



Montana Legislative Services Division

Legal Services Office

TO: Environmental Quality Council
FROM: Helen Thigpen
DATE: August 31, 2011
RE: Legislative Administrative Rule Review Report

Pursuant to 75-1-324 and 5-5-215, MCA, the Environmental Quality Council is responsible for reviewing administrative rules within its jurisdiction. Staff for the Environmental Quality Council has prepared this report for informational purposes only. This report does not represent any action or opinion of the Environmental Quality Council and does not preclude additional action that may be taken by the Environmental Quality Council pursuant to its authority under the Montana Administrative Procedure Act (Title 2, chapter 4, MCA).

MAR NOTICE NUMBER:

36-22-151

AGENCY/BOARD:

Board of Land Commissioners and Department of Natural Resources and Conservation

RULE CLASSIFICATION: (e.g. substantive/interpretative/emergency/temporary)

Substantive

SUBJECT:

Land Banking

NOTICE DESCRIPTION: (e.g. proposal notice/adoption notice)

Notice of public hearing on proposed amendment

SUMMARY OF RULE(S):

The Board of Land Commissioners and the DRNC are proposing to amend rules implementing the land banking statutes.

In general, the Board and DNRC are proposing to allow the DNRC to sell state land in "sale units". A sale unit is defined as "one or more parcels sold as a single sale." This definition would be added to ARM 36.25.801, which is the definition section for the land banking rules. Changes to ARM 36.25.805, if adopted, would provide that the Board shall "in its sole discretion, sell sale units in configurations providing the best financial

and management advantage to the affected trust beneficiary.” This method would replace the current land banking rules which direct the Board to sell state trust land on a parcel-by-parcel basis.

The Board and DNRC are also proposing to amend ARM 36.28.805(9) to provide that an appraiser must appraise the parcel in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP), as adopted by reference by the State Board of Real Estate Appraisers in ARM 24.202.402.

In addition, the Board and DNRC are proposing to amend ARM 36.25.805(9)(iv) regarding legal access. The proposed rules provide certain appraisal requirements for parcels that lack legal access. For example, if there is not legal access, the appraiser must provide an appraised value with the hypothetical condition that the parcel does have legal access. The appraiser must also provide a credible opinion about the value without legal access if there are comparable sales available.

The Board and DNRC are also proposing to amend the length of time the DNRC has to return the bid deposits of unsuccessful bidders from five to 15 days.

The notice also corrects formatting and grammatical errors.

There are additional changes not discussed in this summary that may be of interest to legislators and the public. Please see a hard copy of the rules for additional information.

NOTES: (e.g. hearing dates)

A hearing is scheduled on the above referenced rules on September 15, 2011, at 2:00 p.m., in the DNRC’s Director’s conference room located at 1625 11th Avenue, Helena, Montana. Comments on the proposed rules will be accepted by DNRC until September 22, at 5 p.m.