide DNRC personnel with consistent policy, direction, and guidance for the management of forested trust lands. The rule repeal and revision are administrative actions that would not affect the SFLMP. No other ARMs would be affected by the repeal and revision proposed; DNRC would continue to operate under the direction of the SFLMP and ARMs.

20. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES:

Identify any wilderness or recreational areas nearby or access routes through this tract. Determine the effects of the project on recreational potential within the tract. Identify direct, indirect, and cumulative effects to recreational and wilderness activities.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts recreation or wilderness.

21. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING:

Estimate population changes and additional housing the project would require. Identify direct, indirect, and cumulative effects to population and housing.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts population or housing.

22. SOCIAL STRUCTURES AND MORES:

Identify potential disruption of native or traditional lifestyles or communities.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts social structures.

23. CULTURAL UNIQUENESS AND DIVERSITY:

How would the action affect any unique quality of the area?

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts cultural qualities.

24. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:

Estimate the return to the trust. Include appropriate economic analysis. Identify potential future uses for the analysis area other than existing management. Identify direct, indirect, and cumulative economic and social effects likely to occur as a result of the proposed action.

No impacts are anticipated. The rule repeal and revision are administrative actions that would not result in specific project work that impacts social or economic issues.

EA Checklist Prepared By:	Name: Sarah Lyngholm	Date: 6/23/2010
	Title: Forest Product Sales Section Supervisor	

V. FINDING

25. ALTERNATIVE SELECTED:

I select the action alternative.

26. SIGNIFICANCE OF POTENTIAL IMPACTS:

I have reviewed the analysis contained in this EA and have compared it with the seven Significance Criteria (ARM 36.2.524). Due to the low potential for identifiable and measurable impacts of any form, I find that the alternative chosen will not have a significant effect on the human environment.

27. NEED FOR FURTHER ENVIRONMENTAL ANALYSIS:

EIS

More Detailed EA

No Further Analysis

EA Checklist Approved By:	Name: Shawn Thomas
	Title: Forest Management Bureau Chief
Signature: /s/ Shawn Thomas	Date: 7/8/2010