DNRC CATEGORICAL EXCLUSIONS FOR FOREST MANAGEMENT ACTIVITIES

(Revised August 2009)

Introduction:
The following identifies the process and documentation needed for forest management activities that are classified as categorical exclusions by the Administrative Rules of Montana for Forest Management [Forest Management Rules: ARM 36.11.447(3)(a) through (w)]. These projects do not require an environmental assessment or environmental impact statement pursuant to MEPA (MCA 75-1-101 through 324) and DNRC Administrative Procedures for MEPA (ARM 36.2.521 through 543). Categorical exclusions are still subject to the Forest Management Rules.

Process:

1. Determine if your forest management project qualifies as a categorical exclusion using criteria listed in:
   a. ARM 36.11.447(2)(a) through (j) − Refer to extraordinary circumstances where categorical exclusion may not apply.
   b. ARM 36.11.447 (3)(a) through (w) – Refer to activities where categorical exclusion may apply.
2. Where appropriate, seek internal input from:
   a. Unit Personnel
   b. Resource Specialists
   c. Forest Management Bureau
3. Contact adjacent landowners if there is need to cross their lands.
4. Complete Categorical Exclusion Form with support from resource specialists.
5. If it is unclear whether the proposed action may generate significant impacts, stop categorical exclusion process and complete further environmental analysis (EA or EIS) to determine the potential for significance.
6. Sign/date decision (Decisionmaker).
7. For timber harvest, send Categorical Exclusion Form with original signature and supporting documentation to Forest Operations Section Supervisor at Forest Management Bureau. Send an electronic copy to Forest Management Planner at the Forest Management Bureau.
8. While there are no formal requirements, notify any appropriate public.

Public Involvement: There are no formal requirements for public involvement with a categorical exclusion. A notification or courtesy (not scoping) letter to lessees, adjacent landowners, and interested publics may be appropriate (no comment period).

INSTRUCTIONS FOR COMPLETING THE FORM

The Categorical Exclusion Documentation form records the qualification of a project for one of the 23 categories subject to exclusion from environmental review as adopted in the ARM 36.11.447(3)(a) through (w). **For timber harvest projects, please send completed form with original signature to the Forest Management Bureau.** A copy of the form should also be kept at the Unit/Area office, along with any other project information (maps, data, contracts, etc.). Categorically excluded timber harvests are still subject to all other Forest Management Rules and permit or sale requirements. A categorical exclusion for salvage timber harvest between 200 MBF and 500 MBF board feet is considered a Timber Sale and will require Land Board approval.

Project Name: Enter the name of the project proposal—e.g. "Deer Creek Timber Permit."

Proposed Implementation Date: Date you expect the actual work on the project to start.

Proponent: Lessee, company, State department and division that are proposing the action and department that is responsible for review.

Type and Purpose of Action: Briefly identify and describe the proposed action in a few sentences, including an idea of the scope of the proposal (e.g., "Issue a timber permit to remove approximately 50 MBF of timber from June 1996 to October 1996; SE¼NW¼ of S16, T2N, R20W. The permittee will be subject to the stipulations included in the permit.")

Category: These refer to the categorical exclusions adopted in the Forest Management Rules (see ARM 36.11.447(3)(a) through (w).

General Considerations for Extraordinary Circumstances:
According to ARM 36.11.447 (2), categorical exclusions may not apply where extraordinary circumstances may occur. Extraordinary circumstances refer to cases where projects may affect resources, species, or situations listed in ARM 36.11.447(2)(a) through (j). To determine if your project triggers an extraordinary circumstance:

1. **Identify if resources, species, or situations listed in ARM 36.11.447(2)(a) through (j) are present.**
2. **If those resources, species, or situations are not present, then your project may be categorically excluded.**
3. **If those resources, species, or situations are present, determine if your activity is likely to affect them.**

   Presence of resources, species, or situations ***does not alone*** *preclude your project from categorical exclusion.* We may categorically exclude projects whose effects to resources, species, or situations can be circumvented through project design (controlling timing, duration, extent, etc.).

   If you are having difficulty determining whether or not an effect is likely to occur, consult with Area resource specialists and/or the Forest Management Bureau.

   The following was designed to assist you in determining if your project may trigger an extraordinary circumstance on one or more of the following resources, species, or situations:

   1) **sites with high erosion risk [ARM 36.11.447(2)(a)]**.
      - Determine the erosion risk from established soil surveys, existing inventories or site-specific field evaluations (as referenced in ARM 36.11.425). Site factors affecting erosion

are soil type, slope, and activity.
    - Consult with Area Hydrologist/Soil Scientist to determine if your project is likely to contribute to unacceptable levels of erosion.

2) **federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS [ARM 36.11.447(2)(b)]**.
    - Determine if federally listed threatened and endangered (T&E) species or critical habitat is present. *Presence of a species or critical habitat* ***does not alone*** *preclude your project from categorical exclusion.* Federally listed T&E species include grizzly bear, Canada lynx, and bull trout. Critical habitat has been designated for Canada lynx and bull trout.
    - Consider local agreements (e.g. Swan Valley Grizzly Bear Conservation Agreement).
    - Determine if your project area contains components important to habitat for listed T&E species (lynx habitat, dens, etc).
    - Consult with Area Wildlife Biologists and/or Fisheries Biologists to determine if your project is likely to have adverse effects to federally listed T&E species and or critical habitat.

3) **within municipal watersheds [ARM 36.11.447(2)(c)]**.
    - Determine if your project occurs within a municipal watershed.
    - Consult with Area Hydrologist to determine if your project is likely to have adverse effects to water quality or quantity within the watershed.

4) **the SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures [ARM 36.11.447(2)(d)]**.
    - Determine if your project occurs within the SMZ of a fish bearing stream or lake.
    - Consult with Area Hydrologist or Fisheries Biologist to determine if your project is likely to have adverse effects on fisheries.

5) **state natural area [ARM 36.11.447(2)(e)]**,

6) **Native American religious and cultural sites [ARM 36.11.447(2)(f)],**

7) **archaeological sites [ARM 36.11.447(2)(g)],** or

8) **historic properties and areas [ARM 36.11.447(2)(h)]**.

    - Determine if your project occurs in or near one of these areas or sites (ARM 36.11.447 (2)(e through h).

    - Consult DNRC archeologist with map of proposed harvest unit and road building to determine if your project is likely to have adverse effects to these sites or areas.

9) **Several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review [ARM 36.11.447(2)(i)]**.

    - Determine if your project occurs near other related projects.

    - If assessment of cumulative effects raises questions on an otherwise low risk project, do an EA checklist to determine the potential for significant impacts.

10) **Violations of any applicable state or federal laws or regulations [ARM 36.11.447(2)(j)].**

    - Determine if your project violates state or federal laws (i.e. Forest Management Rules, SMZ Law, BMPs, Clean Air Act, etc.).

CATEGORICAL EXCLUSION DOCUMENTATION FOR DNRC FOREST MANAGEMENT ACTIVITY

Project Name: Flower Cr. Velpar Application

Proposed Implementation Date: April 15, 2011

Proponent: TLMD-DNRC

Type and Purpose of Action: The Department of Natural Resources and Conservation (DNRC) is proposing to conduct spot application of herbicide over planted seedlings Spring of 2011 on approximately 37 acres in the Flower Cr. drainage south of Libby, MT. Application of the herbicide must be completed within 2 days of completion of planting. Contractor will supply Velpar L herbicide as well as Hi-Light Blue dye. Contractor will also supply Meter-jet equipment to apply the herbicide mixture.

Location: Sec. 16, T30N R31W

County: Lincoln

Category (refer to ARM 36.11.447 (3)(a) through (w) for additional detail):

a) ☐ Temporary Uses of Land with Negligible Effects
b) ☐ Plans and Policies
c) ☐ Leases and Licenses
d) ☐ Acquisition of Land or Interest in Land
e) ☐ Road Maintenance and Repair
f) ☐ Bridges and Culverts
g) ☐ Crossing Class 3 Streams
h) ☐ Temporary Road Use Permits
i) ☐ Road Closure
j) ☐ Material Stockpiles
k) ☐ Backfilling
l) ☐ Gathering Forest Products for Personal Use
m) ☐ Regeneration
n) ☐ Nursery Operations
o) ☐ Water Wells
p) ☒ Herbicides and Pesticides
q) ☐ Other Hazardous Materials
r) ☐ Fences
s) ☐ Waterlines
t) ☐ Removal of Small Trees
u) ☐ Removal of Hazardous Trees
v) ☐ Cone Collection
w) ☐ Timber Harvest (<100 MBF green or 500 MBF salvage)

By process of the adoption of the Forest Management Rules on February 27, 2003, pursuant to ARM 36.2.523(5)(a), the Department of Natural Resources and Conservation, Trust Land Management Division, has adopted the above categorical exclusions for activities conducted on state forested trust lands. "Categorical Exclusion" refers to a type of action that does not individually, collectively, or cumulatively require an EA or EIS unless extraordinary circumstances occur (ARM 36.2.522(5)).

Extraordinary Circumstances:

Will the proposed action affect one or more of the following resources, species or situations in the project area? If the resource, species, or situation is present, but project design avoids potential adverse effects on the resource, the answer is "No". One "Yes" answer indicates that Categorical Exclusion is not appropriate for the project, and an EA or EIS must be conducted.

YES	NO	
☐	☒	a) Sites with high erosion risk.
☐	☒	b) Federally listed threatened and endangered species or critical habitat for threatened and endangered species as designated by the USFWS.
☐	☒	c) Municipal watersheds.
☐	☒	d) The SMZ of fish bearing streams or lakes, except for modification or replacement of bridges, culverts and other crossing structures.
☐	☒	e) State natural area.
☐	☒	f) Native American religious and cultural sites.
☐	☒	g) Archaeological sites.
☐	☒	h) Historic properties and areas.
☐	☒	i) Several related projects that individually may be subject to categorical exclusion but that may occur at the same time or in the same geographic area. Such related actions may be subject to environmental review even if they are not individually subject to review.
☐	☒	j) Violations of any applicable state or federal laws or regulations.

The project listed above meets the definition of the indicated categorical exclusion, including specified conditions and extraordinary circumstances, as provided in the Forest Management Rules (ARM 36.11.447).

Prepared by: Terry G. Thorpe _____ 3/10/2011
(Name) (Date)

Decision by: Mark Peck _____ Libby Unit Manager

(Name) (Title)

_____ _____

(Signature) (Date)