

APPENDIX C: ACTIONS EXCLUDED OR EXEMPTED FROM ENVIRONMENTAL REVIEW

An agency is not required to prepare an EA or an EIS for the following categories of action.

ACTIONS EXEMPTED BY STATUTE

- Small business licenses under the Montana Small Business Licensing Coordination Act (30-16-103(3)(b), MCA);
- Issuance of an oversized load permit when existing roads through existing rights-of-way are used (61-10-121, MCA);
- Emergency energy orders issued by the Governor (90-4-310(6), MCA);
- Legislation (75-1-201(1)(b), MCA);
- Transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency does not trigger review if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law (75-1-201(1)(d), MCA); and
- Montana Public Service Commission activities (75-1-201(3), MCA).

Department of Environmental Quality (DEQ)

- Transfer of permits for portable emission sources (75-2-211(5), MCA);
- Siting modifications within a major facility siting corridor (75-20-303(6)(c))(i), MCA);
- Transfer of certain coal mine operating permits (82-4-250(4), MCA);
- Small miners (82-4-305, MCA); and
- Certain actions that involve minor amendments to a hard-rock mine operating permit (82-4-342(5), MCA).

Department of Fish, Wildlife, and Parks (DFWP)

- When DFWP acts as a snowmobile area operator or awards funding to a snowmobile area operator if the action/award has previously been subject to environmental review (23-2-657(2), MCA); and
- Domestic livestock trailing on land owned or controlled by DFWP (87-1-303(3)(a), MCA).

Department of Natural Resources and Conservation (DNRC)

- Issuance by DNRC or the Montana Board of Land Commissioners (Board) of any lease or license subject to further permitting by the DEQ (77-1-121(2), MCA);
- Issuance of lease renewals (77-1-121(3),MCA);
- Nonaction on the part of the DNRC or the Board even though it has the authority to act (77-1-121(3), MCA);
- DNRC and Board action in relation to and compliance with local government actions concerning planning and zoning (77-1-121(4), MCA);
- Issuance of historic right-of-way deeds across state lands (77-1-130(6), MCA);
- A qualified exemption for reciprocal access agreements on state land (77-1-617(2), MCA);
- Authorization of historic use of navigable river beds (77-1-1112(7), MCA);
- Sale of a parcel formerly leased as a cabin or home site (77-2-363(6)(b), MCA); and
- Certain emergency timber sale situations or time-dependent access situations involving timber (77-5-201(3)(c), MCA).

CATEGORICAL EXCLUSIONS

Actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic review are exempt from individual environmental review. In the rule or programmatic review, the agency must identify any extraordinary circumstances in which a normally excluded action requires an EA or EIS (MEPA Model Rule III(5)).

The following agency rules providing categorical exclusions have been adopted:

- DEQ, ARM 17.40.318;
- DFWP, ARM 12.2.454;

- DNRC, ARM 36.11.447;
- Montana Department of Commerce, Coal Board, ARM 8.101.203;
and
- Montana Department of Transportation, ARM 18.2.261

ACTIONS OF A SPECIAL NATURE

The following categories of actions, because of their special nature, do not require any review under MEPA:

- Administrative actions (routine clerical or similar functions, including but not limited to administrative procurement, contracts for consulting services, or personnel actions);
- Minor repairs, operations, and maintenance of existing facilities;
- Investigation, enforcement, and data collection activities;
- Ministerial actions (actions in which the agency exercises no discretion and only acts upon a given state of facts in a prescribed manner, e.g., a decision by the Montana Department of Fish, Wildlife, and Parks to issue a fishing license); and
- Actions that are primarily social or economic in nature and that do not otherwise affect the human environment.