

MONTANA INDEX OF ENVIRONMENTAL PERMITS

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TABLE OF CONTENTS

INTRODUCTION	i
LAND DESIGNATIONS	1
CONSERVATION DISTRICTS	1
CONSERVATION EASEMENTS	1
FLOODPLAINS AND FLOODWAYS	2
HERITAGE SITES	3
ANTIQUITIES PERMITS	3
HUMAN SKELETAL REMAINS AND BURIAL MATERIALS	4
LAKESHORES	5
STATE LANDS	7
CABIN SITES	10
STREAM BEDS - STREAM BANKS - WETLANDS	10
AGRICULTURE	15
AGRICULTURAL SEED	15
ANIMAL FEEDING OPERATIONS	16
BEE KEEPING	16
CROPLAND LEASES ON STATE LANDS	18
FERTILIZER REGISTRATION	18
GRAZING	20
INDUSTRIAL HEMP PROGRAM	22
NOXIOUS WEED FREE FORAGE	24
NURSERIES	25
ORGANIC CERTIFICATION	26
PESTICIDES	27
PLANT EXPORT	32
BUILDING AND CONSTRUCTION	34
BUILDING CODES AND RESTRICTIONS	34
ZONING	35
COMMERCIAL - INDUSTRIAL - ENERGY	36
AIR QUALITY PERMITS: STATE	36
AIR QUALITY PERMITS: FEDERAL	42
GEOTHERMAL LEASES	42
GEOTHERMAL LEASES ON STATE LANDS	42
HAZARDOUS SUBSTANCES - COMMUNITY RIGHT TO KNOW	43
HYDROELECTRIC POWER DEVELOPMENT	44
HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS	45
HYDROELECTRIC POWER DEVELOPMENT AT STATE-OWNED DAMS ..	46
INDOOR EMISSIONS - EMPLOYEE HEALTH AND SAFETY	47
ASBESTOS CONTROL	47
EMPLOYEE HEALTH AND SAFETY	49
RADIATION CONTROL	49
RADON CONTROL	50
MAJOR FACILITY SITING	50

WIND AND SOLAR ENERGY	55
FOOD PROCESSING AND SERVICE	58
DAIRIES	58
SLAUGHTERHOUSES - MEAT PACKING PLANTS	58
FORESTRY	59
BURNING PERMITS	59
HAZARD REDUCTION	60
STREAMSIDE MANAGEMENT ZONES	61
TIMBER HARVESTS/BEST MANAGEMENT PRACTICES	61
TIMBER SALES	62
HIGHWAYS - TRANSPORTATION	64
HIGHWAY ADVERTISING	64
HIGHWAY APPROACH PERMITS	65
HIGHWAY ENCROACHMENTS - OCCUPANCY PERMITS	66
OVER SIZE AND WEIGHT PERMITS	66
ROADSIDE JUNKYARDS	67
HUNTING - FISHING - TRAPPING - WILD LANDS & WILDLIFE PROTECTION ...	68
COMMERCIAL ACTIVITIES	68
AERIAL HUNTING OF PREDATORY ANIMALS	68
ALTERNATIVE LIVESTOCK RANCHES/GAME FARMS	69
COMMERCIAL FISHING	70
COMMERCIAL USE OF FISH, WILDLIFE AND PARKS LANDS	71
FIELD TRIAL PERMIT	73
FISH FARMS OR HATCHERIES	74
FISH PONDS	75
FISHING DERBIES OR TOURNAMENTS	76
FUR DEALERS	77
FUR FARMS	78
GAME BIRD FARMS	79
OUTFITTERS AND GUIDES	80
ROADSIDE MENAGERIES - WILD ANIMAL MENAGERIES - ZOOS - POSSESSION OF WILD ANIMALS	82
SEINING	84
SHOOTING PRESERVES	85
TAXIDERMY	86
USE OF CAPTIVE-REARED BIRDS IN DOG TRAINING	86
USE OF WILD GAME BIRDS IN DOG TRAINING	87
WILDCRAFTING	88
FISHING, HUNTING, AND TRAPPING LICENSES	88
FISHING, HUNTING, AND TRAPPING REGULATIONS	90
WILDLIFE PROTECTION	90
AERIAL HERDING PERMIT	90
CAPTIVE BREEDING OF RAPTORS	91
CONTROLLED EXOTIC SPECIES PERMIT	92
FALCONRY PERMIT	93
GAME PRESERVES	94
IMPORTATION OR INTRODUCTION OF FISH OR FISH EGGS	94

IMPORTATION OR INTRODUCTION OF WILDLIFE	95
MIGRATORY BIRDS	95
NONGAME AND ENDANGERED SPECIES	96
SCIENTIFIC COLLECTORS PERMIT	97
USE OF POISON BAIT ON DEPARTMENT LANDS.....	98
WILD BIRD PERMITS	99
MINING	100
COAL AND URANIUM MINING: OPERATING PERMITS	100
COAL AND URANIUM MINING: PROSPECTING PERMITS.....	103
COAL MINING: IN SITU COAL GASIFICATION	105
HARD-ROCK MINING: EXPLORATION.....	105
HARD-ROCK MINING: OPERATING PERMITS	107
LANDOWNER NOTIFICATION	113
MINING RIGHT-OF-WAY	113
OPENCUT MINING	114
OPERATIONS ON STATE LANDS: COAL MINING.....	118
OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS	119
OPERATIONS ON STATE LANDS: PROSPECTING	121
OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS	122
RECORDING OF MINING CLAIMS	123
MONTANA ADMINISTRATIVE PROCEDURES ACT	124
MONTANA ENVIRONMENTAL POLICY ACT	125
OIL AND GAS	130
GEOPHYSICAL EXPLORATION	130
OIL AND GAS.....	132
OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION	134
OPERATIONS ON STATE LANDS: OIL AND GAS	136
UNDERGROUND INJECTION CONTROL.....	137
UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS.....	139
PARKS AND OUTDOOR RECREATION	140
BOATING	140
CAMPGROUNDS - TRAILER COURTS - WORK CAMPS - YOUTH CAMPS	142
OFF-HIGHWAY VEHICLES	143
RIVER RECREATION	144
SNOWMOBILES.....	146
STATE PARKS.....	147
SOLID WASTE - HAZARDOUS WASTE	149
HAZARDOUS WASTE DISPOSAL.....	149
INCINERATORS - HAZARDOUS WASTE/BOILERS AND INDUSTRIAL FURNACES	151
INFECTIOUS WASTE	153

METHAMPHETAMINE LABS - CLEANUP OF CLANDESTINE OPERATIONS	154
MOTOR VEHICLE WRECKING FACILITIES	155
RADIOACTIVE WASTE DISPOSAL	157
SOLID WASTE DISPOSAL (NONHAZARDOUS)	157
UNDERGROUND STORAGE TANKS	159
TANK INSTALLERS AND INSPECTORS	159
TANK OWNERS AND OPERATORS	160
SUBDIVISIONS	165
SANITATION IN SUBDIVISIONS	165
SUBDIVISION AND PLATTING ACT	167
UTILITIES	172
HIGHWAY UTILITY EASEMENTS	172
IMPROVEMENT AND UTILITY DISTRICTS	173
NATURAL GAS SUPPLIERS	174
PIPELINES: UNDERGROUND EXCAVATION	175
UTILITY AND MOTOR CARRIER REGULATION	176
UTILITY LINES	177
WATER	180
DAMS AND RESERVOIRS	180
PUBLIC WATER SUPPLY	182
SEPTIC TANKS, CESSPOOLS AND PRIVIES	184
SEWER SYSTEMS	186
WATER APPROPRIATIONS - GROUND WATER	188
WATER APPROPRIATIONS - SURFACE DIVERSIONS	191
WATER QUALITY PERMITTING	195
ANIMAL FEEDING OPERATIONS	195
DISCHARGE PERMITS	196
GRAY WATER REUSE PERMIT	200
NONDEGRADATION REVIEW	201
WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS	203
WATER WELLS	204
WEATHER MODIFICATION	206
APPENDIX 1: MONTANA STATE AGENCIES	209
APPENDIX 2: STATE AGENCY REGIONAL OFFICES	226
APPENDIX 3: LOCAL PERMITTING AUTHORITIES	231
APPENDIX 4: FEDERAL AGENCIES	233
APPENDIX 5: TRIBAL GOVERNMENTS	236
INDEX	238

INTRODUCTION

PERMIT INDEX

The *Montana Index of Environmental Permits* is prepared by the Environmental Quality Council staff to provide a complete list of the permits and licenses needed to conduct activities that may affect the state's environment. The permit index lists the permits required, the permitting agencies and the statutes and rules that regulate each permit.

The permit index is **not** a legal document. Anyone planning an activity should contact the administering agency for detailed information before beginning a project.

HOW TO USE THE PERMIT INDEX

Find the relevant activity through the index or table of contents.

On the appropriate page, the entry will look like this. ↓

The text in the entry describes the permits and/or licenses that are required for the activity. ⇒

Listed below the text are the relevant statutes from the Montana Codes (MCA) available online at http://leg.mt.gov/bills/mca_toc/index.htm and administrative rules (ARMs), available online at <http://mtrules.org/>. ⇒

Finally, the entry list the appropriate agency to contact. ⇒

FLOODPLAINS AND FLOODWAYS

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development.

Statute: 76-5-401 through 76-5-406, MCA

Rule: ARM 36.15.601-36.15.801

Contact: LOCAL GOVERNMENT

DEPARTMENT OF NATURAL
RESOURCES AND CONSERVATION
Water Resources Division

Next, if the activity is proposed in a specially designated area such as a conservation district or floodplain, check the land designation section located in the first 14 pages of the index. The land designation section is used primarily as a reference to complement information in the activity section.

It is important to note that if the action will affect any species or species habitat protected under the state or federal Endangered Species Acts, special regulations apply. See *Nongame and Endangered Species*, p. 96.

In addition, a project that may have an impact on the environment is subject to review under the provisions of the Montana Environmental Policy Act (p. 125).

THE STATE REGULATORY STRUCTURE

Montana state government is divided into three branches: legislative, executive, and judicial. The laws governing the state are enacted by the Legislature, implemented by the Executive Branch, and interpreted by the Judicial Branch.

The state's environmental programs are administered by agencies of the Executive Branch. Each agency is headed by a governor-appointed director who is responsible for the operation of the department. The department is composed of divisions, that are divided into bureaus, that may be further divided into sections.

The Executive Branch agencies administer programs established by statute (contained in the *Montana Code Annotated*) and rule (contained in the *Administrative Rules of Montana*). The principal agencies involved in the issuance or review of environmental permits are the Department of Agriculture, Department of Environmental Quality, Department of Livestock, Department of Natural Resources and Conservation, Department of Transportation, Department of Fish, Wildlife and Parks, and Public Service Commission.

FEDERAL AND LOCAL GOVERNMENT PERMITS

Montana administers several federal environmental programs under agreement with the United States Environmental Protection Agency: air and water quality, solid and hazardous waste, and asbestos and pesticide regulation. Montana has also been certified by the U.S. Department of the Interior to administer the federal Surface Mining Control and Reclamation Act (SMCRA). Some federal programs are mentioned in the permit index, but it is important to check with the appropriate state agency to determine if any associated federal permits are required for an activity.

Local governments such as town councils, county commissioners or local health officials also administer permits.

GENERAL INFORMATION

The permit index is a starting point for finding information on environmental regulations for certain activities. It does not replace assistance from agency personnel who have the responsibility to help citizens comply with Montana's environmental laws. To avoid difficulties, contact the permitting agencies as soon as possible and integrate environmental regulations into your planning process early.

For answers to general permit questions, call the Governor's Office (444-3111), the Environmental Quality Council (444-3742), or the Citizen's Advocate Office (444-3468, 1-855-318-1330).

DIRECTORY OF PERMITS

LAND DESIGNATIONS

Lands with special designations have additional land use and activity restrictions.

CONSERVATION DISTRICTS

1. General Requirements

Lands located within a conservation district may be subject to land use regulations designed to conserve soil and water resources and prevent and control erosion. Copies of the land use regulations are available from the district. These regulations are adopted with voter approval through a referendum and are administered by the Conservation District supervisors. Once the referendum is enacted, the district supervisors may compel compliance through a petition to District Court. Variances awarded upon demonstration of great practical difficulties or unnecessary hardship are allowed.

State law requires a 310 permit from a conservation district when a private, nongovernmental individual or entity proposes work in or near a stream on public or private land (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 10).

Statute: 76-15-701, *et seq.*, MCA (land use regulations)
75-7-101, *et seq.*, MCA (stream preservation)

Contact: CONSERVATION DISTRICT or
DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Conservation and Resource Development Division
Conservation Districts Bureau

CONSERVATION EASEMENTS

1. Types of Activities Regulated

A public body or qualified public organization may acquire an interest in real property for the purpose of preserving the land's open space, natural, scientific, educational or aesthetic resources. By granting this land interest, the landowner establishes a conservation easement on the land whereby the landowner agrees to limit the use of certain property rights in order to preserve the property's conservation values. The terms of the conservation easement may prohibit or limit construction, excavation, surfaces uses, and subdivision, etc. The easement holder has the responsibility to

2 LAND DESIGNATIONS

monitor and enforce the terms of the conservation easement. Conservation easements run with the property title.

Statute: 60-4-207, MCA
76-6-103 and 76-6-201, *et seq.*, MCA
87-1-209, 87-1-241 and 87-1-242, MCA

Rule: ARM 12.9.511, 12.9.512 and 12.9.702
ARM 36.11.471

Contact: LOCAL GOVERNMENT
County Clerk and Recorder

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Parks Division
Field Operations Bureau

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

DEPARTMENT OF TRANSPORTATION

FLOODPLAINS AND FLOODWAYS

1. Types of Activities Regulated

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body. Local governments may adopt land use regulations, including floodplain management regulations within sheetflood areas, that may restrict development.

Statute: 76-5-401 through 76-5-406, MCA (Floodplain and Floodway
Management Act)

Rule: ARM 36.15.601-36.15.801

Contact: LOCAL GOVERNMENT (City or County)

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the local government and must contain maps, plans, profiles, and specifications of the proposed project to include the obstruction or use of the water course or drainway.

Statute: 76-5-404, MCA

3. Permitting Procedures

Permit applications for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days after the receipt of a complete application.

Statute: 76-5-405(2), MCA

Rule: ARM 36.15.216

4. Criteria

The following criteria must be considered by the local government in evaluating a permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream and cause injury; alternative methods of construction or alteration of obstruction or use which will minimize the danger; the availability of alternate locations; permanence of the obstruction or use; anticipated development in the area; and other factors specified by law.

Statute: 76-5-406, MCA

Rule: ARM 36.15.216

HERITAGE SITES

ANTIQUITIES PERMITS

1. Types of Activities Regulated

Individuals or organizations proposing to excavate, remove or restore a heritage property or paleontological remains on state-owned land for scientific, educational or mitigation purposes must obtain an antiquities permit from the State Historic Preservation Officer. The preservation officer consults with the appropriate state land management agency in issuing a permit. Permits may not be granted unless the

4 LAND DESIGNATIONS

preservation officer is satisfied that the individuals carrying out the proposed work are qualified to guarantee proper excavation of those sites and objects.

Statute: 22-3-421 through 22-3-442, MCA (Montana Antiquities Act)

Rule: ARM 10.121.901-10.121.916

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office

2. **Criteria**

The heritage value of any historic or prehistoric site identified is determined by the National Register of Historic Places, Criteria for Evaluation.

3. **Additional Information**

Applicants for licenses or permits are encouraged to provide the permitting or licensing agency with specific information on the legal location of the proposed project, previous land use, and land condition. This information assists the agency and the State Historic Preservation Office in determining whether a cultural resource inventory of the proposed area is needed.

HUMAN SKELETAL REMAINS AND BURIAL MATERIALS

1. **Types of Activities Regulated**

The state Burial Preservation Board must be petitioned for a permit for the scientific removal or analysis of human skeletal remains and burial material from any burial site on state or private land. The Board may issue a permit for limited scientific study of remains and material if it determines that the analysis is scientifically justifiable. In Montana it is preferred that remains and material will be reburied onsite rather than be scientifically analyzed. The State Historic Preservation Office assists with coordination and provides staff services for the Board. The Preservation Office also maintains a burial registry and must be contacted in the event of a discovery of human skeletal remains, a burial site or burial material.

Statute: 22-3-801 through 22-3-811, MCA (Human Skeletal Remains and Burial Site Protection Act)

Contact: MONTANA HISTORICAL SOCIETY
State Historic Preservation Office
DEPARTMENT OF ADMINISTRATION
Burial Preservation Board

2. Additional Information

For skeletal remains or funerary objects excavated before the passage of this Act (Human Skeletal Remains and Burial Site Protection Act), the Montana Repatriation Act provides a hearing process for the repatriation of culturally affiliated human skeletal remains or funerary objects from unprotected burial sites currently in the possession or control of any state agency, museum or individual. The Act also requires agencies and museums to complete and provide a copy of an inventory of any remains or objects to the state Burial Preservation Board, the State Historic Preservation Office, and each tribal government.

Statute: 22-3-901 through 22-3-921, MCA (Montana Repatriation Act)

Contact: DEPARTMENT OF ADMINISTRATION
Burial Preservation Board

LAKESHORES

1. Types of Activities Regulated

If a local government has adopted lakeshore protection regulations, a permit is required for any work that will alter or diminish the course, current or cross-sectional area of a navigable lake or its shore. These activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt, or weeds; ponding; filling; and constructing breakwaters or wharves and docks.

Statute: 75-7-201 through 75-7-217, MCA

Rule: As adopted by local governments

Contact: LOCAL GOVERNMENT

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

Specific application requirements are prescribed in regulations adopted by the local government.

3. Permitting Procedures

A. Local Regulations: Contact the local government for specific procedures.

6 LAND DESIGNATIONS

- 1) The local government must seek the recommendations of the local planning board.
- 2) The local government may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.
- 3) The planning board must report its recommendations to the local government on whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.
- 4) A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

B. Time requirements:

Unless the applicant for a lakeshore work permit agrees to an extension, the government must grant or deny the permit within 90 days.

Statute: 75-7-207 and 75-7-211 through 75-7-213, MCA

4. Fees

Permit fees set by local governments must be commensurate with the cost of administering the permit application. See 75-7-210, MCA, for more information.

5. Criteria

The following are minimum requirements and do not restrict a local government from adopting additional or more stringent regulations that may be authorized by other statutes.

The proposed work will not, during construction or its utilization:

- 1) materially diminish water quality;
- 2) materially diminish habitat for fish or wildlife;
- 3) interfere with navigation or other lawful recreation;
- 4) create a public nuisance; or
- 5) create a visual impact discordant with natural scenic values as determined by the local government when such values form the predominant elements of the landscape.

6. Additional Information

Landowners may petition the Montana Department of Natural Resources and Conservation to adopt regulations for a particular lake until the local government adopts the necessary regulations.

STATE LANDS

1. Types of Activities Regulated

Activities on state-owned land, including the beds of navigable waterways, generally require permits, licenses, leases or easements from the Montana Department of Natural Resources and Conservation (DNRC) and approval from the Board of Land Commissioners. See HERITAGE SITES, p. 3; CROPLAND AND GRAZING LEASES, pp. 18 and 20; TIMBER SALES, p. 62; GEOTHERMAL LEASES, p. 42; HYDROELECTRIC POWER DEVELOPMENT, p. 44; MINING, p. 100; GEOPHYSICAL EXPLORATION, p. 130; and OIL AND GAS, p. 130.

Lessees, licensees and permitholders must control noxious weeds or adhere to the noxious weed management program of the person's weed management district or enter into and be in compliance with a noxious weed management agreement.

In addition, the Montana Department of Fish, Wildlife and Parks and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies. See COMMERCIAL USE OF FISH, WILDLIFE AND PARKS LANDS, p. 68.

Statute: Title 77, chapters 1-6, MCA

Rule: ARM 36.2.1001, *et seq.*

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

2. Easements

The Board of Land Commissioners may grant easements on state trust lands and across navigable rivers of the state for the public uses identified in statute. Applications for easements are submitted to the DNRC. Required elements of an application package vary based on the requested use, but in all instances an application processing fee and completed application form is necessary. Additionally, compensation for the area of land encumbered by the easement is assessed and must be the full market value of the land, plus any diminution in the value of adjacent state lands.

8 LAND DESIGNATIONS

The Board may also grant easements under the historic right-of-way law for private access roads, county roads and utility facilities that have been in place on state trust lands without a legal easement. Applications for historic rights-of-way must be received by the DNRC by October 1, 2021. The processing and issuance of these easements sunsets in 2031, allowing time for applicants to plan for and secure funding to purchase easements under application to the DNRC.

A regional water authority may apply for an easement on non-trust lands as a public entity. The non-trust land managing entity may recommend that the easement be transferred to the regional water authority at full, partial or no compensation as described in 77-2-351, MCA.

Statute: 77-1-130, 77-2-101 through 77-2-107, MCA

3. Exchange of Land

The Board of Land Commissioners is authorized to exchange state land for private land provided that the private land is of equal or greater value than the state land and approximately equal in area. The estimated fair market value must be determined by a Montana-licensed and Montana-certified appraiser. The Board has a written policy and criteria for considering and processing land exchanges. Prior to the exchange, a public hearing must be held in the county where the state land is located. Objections to the exchange may be made at the hearing.

Statute: 77-2-201, *et seq.*, MCA

4. Leases

State lands may be leased to any person over 18 years old, heads of families, and associations, partnerships, and corporations. When the DNRC receives an application to lease a tract, it will advertise for bids and accept the highest bid, unless the Board determines that the highest bid is not in the best interest of the trust beneficiaries. See *Types of Activities Regulated*, on p. 7, for references to specific types of leases.

Statute: 77-1-901, *et seq.*, MCA

5. Sales of Land

The Board of Land Commissioners is authorized to sell state land. The estimated fair market value of the land must be determined by a Montana-licensed and Montana-certified appraiser. Some sales of land are restricted, for example, land that is likely to contain valuable mineral deposits or that is located in a navigable waterway. In addition, the DNRC administers a state program that allows the sale of state parcels with restrictions on the type of land for sale and to whom it may be sold. The use of the

proceeds from the sales are used to purchase other land, easements or improvements that will provide a greater return to the state and consolidate public access.

Lessees are notified by the DNRC when they may submit their lease land for nomination. All sale of state land is conducted by public auction held in the county in which the land is located.

Statute: 77-2-301 through 77-2-367, MCA

Rule: ARM 36.25.128, 36.25.701, *et seq.*, and 36.25.801, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Trust Lands Management Division
Real Estate Management Bureau

6. Recreational Use License

A Montana Conservation License is required for persons 12 years of age and older to access most state land. This includes all types of general recreation activities, including use of hiking, biking, use of fishing access sites, wildlife management areas, launching watercraft, etc. The license is purchased and issued by the Department of Fish, Wildlife and Parks for a 12 month period beginning March 1 and expires the last day of February the following year.

Under an agreement between the DNRC and the Montana Department of Fish, Wildlife and Parks, a person who obtains a Montana Conservation License is also authorized to use legally accessible state lands for licensed hunting, fishing, and trapping¹.

Special recreational use licenses are required for organized or concentrated recreational activities, commercial activities such as outfitting, and other activities, including trapping, not included within the definition of general recreational use. The licenses are available only from a DNRC office.

Certain categories of state trust lands, i.e., lands leased for military sites, home sites and cabin sites, commercial developments, and lands on which there are growing crops are closed to all recreational activities. Lessees of state land can also request approval from the DNRC to temporarily, seasonally, or permanently close state lands or restrict certain activities if damage has occurred or if access would interfere with agricultural or ranching activities. Additionally, the DNRC may close or impose restrictions on state lands for a number of reasons, including imminent threat to property and/or public safety or for other emergency situations.

¹ A person who wishes to trap on state land must also obtain a special recreational use license from the DNRC as described above.

10 LAND DESIGNATIONS

The fee for a recreational use license is:

\$8 for resident adults 18-61 years old,
\$4 for youth 12-17 years old and apprentice hunters ages 10 and 11,
\$4 for seniors ages 62 and older,
\$10 for nonresidents, and
\$20 for a family license.

Statute: 77-1-801, 77-1-802, 77-1-804, 77-1-815, 87-2-106, 87-2-201, and
87-2-202, MCA

Rule: ARM 36.25.143, *et seq.*

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 MCA

Rule: ARM 36.25.1001, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Trust Lands Management Division
Real Estate Management Bureau

STREAM BEDS - STREAM BANKS - WETLANDS

1. Types of Activities Regulated

A. Private Projects: A private, nongovernmental individual or entity proposing to work in or near a stream on public or private land must apply for a 310 permit from the conservation districts' board of supervisors. Types of activities that may require a permit include the following: engineering operations for dams, dikes, ponds, ditches, fences, and other construction; stream crossings; bank stabilization projects; irrigation diversions, headgates, and pumpsite maintenance; and other activities that alter the condition of a stream or river. The applicant should contact the conservation district (Title 76, chapter 15, MCA) prior to initiating any activity.

Statute: 75-7-101, *et seq.*, MCA (Natural Streambed and Land Preservation Act)

Rule: ARM 36.2.401, *et seq.*

Contact: CONSERVATION DISTRICT;
GRASS CONSERVATION DISTRICT;
BOARD OF COUNTY COMMISSIONERS; or

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Conservation and Resource Development Division
Conservation Districts Bureau

- B. Public Projects: An agency of state government, county, municipality, or other subdivision of the state of Montana, with the exception of irrigation districts, must apply for a Stream Protection Act (also called a 124) permit from the Montana Department of Fish, Wildlife and Parks (FWP) before beginning a project that may alter the bed or banks of any stream or river in Montana.

Statute: 87-5-501, 87-5-502, and 87-5-507, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Permitting Procedures

- A. Private Projects: An individual planning a project must obtain a permit application (joint application) prior to any activity in or near a stream. Applications are available at the Conservation District offices or at the Department of Natural Resources and Conservation website at <http://dnrc.mt.gov/permits/>. If a permit is required, a team composed of a district supervisor, a FWP biologist and the applicant conduct a site inspection. The supervisors have 60 days from the date of application to approve, modify or deny the permit.

Statute: 75-7-111 through 75-7-116, MCA

- B. Public Projects: An agency planning a project must submit a Notice of Construction (joint application) to the FWP at least 60 days before the anticipated date of construction. Within 30 days after the department receives project plans, it must notify the applicant whether or not the project will adversely affect fish or wildlife habitat. The FWP may require modifications to the project and make recommendations for alternative plans. If required, recommended construction conditions are outlined in

12 LAND DESIGNATIONS

the permit issued to the applicant. If the applicant refuses to modify the plans as outlined in the permit, and an agreement cannot be reached, an arbitration panel may be appointed by the District Court.

Statute: 87-5-502 through 87-5-505, MCA

3. **Emergencies**

- A. Private Projects: No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors or commissioners within 15 days following the emergency action. A team will be called together to evaluate the project.

Statute: 75-7-113, MCA

- B. Public Projects: A 124 permit is not required from public agencies for situations requiring emergency response such as ice jams, floods, etc. An emergency is defined as an imminent threat to life or property that could not be foreseen.

Statute: 87-5-506, MCA

4. **Federal Actions**

The FWP observes federal agency actions and nonactions in Montana for their effect on the state's fish and wildlife resources. The department sends notifications to the agency stating its objections and keeps records of all communications with the agency.

The FWP also has a Memorandum of Understanding with the U.S. Forest Service and a Cooperative Agreement with the U.S. Bureau of Land Management whereby these agencies apply for a Stream Protection Act permit for projects affecting stream beds and stream banks on their lands.

Statute: 87-5-508, MCA

5. **Other Information and Requirements**

A land use license, lease or easement is required by an entity proposing a project on lands below the low water mark of navigable waters as designated by the Montana Department of Natural Resources and Conservation (see STATE LANDS, p. 7).

Statute: 77-2-101 through 77-2-107, MCA
77-1-1109 through 77-1-1117, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Trust Land Management Division
Real Estate Management Bureau

Under section 10, federal Rivers and Harbors Act, any structure or work on, over, under, or affecting navigable waters requires authorization from the U.S. Department of the Army, Corps of Engineers.

Under section 404 of the federal Clean Water Act, a permit is required from the U.S. Department of the Army, Corps of Engineers, for the placement of dredged or fill materials in United States' waters.¹ The U.S. Environmental Protection Agency develops environmental review criteria, reviews projects, and has enforcement authority under the Act.

The Montana Department of Environmental Quality must provide 401 water quality certification prior to issuance of Corps of Engineers permits. The certification process is handled internally through agreements between the agencies for the Corps of Engineer's nationwide permits. For the Corps of Engineers individual permits, the permit applicant is notified by the Corps to apply to the Montana Department of Environmental Quality for a 401 water quality certification.

Statute: 33 U.S.C. § 401, *et seq.* (Rivers and Harbors Act)
33 U.S.C.A. § 1321, *et seq.* (Clean Water Act)

Rule: 33 C.F.R. 209 and 40 Federal Register 31319
ARM 17.30.101, *et seq.* (401 certification)

Contact: U.S. Department of the Army
Corps of Engineers
District Engineer

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Division
Water Protection Bureau

A person planning new construction, including, but not limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of

¹ Waters of the United States includes essentially all surface waters such as all navigable waters and their tributaries, all interstate waters and their tributaries, all wetlands adjacent to these waters, and all impoundments of these waters.

14 LAND DESIGNATIONS

equipment or materials, excavation, and new construction of or additions to mobile homes and residential and commercial buildings must check with the local governing body to determine if the activity is in a designated floodplain or floodway (see FLOODPLAINS and FLOODWAYS, p. 2).

Contact: LOCAL GOVERNMENT

A 318 authorization must be obtained from the DEQ prior to initiating a short-term activity that may cause unavoidable short-term violations of state water quality standards. The FWP may also issue 318 authorizations during the 310 or 124 permitting process.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

AGRICULTURE

AGRICULTURAL SEED

1. Types of Activities Regulated

The Montana Department of Agriculture (MDA) regulates seed producers, labelers, and dealers to ensure seed quality and seed products free of noxious or restricted weed seeds. Licenses are required, with some exceptions, for facilities in the state that condition¹ agricultural seed (producers), for when a person's name and address appear on the label of agricultural seed (labelers), and for a person who sells agricultural seed in Montana (dealers). Seed license forms and additional information is available from the MDA or online at <https://agr.mt.gov/Seed-Program>.

Statute: 80-5-120, *et seq.*, MCA

Rule: ARM Chapter 4.12.3002, *et seq.*, 4.12.3102, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A license application for a facility that conditions, labels or sells agricultural seed is available from the MDA. The application requests the applicant's name, place of business, and mailing address; the location of each seed conditioning facility if applying for a seed conditioning plant license; a sample label if applying for a seed labeler's license; and a list of persons who may be selling seed for the company. A license is required for each location where seed is located or sold. Licenses must be renewed annually and expire on June 30. Seed license forms and additional information is available from the MDA or online at: <https://agr.mt.gov/Topics/Q-Z/Seed-Pages/Seed-Dealer-Licensing>.

Statute: Title 80-5-130, *et seq.*, MCA

Rule: ARM 4.12.3008

3. Fees

The license fee for a non-resident seed dealer selling seed in Montana is \$130. The license fee for a Montana producer, dealer, conditioner or labeler is \$75.

¹ A conditioned seed is one that is dried, cleaned, scarified, or altered in a way that changes its purity or germination properties.

Seed labelers located outside of Montana who sell agricultural seed in the state must report sales and pay an assessment of 25 cents per \$100 in gross annual sales. The report and fee are due July 31 for the preceding 12 month period.

Statute: 80-5-130, MCA

Rule: ARM 4.12.3009 and 4.12.3017

4. **Additional Information**

A label is required on all containers of seed sold in Montana. The labels must be truthful and appropriate to the product and contain specific information required by law.

Seeds offered for sale or sold must not contain any prohibited noxious weed seeds as designated under the Montana County Weed Act (7-22-2101(9)(a)(i), MCA).

Statute: 80-5-123, MCA

Rule: ARM 4.12.3010

ANIMAL FEEDING OPERATIONS

See DISCHARGE PERMITS, ANIMAL FEEDING OPERATIONS, p. 195.

BEE KEEPING (APIARIES)

1. **Types of Activities Regulated**

The Montana Department of Agriculture (MDA) issues certificates of registration for four types of apiaries: general, pollination, landowner, and hobbyist:
<https://agr.mt.gov/BeeProgram>.

Apiaries with a *general* certificate of registration must be located three or more miles apart to prevent the spread of diseases and pests. There is no distance limit for pollination, landowner, and hobbyist apiaries but other restrictions apply. For *landowner* certification, the applicant must own (or control for purposes other than placing honeybees) the land where the hives are located. *Pollination* apiaries are established for the pollination of commercial crops and certificates of registration are issued for a specific period designated by the MDA. *Hobbyist* beekeepers may only keep ten or less hives and may have no more than two apiary locations.

Honey bee colonies and beekeeping equipment moved into Montana must be inspected by the Department of Agriculture or an agency in the originating state that has been approved by the MDA.

Statute: 80-6-101, *et seq.*, MCA
Rule: ARM 4.12.102, *et seq.*
Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

Apiary registration forms are available from the MDA or online at https://agr.mt.gov/_docs/bees-docs/NewApiaryandLandownerForm.pdf. Application requirements and conditions vary according to the type of certification requested. Apiaries must be registered by April 1 of each year.

Statute: 80-6-111 through 80-6-114, MCA

3. Fees

There is a one-time fee of \$10 to register as a beekeeper. The annual registration fee for commercial and pollination apiary sites is \$35 per site. The annual registration fee for hobbyist and landowner apiary sites is \$10 per site. The hourly inspection fee is \$42 per hour. The fee for the issuance of a certificate of health for bees that are seasonally transported is \$125. A recent inspection is required for the issuance of a certificate of health.

Statute: 80-6-202, MCA

Rule: ARM 4.12.113

4. Additional Information

The Department offers sex-ratio, emergence testing and x-ray evaluation for live larvae, parasites, predators, and pathogens for basic and certified alfalfa leaf-cutting bee samples. Certified samples are collected by the Alfalfa Seed Committee or its agent. Application forms for certification and an explanation of the fees are available on the departmental website at: <https://agr.mt.gov/Topics/A-D/Bees/Alfalfa-Leafcutting-Bees>. The sample is certified if departmental standards are met. Basic samples are submitted directly from the grower to MDA. There is a one-time registration fee of \$15. In both cases, samples should consist of at least one quart of loose cells. A basic sample analysis is \$50 per sample. Sex-ratio and percentage emergence testing is an additional \$20.

Statute: 80-6-1101, *et seq.*, MCA

Rule: ARM 4.12.1221, 4.12.1224, 4.12.1225, 4.12.1229

CROPLAND LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a crop share rental value of not less than one-fourth of the annual crop or the usual landlord's share prevailing in the area, whichever is greater. See also GRAZING, p. 20.

Statute: 77-6-501, *et seq.*, MCA

Rule: ARM 36.25.102, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

2. Leasing Procedures

- 1) Leases go to the highest bidder unless the Board determines that this decision is not in the state's best interest.
- 2) Present lease holders have a preference right over others seeking to lease the same land. The lease holder may meet the highest bid made by any applicant by exercising their preference right except under certain conditions when the land has been subleased. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease. Lessees may appeal the bid to the Board if they consider the bid excessive.
- 3) Lease terms are five or 10 years.

Statute: 77-6-201, *et seq.*, MCA

FERTILIZER REGISTRATION

1. Types of Activities Regulated

- A. Fertilizer Registration: Fertilizers and soil amendments, except unmanipulated animal or vegetable manures, must be registered by the manufacturer or the supplier on behalf of the manufacturer with the Montana Department of Agriculture (MDA) before distribution in Montana.
- B. Fertilizer Distribution License: A person may not distribute any type of fertilizer or soil amendment intended for agricultural use, except

unmanipulated animal or vegetable manures or specialty fertilizer and soil amendments not distributed for agricultural use, until a license to distribute has been obtained from the MDA for each facility distributing into the state and for each handling facility in the state. It is unlawful to distribute fertilizers or soil amendments adulterated with metals in amounts that exceed the levels identified in MDA rules.

Before distributing any commercial fertilizer or soil amendment distributed for agricultural use into the state, a person must be licensed as a supplier.

- C. Anhydrous Ammonia Facilities: MDA approval is required for the construction and operation of anhydrous ammonia facilities.

Statute: 80-10-201, 80-10-202, and 80-10-503, MCA

Rule: ARM 4.12.601 through 4.12.604 and 4.12.701, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE

Agricultural Sciences Division

2. **Application Requirements**

- A. All applications for fertilizer registration must include the name and address of the applicant; the brand, grade, and guaranteed analysis of the fertilizer; and other detailed information about each product as required by the MDA. Fertilizers or soil amendments that contain a waste or sewage sludge must be identified as such in the registration application. The application must also state the source of the waste and the level of metals in the final product. Registrations expire on December 31 of each year.
- B. The application for a fertilizer distribution license must be on forms approved by the MDA. Licenses expire on December 31 of each year.
- C. An application for an anhydrous ammonia facility must include written approval from the local governing body or a zoning permit issued by the county or town where the facility will be located. Storage tanks and associated equipment must meet applicable safety and design codes at the time of installation.

Statute: 80-10-201, *et seq.*, MCA
80-10-501, *et seq.*, MCA (anhydrous ammonia)

Rule: ARM 4.12.601 through 4.12.604 and 4.12.701, *et seq.*

3. Fees

Applications for fertilizer registrations must be accompanied by a nonrefundable fee of \$20 for each fertilizer and soil amendment and a nonrefundable fee of \$35 for each specialty fertilizer. An additional \$10 fee is required for fertilizers and specialty fertilizers to fund the ground water protection responsibilities of the MDA.

All new applicants for fertilizer distribution licenses pay a nonrefundable \$75 fee. License renewals received before January 1 are \$50. The MDA may collect a \$25 late penalty for a license renewal received after January 1.

The MDA also assesses inspection fees and requires biannual reports on the tonnage of fertilizer distributed for agricultural use, except for specialty fertilizers and soil amendments not distributed for agricultural use and unmanipulated animal and vegetable manures.

Statute: 80-10-103, 80-10-201, 80-10-202, 80-10-207, and 80-15-302, MCA

Rule: ARM 4.12.608

4. Additional Information

Commercial fertilizer and soil amendment containers must be labeled. The labels must be truthful and appropriate to the product and contain specific information required by the statutes and rules.

Statute: 80-10-204, MCA

Rule: ARM 4.12.604

GRAZING

1. Grazing Districts

Three or more livestock operators owning or controlling property in an area may create a state grazing district—a nonprofit cooperative organization regulated by the Montana Grass Conservation Commission and authorized to ensure the protection of range resources. Membership in a district is limited to persons engaged in the livestock business, or those persons' agents, who own or lease forage-producing lands within or near the state district.

- 1) A permit is required from the state grazing district for a livestock owner or the person in control of the livestock to run the animals at large or under herd within the boundaries of a state district.

- 2) A person may obtain a permit (i.e., a grazing preference) by submitting an application to the district. Temporary permits may be issued to nonmembers on an annual basis.
- 3) Transfer of preferences are not allowed without the written consent of the owner of the property from which the transfer will be made. A transfer is not effective until approved by the Montana Grass Conservation Commission.
- 4) Prior to the transfer, a public hearing must be held before the Board of Directors of the district.
- 5) A person is not required to obtain a permit to graze livestock on land that the person owns or controls within a district if the stock being grazed are kept from running at large and from grazing on any other lands within the district.

Statute: 76-16-201, 76-16-302, 76-16-310, and 76-16-401, *et seq.*, MCA

Contact: STATE GRAZING DISTRICT

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Conservation and Resource Development Division
Montana Grass Conservation Commission

2. State Leases

The Department of Natural Resources and Conservation (DNRC) issues leases, through competitive bidding, for grazing on state lands.

Leasing Procedures

- 1) When the DNRC receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the DNRC headquarters in Helena.
- 2) Present lease holders have a preference right over others seeking to lease the same parcel. A preference right entitles the lease holder to meet the highest bid made by any applicant and to appeal the bid to the Board if they consider the bid excessive. Certain conditions regarding subleasing must be met for a lease holder to exercise their preference right and the

22 AGRICULTURE

preference is valid only if the lessee has not abused any conditions of the lease.

- 3) A person bidding for the lease of state lands must deposit a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to \$1 per acre for agricultural land. The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.
- 4) Lease terms are five or 10 years.

Statute: 77-6-101, *et seq.* and 77-6-201, *et seq.*, MCA

Rule: ARM 36.2.1003 and 36.25.102, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Trust Land Management Division
Agriculture and Grazing Management Bureau

3. Federal Leases

The U.S Department of the Interior, Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act
Taylor Grazing Act, as amended

Rule: 43 C.F.R. § 4100, 36 C.F.R. § 222

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

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

INDUSTRIAL HEMP PROGRAM

A hemp license is required to cultivate hemp in Montana. A hemp license provides authorization for the production of hemp at a particular growing area by a particular

individual or entity. Additional information and licensing forms are available at:
<https://agr.mt.gov/Hemp>.

Statute: 80-18-101 through 80-11-111, *et seq.*, MCA

Rule: ARM 4.19.101 through 4.19.203

Contact: DEPARTMENT OF AGRICULTURE
 Agricultural Development Division

1. Types of Activities Regulated

Hemp seed sellers are required to follow the requirements of the Montana Seed Act, including obtaining a Montana Seed Labeler license.

The State of Montana does not have authority over hemp grown within tribal reservation boundaries. Any person interested in growing hemp within reservation boundaries, whether tribal member or not, must contact their resident tribe or the USDA to request information on hemp licensing requirements.

2. License Requirements

The Indoor/Outdoor License to produce hemp is valid from the time of issuance until December 31. No hemp can be planted until the applicant has received a Planting Permit.

The department issues hemp licenses in (2) two progressive steps:

- 1) Hemp Licensing Process -Stage 1: Applicants must provide entity information, key participant information and verification of seed/live plant source. Additional requirements include payment in full of the nonrefundable application fee, FBI Identity History Summary and signatures acknowledging the Attestation Statement and Risk Acknowledgment Statement. Upon approval of the initial application, eligible applicants will be issued a Planting Permit so they may purchase seed or live plants, and seed or transplant hemp.
- 2) Hemp Licensing Process - Stage 2: To receive full licensure, applicants must submit a Planting Report confirming finalized information about the planted crop. Successful candidates will be issued the Production License, which allows for production, harvest and transportation of compliant hemp. License holders must complete an FSA Acreage Report and submit a report to the Montana Department of Agriculture.

Statute: 80-18-103, MCA

24 AGRICULTURE

Rule: ARM 4.19.102, 4.19.103 and 4.19.106

3. Fees

- 1) Licensees who plant a Category C cultivar are required to pay a nonrefundable \$1,100 licensing fee.
- 2) Licensees who plant only Category A or B varieties are required to pay a nonrefundable fee of \$850.
- 3) Inspection and testing fees: An initial inspection fee and sample testing fee is waived. A \$250 testing fee will be required for each additional sample and a \$250 inspection/sampling fee will be required for each additional inspection.
- 4) The department may assess a processing fee of \$100 for any late or incomplete documentation associated with the licensing process or planting reports. A change fee of \$50 may be assessed for each new cultivar or location change.

Rule: ARM 4.19.104, 4.19.105 and 4.19.113

NOXIOUS WEED FREE FORAGE

1. Types of Activities Regulated

Certification of forage products, including pellets, cubes, grain, and wattles, as free of noxious weeds is available from the Montana Department of Agriculture (MDA). Forage products may be certified as free of Montana designated noxious weed seeds or may be certified as free of regional noxious weeds. Certified noxious weed seed free forage is required when horses or pack animals are used on public land in Montana.

Additionally, a public utility or a local, county, state or federal agency is required to use certified weed free mulches, bedding materials, and erosion control barriers. All seeds used for reclamation purposes by public utilities and local, county, state and federal agencies must be free of noxious weed seeds and be certified seed according to Title 80, chapter 5.

Statute: 80-7-901, *et seq.*, MCA

Rule: ARM 4.5.301, *et. seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

Applications should be made with the MDA agent in the county in which the person resides or in the county in which the person owns or leases land on which forage will be produced. Noxious weed seed free forage must be certified annually. All manufacturers of noxious weed seed free product must submit an annual application for certification to the MDA noxious weed seed free forage program.

Rule: ARM 4.5.301, *et seq.*

3. Fees

The annual field inspection fee is \$4.50/acre or a \$45 minimum charge per field. The inspection fee for manufacturers is \$44 per hour or \$88 minimum per facility.

Rule: ARM 4.5.313

NURSERIES

1. Types of Activities Regulated

A. Licensing: The Montana Department of Agriculture (MDA) requires licenses for firms, nurseries, plant dealers, or landscape services that sell or distribute nursery stock (plants or parts of plants) in the state. Licensing requirements vary according to the value of gross annual sales and the number of distribution locations. Certain firms, nurseries, plant dealers, or landscape services that are licensed as a nursery in another state are exempt from the licensing requirement. Additional information can be found online at: <https://agr.mt.gov/Nurseries>.

B. Infestation/infection notice: The MDA must be notified if any nursery stock or material becomes infested or infected with plant pests. The firm, nursery, plant dealer or landscape service shall comply with the instructions of the department for the control of the plant pests.

Statute: 80-7-105, *et seq.*, MCA

Rule: ARM 4.12.1405, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Fees

- 1) The license fees for each location for a firm, nursery or plant dealer are as follows:

Gross annual sales of nursery stock:	Fee:
not more than \$5,000	\$25 to \$35
\$5,001 to \$75,000	\$135 to \$185
\$75,001 to \$150,000	\$200 to \$250
\$150,001 to \$250,000	\$300 to \$350
over \$250,000	\$400 to \$450

- 2) A landscape service shall pay a license fee of not less than \$150 or more than \$200. A landscape service that sells nursery stock shall pay a license fee for either a landscape service or a nursery, whichever is greater.
- 3) A sod farmer shall pay a license fee of not less than \$220 or more than \$270.

Statute: 80-7-106, MCA

Rule: ARM 4.12.1405, *et seq.*

3. Additional Information

The MDA may impose and administer quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds, and other exotic plants.

Statute: 80-7-402, *et seq.*, MCA (Montana Quarantine and Pest Management Act)

Rule: ARM 4.12.1409

ORGANIC CERTIFICATION

1. Types of Activities Regulated

Certification is required for production and handling operations that are selling and/or labeling products as organic in Montana.

Statute: 80-11-601, MCA

USDA NOP Title 7, Part 205, Code of Federal Regulations

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A producer or handler applying for organic certification must submit a completed application and organic system plan forms, along with applicable fees, to the Montana Department of Agriculture (MDA). The applicant must also establish and maintain necessary records and documentation of purchased materials, production or handling activities and product sales and cooperate with an inspector to schedule an onsite inspection.

Once granted, certification continues in effect until surrendered by the certified operation or suspended or revoked by the MDA. To continue certification, operations must annually submit an application and other information in compliance with the National Organic Program, pay certification fees and allow an onsite inspection.

Rule: ARM 4.17.105, *et seq.*

USDA NOP Title 7, Part 205, Code of Federal Regulations

3. Fees

Fees vary according to the size of the operation. A schedule of fees is available at ARM 4.17.106.

PESTICIDES

1. Types of Activities Regulated

Pesticide Registrations

- A. The manufacturer, formulator, or distributor of a pesticide distributed, sold, offered for sale within the state, delivered for transportation or transported in intrastate commerce or between points within the state must register each pesticide annually with the Montana Department of Agriculture (MDA). Pesticides registered by the state include algaecides, aquatic herbicides, avicides, disinfectants, fungicides, fumigants, herbicides, insecticides, nematocides, predacides, pesticides, rodenticides, repellents and wood preservatives, as well as section 25(b) minimum risk pesticides.

Licenses

- B. Licenses are required for commercial, noncommercial, public utility and government *pesticide applicators* and the licenses must be renewed annually. The MDA routinely inspects pesticide applicators for compliance with pesticide labeling requirements and state and federal statutes and rules. Pesticide license information can be found online at: <https://agr.mt.gov/Pesticide-License-Program>.

Employees of certified applicators under certain conditions of use for general and restricted-use pesticides are required to obtain a *pesticide operators* license. A wastewater discharge permit may be required for any person applying pesticides into or over state surface water. Wastewater discharge permits are regulated by the Montana Department of Environmental Quality (DEQ) and the Montana Discharge Elimination System (MPDES) program.

Farm applicators planning to use a restricted-use pesticide must obtain a special-use permit.

- C. *Pesticide dealers* must be licensed annually. A separate dealer's license is required for each location or outlet from which pesticides are distributed, sold, held for sale or offered for sale. The department routinely inspects pesticide dealers for compliance with pesticide labeling and state and federal statutes.

Statute: 80-8-101, *et seq.*, MCA (Montana Pesticides Act)
80-15-101, *et seq.*, MCA (Montana Agricultural Chemical Ground Water Protection Act)

Rule: ARM 4.10.101, *et seq.*, ARM 4.11.101 and ARM 17.30.1341

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

D. Aircraft Registration

An individual applying for a license to engage in aerial application of pesticides must certify on the application that the individual had met all the Federal Aviation Administration and Montana Department of Transportation requirements for aerial pesticide applicators.

Contact: DEPARTMENT OF TRANSPORTATION
Aeronautics Division

2. **Application Requirements**

Pesticide Registrations

- A. An applicant applying to register a pesticide must file a statement with the MDA with identifying information about the applicant or the person whose name and address will appear on the label. The statement must also include detailed information about the pesticide and a statement of claims made for the pesticide, including the trade and chemical name and directions for use. The MDA may also require a description of tests and the results upon which the claims are based. Federally-exempt Federal

Insecticide, Fungicide, and Rodenticide Act (FIFRA) 25(b) minimal risk pesticides are also registered in Montana. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use or sale of a pesticide to prevent damage or injury to persons, animals, crops, pollinating insects, the environment, plants, wildlife, fish and other aquatic life. Registrations expire on December 31.

Licenses

- B. Licensing requirements for *pesticide applicators* vary according to the scope and type of pesticide application, but generally include a completed application form, an examination, recordkeeping, a statement of financial responsibility, and the payment of fees. Licenses must be filed or renewed before pesticide application occurs in any calendar year. Applicants may maintain their qualifications in subsequent licensing years by attending training courses or requalifying by examination.

To obtain a license as a *pesticide operator*, a completed application form signed by the responsible certified applicator is required. Individuals qualify for an operator license by passing a department examination, attending a department training course or receiving training from a certified applicator of the business or government agency. An operator license must be renewed annually by receiving in-service business or government agency training or by attending an MDA-approved training course.

Farm applicators using a restricted-use pesticide qualify for their first permit by completing the application form, paying the fee, passing a graded written examination, or attending a training course approved by the Montana State University Pesticide Safety Education coordinator and taking a quiz at the conclusion of the course. They must also maintain their qualifications by periodically attending training courses or requalifying by examination. Farm applicators must file for a new special-use permit every five years.

- C. An applicant for a *dealer's license* must certify by examination with the MDA and annually submit a completed application form with payment of fees. Dealers are required to maintain their qualifications in subsequent licensing years by attending training courses or requalifying by examination.

Aircraft Registration

- D. Individuals applying for a *license for aerial application* of pesticides must certify on the application that they have met all the Federal Aviation Administration, the Montana Department of Transportation, and the MDA requirements for aerial pesticide applicators.

30 AGRICULTURE

Statute: 80-8-201, 80-8-203 through 80-8-209, 80-8-211, and 80-15-302, MCA

Rule: ARM 4.10.201 through 4.10.210, 4.10.401 through 4.10.404, and 4.10.501 through 4.10.504

3. **Permitting Procedures**

A. Pesticide Registration

- 1) The Departments of Public Health and Human Services (DPHHS); Agriculture; and Fish, Wildlife and Parks (FWP) must review all applications for registration of an experimental-use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the federal Insecticide, Fungicide, and Rodenticide Act.
- 2) The DPHHS and FWP must approve or disapprove applications within 10 days after receipt.
- 3) If the MDA, the Department of Public Health and Human Services, and the Department of Fish, Wildlife, and Parks are in agreement with the proposed registration, the department shall issue the registration.

Statute: 80-8-201(9), MCA

B. Licenses

Persons applying for an applicator, operator or dealer license must complete a license application on forms provided by the MDA. If the application is not complete or the qualifications for the license are not met, the department will return the application along with a notice of the deficiencies and the procedure for correcting the deficiencies. Licenses will not be issued until the application, fees and all examination or requalification requirements are completed and approved.

4. **Fees**

Pesticide Registration

- A. The fee for each registered pesticide is \$233 (\$138 annual registration and \$95 ground water monitoring). If the application is for emergency exemptions requested by the state, a special local-need registration or an experimental-use permit registration, the fee is \$138.

Licenses

- B. The annual fee for a commercial applicator's license is \$85 (\$75 plus a \$10 fee to fund the state's waste pesticide and disposal program). The late renewal fee is \$25.

The annual fee for commercial pesticide operators is \$25 each for the first two operators and \$10 for each additional operator.

The annual fee for a government applicator's license is \$70 for each of the first four employees. For each additional employee applicator there is a \$5 fee, with a fee cap of \$895 for an agency.

The fee for a farm applicator special-use permit is \$60 for a five-year permit.

- C. The annual application fee for a commercial dealer's license is \$85 (\$75 plus a \$10 fee to fund the state's waste pesticide and disposal program) and \$25 for a late renewal. The annual fee for a non-federal government dealer's license is \$70.

Statute: 80-8-201, 80-8-203, 80-8-205, 80-8-207, 80-8-209, 80-8-213, and 80-15-302(1), MCA

Rule: ARM 4.10.206(4) and 4.10.710

5. **Criteria for Registration of Pesticides**

If it does not appear to the MDA that the pesticide warrants the proposed claims for the pesticide or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow them an opportunity to make the necessary corrections. If the applicant does not make the corrections, the MDA may refuse to register the pesticide. The department's decision may be appealed.

Statute: 80-8-201(7), MCA

6. **Disposal**

Empty containers must be safely disposed of according to label instructions. Most empty pesticide containers must be triple rinsed, punctured and recycled or disposed of in a landfill.

Participants in the MDA's voluntary pesticide disposal program are not charged for the first 200 pounds of acceptable pesticides. The fee is \$1.00 per pound for amounts greater than 200 pounds. Information about pesticide collection events is available at <http://agr.mt.gov/Pesticide-Container-Recycling-Program>.

Statute: 80-8-111, MCA

Rule: ARM 4.10.1801, *et seq.*

7. **Public Notice**

The owner or manager of a public building must post a notice at the entryway to a building or room where certain pesticides have been applied that tells the name of the pesticide and a number to call for more information.

Statute: 80-8-107, MCA

8. **Pesticide General Permit**

To protect the state's water quality, a pesticide general permit is required for a person or entity who applies pesticides into or over state surface water. To receive a permit, the owner or operator must submit a Notice of Intent (NOI) and a Supplement E form to the Montana Department of Environmental Quality (DEQ). The NOI is a legal notification by the owner or operator to the DEQ that they will comply with the terms of the pesticide general permit. A Section E supplement must be completed for each county to which pesticides will be applied. For general information on discharge permits, see WATER QUALITY PERMITTING, p. 195.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

Rule: ARM 17.30.201 and 17.30.1341

PLANT EXPORT

1. **Types of Activities Regulated**

The Montana Department of Agriculture (MDA) assists plant and plant product exporters in meeting the phytosanitary standards of importing states and countries by certifying that plants and plant products are free of pests. Applications for certification are available online through the USDA Phytosanitary Certificate Issuance & Tracking System (PCIT) <http://pcit.aphis.usda.gov/pcit/>.

Authority: Memorandum of Understanding with the U.S. Department of Agriculture

Animal and Plant Health Inspection Service
Plant Protection and Quarantine

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

Exporters should contact the MDA before a commodity is ready for shipping to determine what the phytosanitary requirements are for the intended destination. Field inspections during the growing season, laboratory tests, soil analysis, and the completion of other testing requirements may be necessary before export certifications can be completed.

3. **Fees**

Phytosanitary certificates are either \$105, \$160, or \$180, based on the value of the shipment. All of the fees also incur an additional USDA \$6.00 processing fee.

BUILDING AND CONSTRUCTION

BUILDING CODES AND RESTRICTIONS

1. Types of Activities Regulated

The statewide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units; farm and ranch buildings; private garage and storage structures;¹ mine buildings on mine property regulated under state mining laws and subject to inspection under the federal Mine Health and Safety Act; and certain petroleum refineries, pulp and paper mills, industrial process-related structures, vessels, and piping, traffic control signals, street lighting, traffic control signs, and other traffic control devices. Counties, cities, or towns, by adopting local ordinances or resolutions, may make the state building code applicable to these excepted properties. If counties, cities, or towns adopt local building codes, enforcement is by local rather than state authorities.

All residential construction, except farm and ranch buildings and garage and storage structures used by the owner, are required to meet the energy conservation provisions of the state building code. If the energy conservation codes are not enforced by local or state government for those residential buildings containing less than five dwelling units, the builder must certify to the owner that the building is constructed in compliance with the energy code. A person constructing a new residential building must attach a labeling sticker to the interior electrical panel stating the energy features of that building.

2. Application Procedures

A permit must be obtained from the appropriate authorities before construction may begin.

Statute: 50-60-101, *et seq.* and 50-60-801, *et seq.*, MCA

Rule: ARM 24.301.131

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF LABOR AND INDUSTRY

Business Standards Division

Building and Commercial Measurements Bureau

¹ A private storage structure is a building used only for the storage of personal effects of the owner and not for items related to ventures that intend to transfer or exchange the items.

3. Fees

The various fees required for building, mechanical, plumbing, and electrical permits are listed in the Montana Department of Labor rules. Local governments certified to enforce the state building code may establish their own fees.

Rule: ARM 24.301.138 and 24.301.139

ZONING

There are three basic legal elements local governments are authorized to use to address growth and development: comprehensive plans or growth policies, subdivision regulations (see SUBDIVISIONS, p. 165), and zoning regulations.

1. Applicability

Before beginning any development or related activity, a person should determine if local zoning regulations exist. Under Montana law, cities, towns, and counties may adopt zoning regulations and establish zoning districts for the regulation of land use, density, height, and size of buildings, percentage of lot occupied, size of yards, population density, location, and use of buildings, etc. If zoning exists, a permit for the development or activity may be required. Application of zoning regulations to various activities and entities is addressed separately in many places in the Montana Codes (MCA).

Statute: 76-2-101, *et seq.* and 76-2-201, *et seq.*, MCA (counties)
 76-2-301, *et seq.*, MCA (municipalities)
 67-7-101, *et seq.*, MCA (Airport Compatibility Act)

Contact: LOCAL GOVERNMENT

COMMERCIAL - INDUSTRIAL - ENERGY

AIR QUALITY PERMITS: STATE

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) Air Quality Bureau (AQB) has both permitting and registration programs. An air quality permit and/or an air quality operating permit are required from DEQ for the construction, installation, and operation of equipment or facilities that exceed permitting thresholds. DEQ has registration programs for minor source facilities which operate in the oil and gas industry, as well as for portable facilities including concrete batch, asphalt and non-metallic crushing and screening plants. Exceptions to hold a Montana Air Quality Permit (MAQP) include residential heating units, motor vehicles, trains, aircraft, equipment for road construction (except stationary sources), agricultural activity or equipment associated with the use of agricultural land, emergency equipment, and forestry equipment used for forestry practices that remain in a single location for less than 12 months. A city or county may administer its own minor air quality permit program in lieu of part or all of the DEQ's air quality permit program if the program has been approved by the DEQ (previously City/County programs were approved by the Board of Environmental Review (BER)). As of September 2024, the following counties were approved to operate minor source permitting programs: Cascade, Yellowstone, and Missoula.

AQB also manages a smoke management program for minor and major burners. Depending upon the source and time of year, specific requirements may apply.

Statute: 75-2-101, *et seq.*, MCA (Montana Clean Air Act)

Rule: ARM 17.8.740, *et seq.* and 17.8.1201, *et seq.*
ARM 17.8.17, *et seq.* and ARM 17.8.18, *et seq.*
ARM 17.8.6, *et seq.*

DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy and Mining Division
Air Quality Bureau

2. Application Requirements

Applicants for *air quality permits* must file an application with the DEQ at least 180 days before construction begins, or if construction is not required, at least 120 days before installation, alteration or use of the facility begins.

Owners and operators of registration-eligible oil and gas wells must register the facilities within 60 days after the date the well is completed. During operation, the facilities must comply with all requirements of Administrative Rules of Montana (ARM) Title 17, Chapter 8, Subchapters 16 and 17.

Sources that are eligible for portable registration (batch concrete, asphalt, non-metallic crushers and screens) are required to do so in lieu of an air quality permit.

A source is considered registered upon DEQ's receipt of the complete registration form. This is the "registration date. A source may not operate for the first 15 days after the registration date. Within 15 days after the registration date, DEQ will publish acknowledgment of the registration on-line, including registration date and the location(s) the source has proposed to operate in the registration form.

Applicants for air quality operating permits(also known as Title V Permits) for new major sources (as defined by DEQ rule) must submit operating permit applications within 12 months after beginning operation. Applicants required to obtain an operating permit revision must submit operating permit applications within 12 months after beginning operation unless an existing operating permit would prohibit the construction or change in operation. If an existing operating permit would prohibit the construction or change in operation, the applicant must obtain the permit revision before beginning operation. Existing facilities are required to submit an application within 12 months of becoming subject to the operating permit program.

Statute: 75-2-211, MCA (air quality permit)
75-2-217, MCA (operating permit)

Rule: ARM 17.8.748 and 17.8.1205

3. **Permitting Procedures**

A. Montana Air Quality Permit (MAQP)

- 1) The application for an air quality permit is not considered filed until all filing requirements are completed. However, if the DEQ fails to notify the applicant within 30 days that an application is incomplete, the application is considered complete.
- 2) The applicant must post a public notice in a newspaper of general circulation in the area of the proposed facility within 10 days before or after submitting the application. The DEQ will supply the form of the notice.
- 3) Within 40 days after receipt of the complete and filed application, the DEQ makes a preliminary determination on whether the permit should be issued, issued with conditions, or denied. The department must notify both the applicant and the members of the public who requested notification of its preliminary determination. There is a 15-day comment period after the preliminary determination is issued for most minor source permits. There is a 30-day public comment period after the preliminary determination is issued for permits that are subject to certain federal air

permitting provisions (see 42 U.S.C. 7475, 42 U.S.C. 7503 and 42 U.S.C. 7661), for incinerators (see pp. 40 and 151) and for permits that require an Environmental Impact Statement (EIS), (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125). See timelines in the table on the following page.

- 4) The DEQ has 60 days after a completed and filed application is submitted to notify the applicant of its decision for most minor source permits. The DEQ has 75 days after a completed and filed application is submitted to the department to notify the applicant of its decision for permits that are subject to certain federal air permitting provisions (see above), for incinerators and for permits that require an EIS. Extensions may be granted under certain conditions by written agreement of the DEQ and the applicant. If an EIS is required, final action must be taken within 180 days if the DEQ prepares the EIS. See timelines in the table below.

Timeline for public comment and permit approval

	Minor Sources	Project is subject to certain federal provisions or is an incinerator	Project for which an EIS is prepared by the DEQ	Projects for which an EIS is prepared by another agency or under Title 82, chapter 4, parts 1-3
Public comment period after preliminary determination is issued	15 days	30 days	30 days	30 days
Time period for DEQ to approve or deny the permit	60 days	75 days	180 days	30 days after issuance of the EIS

- 5) The applicant may appeal the DEQ's decision to the BER. Any person adversely affected by the decision to approve or deny the application may also appeal to the BER within 15 days of the DEQ's decision, upon affidavit, explaining the grounds for the appeal.

For energy development projects, a request for a hearing must be filed within 30 days of the DEQ's decision and include an affidavit explaining the grounds for the appeal. The person requesting a hearing may elect for the appeal to be heard in District Court. This election must occur within 15 days of receipt of the request for hearing with the BER and must be submitted to the BER.

- 6) The permit becomes final 15 days after the DEQ's decision unless a stay is granted.

Statute: 75-2-211, MCA

Rule: ARM 17.8.740, *et seq.*

B. Operating Permit

Operating permits must be obtained for all new and existing major sources of air pollution and are subject to the same completeness and appeal procedures as air quality permits. The application for an operating permit requires more extensive public notification, including the requirement that the applicant notify the U.S. Environmental Protection Agency (EPA). In addition, the DEQ must give notice to surrounding states of draft operating permit issuance. Operating permits must be renewed every five years.

Statute: 75-2-218, MCA

Rule: ARM 17.8.1203-17.8.1207

4. **Fees**

The DEQ assesses an application fee and an operating fee from applicants and permit holders to fund the air quality permitting program and to implement and enforce the terms and conditions of the permit.

Statute: 75-2-220, MCA

Rule: ARM 17.8.501, *et seq.*

5. **Criteria**

An air quality permit to construct or operate a new or altered air pollution source cannot be issued unless the source is able to comply with the standards, emission limitations, and other rules adopted under the Clean Air Act Of Montana, the applicable regulations and requirements of the federal Clean Air Act, and any applicable control strategy contained in the Montana State Implementation Plan. The applicant must also demonstrate that the source will not cause or contribute to a violation of a Montana or national ambient air quality standard.

Rule: ARM 17.8.749

6. **Additional Information**

A. Prevention of Significant Deterioration (PSD)

- 1) When a major new source of air pollution is proposed to be constructed or modified in an area in compliance with ambient air quality standards, a more rigorous review procedure may apply. The review may include one year of pre-application baseline data, control technology review, air pollution impact modeling, and other measures.
- 2) The DEQ must: 1) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received along with the DEQ's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted, and how the DEQ's final decision may be appealed to the BER; and 2) forward copies of the advertisement to the applicant, Region VIII Administrator of the EPA, and to area officials and agencies (federal land managers and tribal contacts) affected by the proposed construction.

Rule: ARM 17.8.801, *et seq.*

B. New Source Review in Nonattainment Areas

Major new or modified sources of air pollution locating in or near areas that are not attaining ambient air quality standards must meet additional permitting criteria, including obtaining emission offsets and installing control equipment that meets the *lowest achievable emission rate* (LAER).

Rule: ARM 17.8.901-17.8.906

C. Incinerators - Commercial Medical or Hazardous Waste

Commercial medical waste and commercial hazardous waste incinerators have special requirements in addition to the permitting requirements under the Clean Air Act of Montana (see AIR QUALITY PERMITS, p. 36); and the Montana Solid Waste Management Act (see SOLID WASTE - HAZARDOUS WASTE, p. 149), Commercial medical waste and commercial hazardous waste incinerators must achieve the lowest achievable emission rates as identified by DEQ rules for dioxins, furans, heavy metals, and other hazardous air pollutants to prevent risk to public health. The plan for a commercial hazardous waste incinerator must include a scheme for the cessation of burning if site-specific monitoring determines that inversion conditions, as defined by DEQ rule, exist. If the facility is close to a populated area, the department may require the owner or operator of an existing commercial hazardous waste incinerator or an

applicant for an air quality permit for a commercial hazardous waste incinerator to provide telemetering service to the DEQ with an immediate notification system activated when emissions approach or exceed permitted limits.

The definition of commercial medical waste incinerator does not include hospital or medical facilities that primarily incinerate medical waste generated onsite.

A statement disclosing if the applicant has had a record of complaints and convictions for the violation of environmental protection laws is required for the issuance, transfer, or alteration of an air quality permit for a commercial medical waste or commercial hazardous waste incinerator. The DEQ may deny an application or impose conditions on a permit based on an applicant's compliance history.

Statute: 75-2-230 through 75-2-233, MCA

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY

Air, Energy & Mining Division

Air Quality Bureau

Waste and Underground Tank Management Bureau

D. Variances

A person may apply to the BER for an exemption from applicable rules governing emissions. The variance may be issued if the DEQ finds there will be no adverse impact to public health or safety and that compliance with the rules would be an undue hardship on the applicant. The length of the variance is at the DEQ's discretion and may be renewed. An applicant for a variance must submit a sum of two percent of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than \$500 nor more than \$80,000.

Statute: 75-2-212, MCA

Rule: ARM 17.8.120

AIR QUALITY PERMITS: FEDERAL

For information about air quality permits on reservation lands, contact the U.S. Environmental Protection Agency.

Contact: ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

GEOHERMAL LEASES

Development of geothermal resources will generally require the appropriation of water (see WATER APPROPRIATIONS - GROUND WATER, p. 188) and may require a Certificate of Compliance (see MAJOR FACILITY SITING ACT, p. 50). For general information, contact the Montana Department of Environmental Quality.

GEOHERMAL LEASES ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and water bodies, for the purposes of prospecting, exploration, well construction, or production of geothermal resources.

Statute: 77-4-101, *et seq.*, MCA

Rule: ARM 36.25.401, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Trust Land Management Division
Minerals Management Bureau

2. Permitting Procedures

- 1) A person applying for a geothermal lease on state lands must submit a completed application to the Montana Department of Natural Resources and Conservation. The required information is identified in the application and must include an adequate description of the land. A water right may also be required. See WATER APPROPRIATIONS, p. 188.
- 2) When sufficient applications have been received to warrant a sale, or at the director's discretion, a sale will be announced.
- 3) The notice of the sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County.

Notice must be published for four weeks preceding the sale date. The sale may be offered by competitive bid.

- 4) A minimum bond of \$2,000 is required to protect the state's interest in the resource.
- 5) The term of a geothermal lease is 10 years. Compensation must be paid to the surface lessee for damage to the surface or the lease holder's interest.

Rule: ARM 36.25.404

3. Fees

The fee for a geothermal lease application is \$25. Rental and royalty charges are determined by the Board but are not less than \$1 per acre, not less than 10 percent of the amount or value of steam, heat, or energy produced and not more than five percent of any byproduct.

Statute: 77-4-126, MCA

Rule: ARM 36.2.1003, 36.25.404, and 36.25.406

HAZARDOUS SUBSTANCES - COMMUNITY RIGHT TO KNOW

1. Types of Activities Regulated

The purpose of the federal Emergency Planning and Community Right to Know Act (EPCRA—also known as SARA Title III) is to provide local governments and the public with information about hazardous substances in their communities in order to encourage and support facility planning in the event of an accidental release or spill.

Under the EPCRA, the governor of each state appoints a State Emergency Response Commission (SERC), which in turn appoints Emergency Planning Districts and a Local Emergency Planning Committee (LEPC) for each district. In Montana, each county is a district, thus there are 56 districts and LEPCs. A person or facility with designated types and quantities of hazardous or toxic substances must compile information on the chemicals it uses, stores, and releases into the environment and provide this information to the SERC, the LEPCs, and the local fire department. Montana's SERC requires that all reporting be completed through E-Plan, found here: erplan.net. (Check at deq.mt.gov/DEQAdmin/Emergency/EmergencyResponse under EPCRA reporting to find directions.) Local fire departments and LEPC may have access to E-Plan or may require individual submitting to them. The LEPCs receive and maintain information, assist in facility planning, and develop a district plan to prepare for chemical emergencies.

Rule: 42 U.S.C. 11001, *et seq.*, 40 C.F.R. § 301, *et seq.*

Contact: LOCAL EMERGENCY PLANNING COMMITTEE

U.S. ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF ENVIRONMENTAL QUALITY
Director's Office, Montana Department of Environmental Quality
- Tier II Chemical Inventory Information

DEPARTMENT OF MILITARY AFFAIRS
Disaster and Emergency Services Division

HYDROELECTRIC POWER DEVELOPMENT

1. Types of Activities Regulated

Nonfederal hydroelectric power plants on navigable waters of the United States, those which occupy federal land or utilize water power from a government dam, or those which, under certain circumstances, affect the interest of interstate or foreign commerce, must be licensed by the Federal Energy Regulatory Commission (FERC). As a result, FERC is the lead agency in the licensing of new hydropower facilities and in the re-licensing of existing facilities. FERC, acting under the authority of the federal Power Act, as amended, and the National Energy Policy Act of 2005, processes and evaluates the federal applications required for all hydropower dams, diversions and other hydropower developments; reviews and analyzes environmental impacts of hydropower projects and determines appropriate mitigation and enhancement measures; and sets requirements governing the sale of the hydropower generation at the wholesale level.

There are six primary subject areas where state regulation of hydroelectric power must be considered in addition to the federal requirements under FERC. These areas (and the responsible state agencies) are:

- 1) Water rights permits: contact the Montana Department of Natural Resources and Conservation (DNRC), Water Rights Bureau, (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 191).
- 2) A 310 permit for altering a perennial stream: contact the DNRC, Conservation Districts Bureau or the local Conservation District supervisor (see CONSERVATION DISTRICTS, p. 1).
- 3) Water quality certification under Section 401 of the federal Clean Water Act: contact the Montana Department of Environmental Quality.
- 4) Fish and wildlife impact evaluation (no permit required): contact the Montana Department of Fish, Wildlife and Parks, Fish and Wildlife Division, Helena.

- 5) Hydropower projects on state land (see below).
- 6) Hydropower projects on state-owned dams (see next page).

In addition, a 404 permit is required from the U.S. Department of the Army, Corps of Engineers for any dredge and fill activity or other work affecting United State's waters¹ or wetlands. Contact the U.S. Department of the Army, Corps of Engineers, (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 10).

Statute: federal Power Act, 16 U.S.C., chapter 12

Contact: FEDERAL ENERGY REGULATORY COMMISSION
Office of Hydropower Licensing
Washington D.C.

FEDERAL ENERGY REGULATORY COMMISSION
Regional Office
Portland, Oregon

HYDROELECTRIC POWER DEVELOPMENT ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners may grant leases for the construction and operation of hydroelectric power sites on state lands to any person, corporation, or municipality. See HYDROELECTRIC POWER DEVELOPMENT, previous page.

Statute: 77-4-201, *et seq.*, MCA

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

2. Application Requirements

An application must be presented to the Board for a lease of or license for a power site on state lands. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the Board must publish a notice regarding the proposed lease or license for six weeks in two state newspapers, one of which must be from the affected area. The Board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The Board has the authority to reject any or all bids. Acceptance depends on which offer is

¹ Waters of the United States includes essentially all surface waters such as all navigable waters and their tributaries, all interstate waters and their tributaries, all wetlands adjacent to these waters, and all impoundments of these waters.

considered to be the most advantageous to the state. Bid preferences are given to municipalities. The term of the lease cannot exceed 50 years.

Statute: 77-4-203 through 77-4-211, MCA

HYDROELECTRIC POWER DEVELOPMENT AT STATE-OWNED DAMS

1. Types of Activities Regulated

The Montana Department of Natural Resources and Conservation (DNRC) may lease sites at state water projects that it determines to be feasible for energy generation and in the best interest of the state.

2. Application Procedures

- 1) The DNRC must study the economic and environmental feasibility of construction and operation of a small-scale hydroelectric power generating facility on each of its dams and periodically update the studies. The studies are submitted to the Energy and Telecommunications Interim Committee and the Water Policy Interim Committee. If the DNRC determines that hydroelectric generation at a state-owned dam is feasible based on the study, the department must publish an advertisement soliciting lease applications.
- 2) Following publication, individuals, public utilities, and electric cooperatives have 180 days to submit applications to the DNRC. Applications must include a statement of the capability of the applicant to achieve the annual production output estimated by the DNRC, the estimated time to make the project operational, the bid amount of the royalty, and other information the department may request to assist in evaluating the application.
- 3) The DNRC will hold a hearing to examine all applications and must decide whether to accept or reject applications within 180 days after the close of the application period.
- 4) The DNRC is authorized to hold any federal license, permit or exemption on a project at the department's discretion.
- 5) The duration of the lease may not exceed the term of the federal permits and may in no case exceed 55 years.
- 6) If no acceptable applications are received, the DNRC may reject all bids and proceed to develop the hydroelectric generation facility.

Statute: 85-1-501 through 85-1-514, MCA

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Water Resources Division

INDOOR EMISSIONS - EMPLOYEE HEALTH AND SAFETY

ASBESTOS CONTROL

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) issues asbestos project permits, demolition acknowledgments, inspects asbestos projects, accredits persons engaged in asbestos-related work, approves and audits asbestos training course providers, and administers the asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP).

Statute: 75-2-501, *et seq.*, MCA

Rule: ARM 17.74.301, 17.74.350-17.74.372, and 17.74.406-17.74.409

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste and Underground Tank Management Bureau

2. Permitting Requirements and Procedures

- 1) Any person impacting ten square or three linear feet of regulated asbestos containing material must be accredited by the State.
- 2) A person may not initiate an asbestos project without obtaining an asbestos project permit from the DEQ. Application materials include a completed, signed Montana Asbestos Project Permit Application and NESHAP Demolition Notification and applicable fee.
- 3) The owner or operator of a facility may apply to the DEQ, under certain conditions, for an annual asbestos project permit. An annual asbestos project permit authorizes a facility to conduct asbestos projects within the confines of the facility's controlled area during the permit period. The application must include 1) a description of the facility and the asbestos work that will be performed over the year, 2) an asbestos health and safety plan, 3) a list of accredited asbestos contractor/supervisors and workers, 4) a signed statement that the asbestos-containing materials will be properly removed, transported, and disposed of in accordance with state and federal asbestos regulations, and 5) the required annual permit application fee.

Statute: 75-2-503, 75-2-504, and 75-2-511, MCA

Rule: ARM 17.74.353-17.74.360, and 17.74.406

3. **Accreditation Requirements**

A person seeking accreditation as an asbestos inspector, planner, project designer, contractor/supervisor, or a worker must submit a properly completed application form, Montana asbestos training course certificate and the applicable fee to the DEQ.

Statute: 75-2-502 and 75-2-511, MCA

Rule: ARM 17.74.353, 17.74.362, 17.74.363, and 17.74.407

4. **Asbestos Training Courses**

Asbestos training course providers must be approved by the DEQ and course providers must submit 1) a training course application, 2) a course curriculum with a sample training certificate, 3) a list of instructors, 4) example examinations, 5) a course schedule and 6) the applicable fee.

Statute: 75-2-511, MCA

Rule: ARM 17.74.364-17.74.368 and 17.74.408

5. **Fees**

Asbestos project permit fees are based on the total asbestos unite measurements (AUMs) that may be disturbed or removed either in square, linear, or cubic feet or any combination thereof. All person seeking accreditation or an application renewal for an asbestos-related occupation who have been trained by a Montana-approved asbestos training course provider must pay a \$200 fee. Annual asbestos permits cost \$4,000 and annual permit revisions cost \$700.

Statute: 75-2-503 and 75-2-511, MCA

Rule: ARM 17.74.406-17.74.407

6. **Additional Information**

National Emission Standards for Hazardous Air Pollutants (NESHAP)

As a U.S. Environmental Protection Agency-delegated program, the DEQ administers portions of the asbestos NESHAP, which governs building demolition and renovation activities, inspections for asbestos prior to

demolition/renovation, notification of building demolition renovation activities, disposal of asbestos waste, and control of asbestos emissions.

EMPLOYEE HEALTH AND SAFETY

1. Types of Activities Regulated

The Montana Department of Labor and Industry (DLI) has the authority to regulate health and safety hazards in work places that are under the jurisdiction of state and local governments. The federal Occupational Safety and Health Administration (OSHA) regulates noise and exposure to certain hazardous chemicals in all privately owned work places.

Statute: 50-71-111, *et seq.*, MCA

Contact: DEPARTMENT OF LABOR AND INDUSTRY
Employment Standards Division
Workplace Safety and Health Bureau

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration

RADIATION CONTROL

1. Types of Activities Regulated

The U.S. Nuclear Regulatory Commission licenses users of byproduct materials, source materials, and special nuclear materials in Montana. A number of record-keeping and handling requirements apply.

The Montana Department of Public Health and Human Services (DPHHS) has statutory authority to register and regulate machine sources of ionizing radiation (i.e., x-rays, accelerators, etc.) but does not offer registration at this time.

Statute: 50-79-201, *et seq.*, MCA

Rule: ARM 37.14.301, 37.14.302, 37.14.306, 37.14.307, and 37.14.501,
et seq.

Contact: NUCLEAR REGULATORY COMMISSION

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Office of the Inspector General (Quality Assurance Division)
Licensure Bureau

RADON CONTROL

1. Types of Activities Regulated

Prior to selling any inhabitable property, the seller or their agent must provide a designated disclosure statement (see 75-3-606, MCA) alerting the buyer to the existence of naturally occurring radon gas in some buildings in Montana and the associated health risks. Whenever a seller knows that a building has been tested for radon gas, the seller must provide the buyer with a result of the test and evidence of any subsequent mitigation or testing.

A person who wishes to be publicly listed by the Montana Department of Environmental Quality in a radon-related occupation must pass a proficiency examination administered by the National Environmental Health Association's National Radon Proficiency Program.

Statute: 75-3-601, *et seq.*, MCA (Montana Radon Control Act)

Rule: ARM 24.210.641(1)(w)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy & Mining Division
Energy Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Business Standards Division
Board of Realty Regulation

U.S. ENVIRONMENTAL PROTECTION AGENCY
Regional Office, Denver, CO

MAJOR FACILITY SITING

1. Types of Activities Regulated

A Certificate of Compliance is required from the Montana Department of Environmental Quality (DEQ) for certain major electric transmission line and large oil, natural gas, and coal slurry pipeline facilities or large facilities that utilize geothermal resources. Associated facilities such as transportation links, pipeline pump stations, and other facilities associated with the delivery of energy are included. Prior to construction, the applicant must receive the necessary permits from the DEQ for air emissions; wastewater discharges; the generation, transportation, storage, or disposal of hazardous wastes; and other relevant permits administered by the DEQ. Special procedures apply to large hydroelectric and interstate natural gas pipeline facilities also subject to the jurisdiction of the Federal Energy Regulatory Commission

Statute: 75-20-101, *et seq.*, MCA (Montana Major Facility Siting Act)

Rule: ARM 17.20.201, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Director's Office Public Policy Unit
MEPA/MFSA Coordinator

2. Application Requirements

Applications for a certificate under the Montana Major Facility Siting Act (MFSA) must be filed with the DEQ. The information required varies according to the size and type of the facility, but generally includes a description of the proposed facility and its location, baseline data for proposed sites, and alternate site information.

Statute: 75-20-211, MCA

Rule: ARM 17.20.801-17.20.817, 17.20.901, 17.20.1301-17.20.1311,
17.20.1418, 17.20.1426, 17.20.1501-17.20.1512

3. Permitting Procedures

- 1) The DEQ must notify an applicant within 30 days that the application is either complete or incomplete. If an application is resubmitted, the DEQ then has 15 days to review the information and notify the applicant that the application is complete and accepted or is not complete and accepted.
- 2) For projects that do not cross federal lands, within nine months following the acceptance of a complete application, the DEQ must issue a report that includes the department's studies, evaluations, recommendations, customer fiscal impact analysis, if required under 69-2-216, MCA, and other relevant documents. An Environmental Impact Statement or analysis may be included if there is compelling evidence that the facility construction and operation would have adverse environmental impacts (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125). During the environmental review process, the DEQ must designate a 500-foot-wide facility siting corridor along the facility route for certain facilities and exempt future siting modifications within the corridor from MEPA review if the conditions in 75-20-303(6), MCA, are met. Prior to this process, the DEQ must consult with the applicant and affected landowners to identify areas along the facility siting corridor that may need to be wider or narrower than the designated 500-foot-wide corridor.
- 3) DEQ must provide written notice of the availability of environmental review documents to each owner of property within the siting corridor.
- 4) DEQ must issue its decision within 30 days after issuance of the report. For a facility that is unlikely to result in significant adverse environmental

impacts based on review of specific criteria in 75-20-232, MCA, the DEQ's decision must be returned in 90 days. Before issuing a decision, the DEQ will provide an opportunity for public review and comment.

- 5) Construction of a geothermal facility must begin within six years from the date of certification. Linear facilities must be completed within 10 years—except for transmission lines less than 30 miles in length, which must be completed within five years.
- 4) The DEQ's decision may be appealed to the Board of Environmental Review. Decisions of the Board may be appealed to a state District Court under the contested case provisions of the Montana Administrative Procedures Act (see MAPA, p. 124).

Statute: 75-20-216, 75-20-219, 75-20-223, 75-20-231, 75-20-232, 75-20-301, 75-20-303, 75-20-304, and 75-20-406, MCA

Rule: ARM 17.20.1604-17.20.1607

4. Fees

The applicant for a certificate under the MFSA is required to deposit a filing fee based on DEQ's estimated costs of processing the application in an earmarked revenue fund for use by the DEQ to administer the Act. The fee may not exceed the fee schedule listed in the statute, based on the estimated cost of the facility. Alternately, the applicant may contract with the DEQ for payment of fees.

Statute: 75-20-215, MCA

5. Criteria

The DEQ must issue an opinion and render a decision either approving or denying an application as filed, or approving the application with conditions or modifications. The DEQ must grant a certificate to a geothermal facility if it incorporates all reasonable, cost-effective mitigation of significant environmental impacts and unmitigated impacts do not result in violation of laws or standards protecting the environment or public health and safety. For a linear facility, the DEQ's decision is based on a number of factors, including need; the nature of probable environmental impacts and the minimization of impacts considering the state of available technology and the nature and economics of the alternatives; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest; that the applicant will obtain all necessary decisions, opinions, orders, certifications, and permits prior to construction; and that the use of public lands or federally designated energy corridors for the location of the facility was evaluated and public lands or federally designated energy corridors were selected whenever their use was determined practicable by both the applicant and the DEQ.

In determining that a linear facility will serve the public interest, the DEQ must additionally consider the benefits to the applicant and the state; the effects on economic activity resulting from the proposed facility; and the effects of the proposed facility on public health, welfare, and safety.

The DEQ must deny the certificate if the above findings cannot be made.

Applicants may qualify for waivers of certain criteria and requirements based on proof of an immediate, urgent need for the proposed facility, notice of damage or destruction of a facility as a result of natural disaster or civil disorder, or based on a showing that the proposed facility would be constructed in a county where a single employer has permanently curtailed or ceased operation, causing a loss of 250 or more permanent jobs within two years, and where the local governing bodies support the facility, the facility would be constructed within a 15-mile radius of the operations that have ceased or been curtailed, and a beneficial effect on the county economy would result from the proposed facility.

Statute: 75-20-301 and 75-20-304, MCA

Rule: ARM 17.20.1604-17.20.1607

6. Definition of Facility and Exceptions

Under the MFSA, a facility is:

- 1) Each *electric transmission line* and associated facilities of a design capacity of more than 69 kilovolts, except that the term:
 - ▶ does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length;
 - ▶ does not include an electric transmission line with a design capacity of more than 69 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75 percent of the owners who collectively own more than 75 percent of the property along the centerline;
 - ▶ does not include electric transmission lines that are collectively less than 150 miles in length and are required under state or federal regulations and laws, with respect to reliability of service, for an electrical generation facility, for a wind generation facility, biomass generation facility, or energy storage facility as defined in 15-6-157, MCA, or for a green hydrogen facility or green hydrogen storage system, as defined in 15-6-163, MCA, to interconnect to a regional transmission grid or secure

firm transmission service to use the grid for which the person planning to construct the line or lines has obtained right-of-way agreements or options for a right-of-way from more than 75 percent of the owners who collectively own more than 75 percent of the property along the centerline or centerlines;

- ▶ does not include an upgrade to an existing transmission line of a design capacity of 50 kilovolts or more to increase that line's capacity, including construction outside the existing easement or right-of-way. Except for a newly acquired easement or right-of-way necessary to comply with electromagnetic field standards, a newly acquired easement or right-of-way outside the existing easement or right-of-way as described in this subsection (10)(a)(iv) may not exceed a total of 10 miles in length or be more than 10 percent of the existing transmission right-of-way, whichever is greater, and the purpose of the easement must be to avoid sensitive areas or inhabited areas or conform to state or federal safety, reliability, and operational standards designed to safeguard the transmission network and protect electrical workers and the public.
- ▶ does not include a transmission substation, a switchyard, voltage support, or other control equipment.
- ▶ does not include an energy storage facility, as defined in 15-6-157, MCA.

- ▶ does not include a green hydrogen facility or green hydrogen storage system, as defined in 15-6-163, MCA.

2) A *pipeline* greater than 25 inches in inside diameter and 50 miles in length, and associated facilities, except that the term:

- ▶ does not include a pipeline within the boundaries of the state that is used exclusively for the irrigation of agricultural crops or for drinking water.
- ▶ does not include a pipeline greater than 25 inches in inside diameter and 50 miles in length for which the person planning to construct the pipeline has obtained right-of-way agreements or options for a right-of-way from more than 75 percent of the owners who collectively own more than 75 percent of the property along the centerline.
- ▶ does not include a green hydrogen pipeline, as defined in 15-6-163, MCA.

3) A *pipeline* greater than 17 inches in inside diameter and 30 miles in length, and associated facilities used to transport coal suspended in water. Aspects of other pipeline projects may be covered by statutes listed under UTILITIES (p. 172).

4) Any use of *geothermal resources*, including the use of underground space in existence or to be created, for the creation, use, or conversion of

energy, designed for or capable of producing geothermally derived power equivalent to 50 megawatts or more or any addition thereto, except pollution control facilities approved by the DEQ and added to an existing plant, except that the term:

- ▶ does not include a compressed air energy storage facility as defined in 15-6-157, MCA.
 - ▶ does not include a green hydrogen facility or green hydrogen storage system, as defined in 15-6-163, MCA.
- 5) A plant, unit, or other facility capable of generating 50 megawatts of hydroelectric power or more, or any addition thereto, subject to the jurisdiction of the Federal Energy Regulatory Commission.

Statute: 75-20-104(10), MCA

WIND AND SOLAR ENERGY

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) does not specifically permit wind and solar farm power generating facilities but the following permits may be required depending on the location of roads, turbines, solar panels or plates and powerlines.

- 1) A wind energy easement, granted by the property owner, may be required to ensure an undisturbed flow of wind across that property. If the affected property owner is the Montana Department of Natural Resources and Conservation (DNRC), the use of that land may be subject to permits, leases, or easements from the department and approval from the Board of Land Commissioners (see STATE LANDS, p. 7).
- 2) Activities that affect water quality such as facility construction or wastewater discharges may require permits from the DEQ (see WATER QUALITY PERMITTING, p. 195).
- 3) Project sponsors must file a Notice of Intent and a Storm Water Pollution Prevention Plan with the DEQ for construction activities that would disturb more than one acre of land.
- 4) A person who proposes to construct an energy-related project not considered a facility pursuant to 75-20-104(9), MCA, may petition the DEQ to review the project under the provisions of the Major Facility Siting Act. Transmission lines from a wind generating facility may be covered by the Act (see p. 50).
- 5) A 310 permit may be required if the project includes the alteration of a perennial stream: contact the DNRC, Conservation Districts Bureau or the

- local Conservation District supervisor (see CONSERVATION DISTRICTS, p. 1). A 318 permit may be required from the DEQ for work in a stream, lake or wetland, (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 10).
- 6) Section 401 water quality certification under the federal Clean Water Act provides a review of potential adverse water quality impacts associated with discharges of dredged or fill materials in wetlands and other waters: contact the DEQ.
 - 7) Activities that affect migratory bird populations are subject to the provisions of the federal Migratory Bird Treaty Act (see p. 95). U.S. Fish & Wildlife publishes Land-Based Wind Energy Guidelines.
<https://www.fws.gov/media/land-based-wind-energy-guidelines>.
 - (8) Department of Natural Resources and Conservation oversees the Montana State Grouse Habitat Conservation Program which sets forth Montana's Conservation Strategy for the conservation, regulatory protection, and management of sage grouse. The Conservation Strategy is based on the collaborative work of the Montana Greater Sage Grouse Habitat Conservation Advisory Council, Executive Order 10-2014, the Montana Sage Grouse Stewardship Act passed in the 2015 Legislative Session and Executive Order 12-2015. More information is available at: <https://sagegrouse.mt.gov/>.
 - (9) Owners of wind generation facilities 25 megawatts or greater or solar facilities 2 megawatts or greater must notify the department in writing of the date that the facility began commercial operation. Owners are required to submit detailed decommissioning plans within one year of commercial operation and a bond to the DEQ for the eventual decommissioning of the facility. Wind or solar facilities that commenced commercial operation after January 1, 2007, are required to be bonded within 15 years from the date the facility begins commercial operation. Wind or solar facilities that began commercial operation before January 1, 2007, must be bonded within 16 years.

Statute: 70-17-301, *et seq.*, MCA (solar easements)
 70-17-401, *et seq.*, MCA (wind energy easements)
 77-1-301, MCA (DNRC easements, licenses, and permits)
 75-20-101, *et seq.*, MCA (Montana Major Facility Siting Act)
 75-26-301, *et seq.*, MCA (solar and wind generation facility decommissioning)

Rule: ARM 36.25.104, *et seq.* (DNRC easements, licenses, and permits)
 ARM 17.20.301-17.20.303 and 17.20.801, *et seq.* (facility siting)
 ARM 17.86.101, *et seq.*, (wind generation facility decommissioning bonds)

Contact: PROPERTY OWNER

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Trust Land Management Division

DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy, and Mining Division
Energy Bureau
Hard Rock Mining Bureau
Major Facility Siting Act (MFSA) Program Requirements

Water Quality Division
Water Protection Bureau

U.S. FISH AND WILDLIFE SERVICE
Montana Office, Helena

FOOD PROCESSING AND SERVICE

DAIRIES

1. Types of Activities Regulated

A license is required for the operation of a dairy and application forms are available from the Montana Department of Livestock (DOL). Prior to construction, remodeling, or relocation of a dairy, detailed plans must be submitted to the DOL for review and approval. Also prior to construction, the applicant must obtain a wastewater discharge permit from the Montana Department of Environmental Quality for any discharge of wastes (see p. 195) and an air quality permit for the release of air pollutants (see p. 36). Local health agencies may investigate or sample the dairies in their area. Additional information is available online at: <https://liv.mt.gov/Meat-Milk-Inspection/Milk-and-Egg-Bureau/Milk-Section>.

Statute: 81-22-201 through 81-22-209, 81-22-305, and 81-22-403, MCA

Contact: DEPARTMENT OF LIVESTOCK
Meat, Milk and Egg Inspection Bureau

2. Fees

The license fees for a dairy range from \$5 to \$50.

Rule: ARM 32.2.405

SLAUGHTERHOUSES - MEAT PACKING PLANTS

1. Types of Activities Regulated

An annual license is required from the Montana Department of Livestock (DOL) to operate a slaughterhouse, meat packing house, mobile slaughter facility or meat storage facility. Plans for remodeling or new structures must be approved by the DOL prior to construction. The Montana Department of Environmental Quality retains jurisdiction over ensuring that the facility has an approved water supply and that wastes are disposed of properly.

Information is available online at:

<https://liv.mt.gov/Meat-Milk-Inspection/Meat-and-Poultry-Inspection/index>

Statute: 81-9-201, 81-9-202, 81-9-240, and 81-9-241, MCA

Rule: ARM 32.6.701-32.6.716

Contact: DEPARTMENT OF LIVESTOCK
Meat, Milk and Egg Inspection Bureau

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://mi.airshedgroup.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
Air Quality 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

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 76-13-418, 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

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 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

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 500,000 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 in a public period for at least 30 days 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

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

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**

Timber proposed for sale in excess of 500,000 board feet must be advertised in a public place for a period of 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 million 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 2 million 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

HIGHWAYS - TRANSPORTATION

HIGHWAY ADVERTISING

1. Types of Activities Regulated

A permit is required from the Montana Department of Transportation (MDT) for placing outdoor advertising signs visible to the traveling public along interstate, primary, and NHS (National Highway System) highways. Standards for maintenance of permitted advertising are outlined in the statutes and rules.

On the interstate highway system, advertising is allowed for FOOD, GAS, and LODGING through the LOGO SIGNS program and on primary routes for FOOD, GAS, LODGING, CAMPING, RECREATION, and TOURIST SERVICES through the Tourist Oriented Directional Sign (TODS) Program.

Statute: 75-15-101, *et seq.*, MCA (Outdoor Advertising Act)
60-5-501, *et seq.*, MCA (LOGO and TODS Programs)

Rule: ARM 18.6.201, *et seq.* and 18.6.402 *et seq.*

Contact: DEPARTMENT OF TRANSPORTATION
Engineering Division
Right of Way Bureau

2. Application Requirements

Applications for outdoor advertising permits are available at <https://www.mdt.mt.gov/business/oac/forms.aspx>. The owner of the land affected must agree to the erection or maintenance of the advertising sign. Also, some cities, towns, and counties have local sign ordinances or regulations so written approval from the local zoning authority should be received before applying for a permit. Each sign is given a designated permit number and a permanent identification plate that must be attached to the structure. A permit is required for each sign site.

Statute: 75-15-101, *et seq.*, MCA (Outdoor Advertising Act)

Rule: ARM 18.6.202-18.6.264

3. Fees

The MDT requires a non-refundable initial inspection fee and an initial permit fee based on the square footage of the sign. Permits may be renewed every three years.

Statute: 75-15-122, MCA

Rule: ARM 18.6.211, 18.6.215

HIGHWAY APPROACH PERMITS

1. Types of Activities Regulated

Permits are required from the Montana Department of Transportation (MDT) for the construction of driveways and other approaches intersecting public streets and highways.

Statute: 60-2-201, MCA
Rule: ARM 18.5.104, 18.5.105
Contact: DEPARTMENT OF TRANSPORTATION
District and Area Offices (see APPENDIX 2)

2. Application Requirements

Users must complete an online application for a Montana Department Maintenance Permit available at: <https://app.mdt.mt.gov/mntencr/>. An application must be made by the owner of the property and must include a detailed site plan drawing and an environmental checklist form.

Rule: ARM 18.5.104

3. Permitting Procedures

- 1) Any person wishing to construct a new approach, or modify or propose a change in use for an existing approach must obtain a permit from the department. The permit application must be submitted to the appropriate district office. A detailed site plan drawing, including the location of the work, and an Environmental Checklist Form must be included with the application.
- 2) The department will not review or approve a permit application until all necessary information has been provided.
- 3) The decision to grant, deny, or cancel an approach permit is solely within the discretion of the department. The department may make any changes, additions, repairs, or relocations to any approach within the highway right-of-way.

Rule: ARM 18.5.104 and 18.5.105

HIGHWAY ENCROACHMENTS - OCCUPANCY PERMITS

1. Types of Activities Regulated

Any person or entity proposing to encroach on a highway right-of-way within the jurisdiction of the department must obtain an encroachment permit from the department. Encroachment permits are issued by the MDT for construction of any installation, device, object, or occupancy that is located at, above, or below the grade lines of the highway and within the right-of-way limits, and that is not installed as part of the highway by the department, including landscaping and maintenance. Public utility facilities such as water, sewer, electric, natural gas, and communications lines may occupy highway rights-of-way by occupancy agreement with the MDT.

Similar permission is required from the Board of County Commissioners for any work on county roads or rights-of-way.

2. Permitting Procedures

Permits may be obtained online on the department's website at:
<https://app.mdt.mt.gov/mtencr/>.

Statute: 7-14-2139, MCA (county roads and rights-of-way)

Rule: ARM 18.7.102, 18.7.104, 18.7.105, 18.7.109, and 18.7.110,
(private occupancy of highway rights-of-way)
ARM 18.7.201-18.7.206, 18.7.211, and 18.7.221-18.7.231 (utility
occupancy of highway rights-of-way)

Contact: DEPARTMENT OF TRANSPORTATION
Helena Office; or
District and Area Offices (see APPENDIX 2)

BOARD OF COUNTY COMMISSIONERS

See also HIGHWAY UTILITY EASEMENTS, p. 172.

OVER SIZE AND WEIGHT PERMITS

1. Types of Activities Regulated

A person may apply for a special use permit from the Montana Department of Transportation, its agent, or the local governing body for the movement of vehicles, loads, or objects with either width, height, length, or weight or a combination of width, height, length, or weight in excess of the statutory limits on a roadway for which the permitting entity is responsible.

Statute: 61-10-121, 61-10-124, and 61-10-125, MCA

Rule: ARM 18.8.101, 18.8.504, 18.8.512, 18.8.513, 18.8.517, 18.8.601, and 18.8.603

Contact: DEPARTMENT OF TRANSPORTATION
Motor Carrier Services Division
District and Area Offices (see APPENDIX 2)

2. Application Requirements

The applicant for a special permit must specifically describe the powered or towing vehicle and generally describe the type of vehicle, combination of vehicles, load, or object to be operated or moved, and the roadways over which the operation or movement will take place. A special permit is a written or electronic document and may be granted for either a single trip or on a term basis.

ROADSIDE JUNKYARDS

1. Types of Activities Regulated

The Montana Department of Transportation (MDT) may issue a license for a junkyard situated within 1,000 feet of a primary or interstate highway if the facility is screened from view or not visible from a main traveled course, located within an area zoned for industrial use or located within an unzoned area the MDT has defined as industrial based on actual uses. Junk includes scrap metals, rags, debris, etc. MOTOR VEHICLE WRECKING FACILITIES (see p. 155) and garbage dumps or sanitary landfills (see SOLID WASTE DISPOSAL, p. 157) are licensed by the Montana Department of Environmental Quality.

Statute: 75-15-201, *et seq.*, MCA

Contact: DEPARTMENT OF TRANSPORTATION
Engineering Division
Right of Way Bureau

HUNTING - FISHING - TRAPPING - WILD LANDS & WILDLIFE PROTECTION

The Montana Department of Fish, Wildlife and Parks is charged with the regulation of fishing, hunting, trapping, and wildlife protection and issues all hunting, trapping, and fishing permits and licenses in Montana. The department also issues permits for commercial activities involving free-ranging wildlife and/or captive-bred and privately owned wildlife. The only exceptions are aerial hunting permits for predators (Montana Department of Livestock, see below) and licenses for outfitters and professional guides (Montana Department of Labor and Industry, see p. 80).

The Montana Fish and Wildlife Commission establishes hunting and fishing seasons and restricts hunting, trapping, and fishing in certain areas.

Depending on the type and location of an activity, more than one permit may be required. Please check all sections that may apply to a proposed activity and contact the appropriate state agency.

COMMERCIAL ACTIVITIES

AERIAL HUNTING OF PREDATORY ANIMALS

1. Types of Activities Regulated

An individual planning to conduct an aerial hunt must first obtain a permit from the Montana Department of Livestock (MDOL), with the exception of 1) government employees acting within the scope of their employment, or 2) resident landowners hunting on their own property who have followed the notification requirements of the MDOL.

Statute: 81-7-101, 81-7-501, and 81-7-505, MCA

ARM: 32.22.101 - 32.22.106

Contact: DEPARTMENT OF LIVESTOCK
Brands Enforcement Division

2. Application Requirements

To obtain an aerial hunting permit, an applicant must complete the required forms available on the MDOL website:

<http://liv.mt.gov/Centralized-Services/Aerial-Hunting-Permits>. The permit must show the species of predator and the geographic areas that will be hunted. Applicants must be currently licensed as pilots by the Federal Aviation Administration (FAA), must minimally have a private pilot's license and 200 flying hours, and the applicant and their aircraft must meet FAA and Montana Department of Transportation requirements.

Rule: ARM 32.22.102

Contact: DEPARTMENT OF LIVESTOCK
Brands Enforcement Division

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

3. Fees

An aerial hunting permit is valid for a 12-month period from February 1 - January 31 and must be renewed each year. The permit fee is \$50.

Rule: ARM 32.2.404 and 32.22.103

ALTERNATIVE LIVESTOCK RANCHES/GAME FARMS

1. Types of Activities Regulated

A person may not operate an alternative livestock ranch in Montana without a license obtained from the Montana Department of Fish, Wildlife and Parks (FWP) prior to November 7, 2000. The license must be renewed annually and expires March 1 of each year. No new licenses may be applied for or granted. Existing alternative livestock ranches must comply with all applicable laws and rules administered by the Montana Department of Livestock (DOL) relating to marking, inspection, importation and interior facilities, transportation, and health of the animals. See also ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, p. 82.

Statute: 87-4-406, *et seq.*, MCA

Rule: ARM 12.6.1520, *et seq.* (licensing)
ARM Chapter 32.4.101, *et seq.*, 32.4.1301, *et seq.*

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division
Enforcement Division

DEPARTMENT OF LIVESTOCK
Animal Health Division

2. **Renewal Fees**

Number of Animals	Renewal Fee
0 to 20 animals	\$100
21 to 60 animals	\$200
More than 60 animals	\$400

Statute: 87-4-411, MCA

The MDOL may also assess a fee, not to exceed \$50, for each alternative livestock imported into the state.

3. **Additional Information**

Licensees must keep and maintain for three years written records of all alternative livestock purchases, transfers, sales, births, and deaths. The information must be reported to the FWP semi-annually.

An alternative livestock ranch license for a specific facility is not transferable.

The shooting of game animals or alternative livestock for a fee or other compensation on an alternative livestock ranch is not allowed.

Statute: 87-4-414 and 87-4-417, MCA

COMMERCIAL FISHING

1. **Types of Activities Regulated**

A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) to harvest fish for sale or commercial purposes. Commercial harvest of nongame fish is limited to specific waters and is authorized by the Fish and Wildlife Commission. Commercial harvest of whitefish by anglers with hook and line or rod may be authorized in waters specified by the Fish and Wildlife Commission. The taking of whitefish by seine or net is restricted to the Kootenai River and portions of its tributaries, requires a \$1,000 bond, and is regulated by the Commission.

Statute: 87-3-204, 87-4-601, 87-4-605, 87-4-609, and 87-4-610, MCA

Rule: ARM 12.7.101

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

An applicant for a commercial fishing license must submit their name and address, information about the waters they plan to fish, the types of fish harvested, and the equipment that will be used. There are three classes of permits for commercial fishing: Class A for taking all nongame species designated by the FWP for commercial purposes, Class B for taking all designated nongame species except smallmouth buffalo and largemouth buffalo, and Class X to be granted for one year only to take specific nongame species on an experimental basis.

Applications for commercial fishing for whitefish with hook and line are reviewed and issued by the FWP Region 1 office in Kalispell. Applications for commercial fishing for whitefish on the Kootenai River or tributaries with nets or traps must be submitted for the director's approval.

Rule: ARM 12.7.101 and 12.7.103

3. Permitting Procedures

The FWP requires permittees to keep records of operations relating to the taking, sale, or disposal of fish and to submit records within 30 days following the end of each month. All species not authorized in the permit must be released alive and unharmed to their originating waters. The department may impose special conditions regarding gear, limits, seasons, and closures, etc., on any water. Existing permit holders receive priority for retaining permits because only one permit per water body may be issued.

Rule: ARM 12.7.102, 12.7.104, and 12.7.105

4. Fees

The fee for a Class A permit is \$500 and for a Class B permit, \$200. There is no charge for a Class X permit.

Rule: ARM 12.7.103

COMMERCIAL USE OF FISH, WILDLIFE AND PARKS LANDS

1. Types of Activities Regulated

A permit is required in advance to conduct commercial use on department lands and restricted waterbodies. Permits may be issued to a person as an individual or as a representative of an entity or business. Licensed outfitters and guides must obtain all other licenses or permits required by state or federal law in order to receive a commercial use permit. A permit is valid for the time period specified on the permit, not

to exceed five years. Additional information is available at:
<https://fwp.mt.gov/buyandapply/outfitter-licenses>.

Rule: ARM 12.14.120

An outfitter, guide, or water-based service provider must possess and have on their person a valid fishing access site permit when conducting commercial use at fishing access sites. A fishing access site permit is valid for the time period specified on the permit.

Rule: ARM 12.14.101, 12.14.120, 12.14.125, and 12.14.130

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Wildlife Division
Parks Division
Regional Offices (see APPENDIX 2)

2. **Application Requirements**

A. Commercial Use Permit

A commercial use permit application must be submitted to the FWP regional office that oversees the site or sites where the use will occur at least 45 days before use is intended to begin. For an applicant to obtain a permit, the department requires a completed application, an outfitter or guide license number if providing angling services, an automated license system number, permit fee, deposit or damage security bond, proof of insurance, proof of workers' compensation and/or an independent contractor exemption certificate, information explaining how the proposed use would benefit the public's resources or the public's enjoyment of the site, and other relevant information. Processing the application may require additional time if the FWP determines that an environmental analysis is required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125).

Rule: ARM 12.14.120 and 12.14.130

B. Fishing Access Site Permit

A fishing access site permit may be obtained at a FWP regional office or through the department's internet licensing system. For an applicant to obtain a permit, the FWP may require a completed permit application form, an outfitter or guide license number if providing angling services, an automated license system number, a permit fee, and proof of insurance.

Rule: ARM 12.14.125 and 12.14.130

3. Fees

Commercial use fees for state parks are established by the State Parks and Recreation Board. The Fish and Wildlife Commission establishes fees for conducting commercial use on all other land owned or managed by the FWP. Fees may be adjusted on a case-by-case basis if a variety of conditions established in rule are met.

Rule: ARM 12.14.160

4. Additional Information

The FWP may require commercial users to report their use of department land and to maintain a logbook about the use. The department will include specific reporting requirements as permit stipulations. A commercial use permit is not transferable and is void when a business is sold or transferred.

Rule: ARM 12.14.120

FIELD TRIAL PERMIT

1. Types of Activities Regulated

A person or organization shall apply for a permit from the Montana Department of Fish, Wildlife and Parks (FWP) using a form provided by the department prior to conducting a field trial on public land.

Statute: 87-3-602 and 87-3-603, MCA

Rule: ARM 12.6.1602, *et seq.*

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division
Regional Offices (see APPENDIX 2)

2. Application Requirements

To obtain a field trial, a signed application must be submitted to the department at least 20 days prior to the date of the field trial. The application must include:

- the applicant's name and address;
- the name and address of any national affiliate,
- the location of the proposed field trial;
- the intended date(s) of the field trial, the number and species of captive-reared birds to be used for the trial, if captive-reared birds are to be used;
- written consent of the controlling land managing agency; and
- any other related information requested by the FWP.

3. Permitting Procedures

The FWP may deny the permit if it is determined that approving the application is not in the best interests of the protection, preservation, propagation, and conservation of game birds in the state. If denied, a notice must be mailed to the applicant within 10 days of receipt of the application and must state the reasons for the denial.

4. Fees

There is no fee to obtain a field trial permit.

5. Additional Information

Captive-raised game birds used in a field trial must be tagged before being planted or released. Game birds must be obtained from a licensed game bird farm or from a source of game birds approved by the department. A person who takes an untagged game bird during a field trial shall immediately report the taking to a representative of the department.

Game birds must be obtained from a game bird farm licensed under 87-4-903 or from a source of game birds approved by the department.

Anyone training bird dogs using wild game birds not raised in captivity must obtain a bird dog training license, whether on private or public land. See also *USE OF WILD GAME BIRDS IN DOG TRAINING*, p. 87.

For those commercially training bird dogs on state trust land, a special recreational use license (SRUL) may be required from the Department of Natural Resources and Conservation. Contact the local DNRC Field Office for application details.

FISH FARMS OR HATCHERIES

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) may inspect a fish farm or hatchery and designate the facility as a concentrated aquatic production facility based on whether or not the facility significantly contributes to the pollution of state waters and meets the criteria in Appendix C of 40 C.F.R., part 122. If the facility meets the criteria for the designation, it is subject to the permitting requirements of the DEQ's wastewater permitting program. See *WATER QUALITY PERMITTING*, p. 195.

The director of the Montana Department of Fish, Wildlife and Parks is responsible for the construction and control of state fish hatcheries.

Statute: 75-5-401 and 87-3-201, MCA

Rule: ARM 17.30.1331

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Director's Office

FISH PONDS

1. Types of Activities Regulated

A private fish pond permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) to stock fish in a pond. The permit entitles the holder to stock the pond with fish from a lawful source. Permits are issued for a 10-year period.

A commercial pond license is required to sell fish, eggs, or fry from a private pond. The permit holder must furnish a \$500 surety bond conditioned to the effect that the licensee will not sell fish or spawn from public waters or violate the conditions of the license. Commercial pond licenses are issued for one year.

Statute: 87-4-603 and 87-4-606, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

An applicant for an instream private fish pond must provide reliable information to the FWP to verify that the tributary, spring, or stream does not support game fish or species of special concern and does not pose an unacceptable risk to game fish or fish species of special concern in adjacent waters.

A commercial pond licensee must keep accurate records of the species and quantities of fish or eggs sold or purchased, the dates of sale or purchase, the names of purchasers or sellers, and the locations to or from which fish or eggs were transferred. The licensee must report to the FWP annually.

3. Permitting Procedures

The FWP may designate the species of fish that may be stocked and may require measures to prevent fish from escaping into adjacent waters. If ownership or control of the fish pond changes, the new owner or operator must apply for a license transfer or a new permit. A private pond license expires on February 28 of the 10th year.

Commercial pond licenses expire on February 28 of each year. Licenses must be renewed before they expire.

A license may be revoked for failure to operate or use the pond according to the terms of the license or state statute, rule, or order covering importation, transportation, or introduction of fish or eggs.

Statute: 87-4-606 and 87-4-607, MCA

4. Fees

Fish pond permits are \$10 for 10 years and commercial pond licenses are \$10 per year.

5. Additional Information

The FWP may, under reasonable conditions and after notifying the landowner, inspect the pond for illegally stocked fish or diseases. Also, the license holder may request an inspection by the department.

FISHING DERBIES OR TOURNAMENTS

1. Types of Activities Regulated

A permit is required for any event where an entry fee is charged or where people may win prizes for catching fish in Montana is considered a fishing contest. Fishing contests involving fewer than 30 people with cash prizes or merchandise worth \$500 or less do not require a permit but must comply with all fishing contest regulations.

Watercraft entering the state and crossing the Continental Divide into the Columbia River Basin must be inspected for aquatic invasive species before launch. Fishing contest organizers are required to ensure participants adhere to all Montana legal requirements

Statute: 87-3-121 and 87-6-214, MCA

Rule: ARM 12.5.706 and 12.7.801

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

2. Application Requirements

An individual or organization that plans to sponsor a fishing contest on waters open to public fishing must submit an application on forms provided by the FWP to the department between May 1 and July 1 for ice fishing contests and between September 1 and November 1 for open waters contests. A fishing contest application will be evaluated based on 1) the impacts on fish populations, the aquatic ecosystem, and the immediate area; 2) the compatibility with fish management objectives for the water; 3) purse or participation limits (limits may or may not be imposed based on public comment); 4) conflicts with other contests proposed or approved; and 5) compliance with reporting requirements for previously sponsored events. Additional information and applications are available online at <https://fwp.mt.gov/fish/regulations/contests>.

Rule: ARM 12.7.802-12.7.804

3. Permitting Procedures

Once the application is received, the FWP will provide an opportunity for public comment. For competing applications, the department will approve applications that offer the best opportunities for public benefits, have been approved historically, have had good participation, and have a good record of compliance. The FWP will approve, approve with modifications, or deny the application by February 1 for open water contests and by October 1 for ice fishing contests.

The sponsor of a fishing contest must submit a report to the FWP within 30 days after the contest. The report must include the number of participants, the number of fish caught, the length and weight of the winning fish or the average length and aggregate weight of the winning fish, and the number of fish caught and released. The department may require more detailed catch information.

Rule: ARM 12.7.804-12.7.806

FUR DEALERS

1. Types of Activities Regulated

A person, firm, or corporation that buys, sells, trades, or deals in skins or pelts of furbearers or predators must secure a fur dealer's license from the Montana Department of Fish, Wildlife and Parks. The license is issued annually and expires April 30 of each year.

Statute: 87-4-301, 87-4-303, and 87-4-305, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

The license fee for a resident fur dealer is \$10 and for a fur dealer's agent (buyer), \$10. The fee for a nonresident fur dealer's license is the same as the fee charged for a nonresident fur dealer's license in the applicant's state of residence. If the nonresident's state does not issue a nonresident fur dealer's license, the fee is \$50.

Statute: 87-4-304, MCA

FUR FARMS

1. Types of Activities Regulated

No person may own, control, or propagate furbearers for sale or sell captive-bred furbearers or the parts of captive-bred furbearers unless they hold a current fur farm license issued by the Montana Department of Fish, Wildlife and Parks (FWP). The license is issued annually and expires January 31 of each year. License renewal requires submission of an annual report.

Statute: 87-4-1002 and 87-4-1005, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

An applicant for a fur farm license must submit a written application to the FWP which includes the person's name and address, the species of furbearers and any plans for propagation, the legal description of the land, the type of fence for enclosure, and the source of the furbearers. The license expires on January 31 following the date issued.

A fur farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted. A nonresident fur farm owner must have a resident agent who is responsible for the daily operations of the fur farm and who is authorized by the nonresident owner to receive service of process.

Statute: 87-4-1003, MCA

3. Permitting Procedures

Within 30 days of receiving the application, the FWP must notify the applicant of its decision to approve or deny the application. If the application is denied, the department must specify the reasons for the denial. Before a fur farm permit is issued, the department must conduct an environmental assessment (see MONTANA

ENVIRONMENTAL POLICY ACT, p. 125) and complete an inspection of the final enclosure(s).

4. Fees

The initial fee for a fur farm license is \$25 and the renewal fee is \$15.

Rule: ARM 12.6.1701

GAME BIRD FARMS

1. Types of Activities Regulated

No person may own, control, or propagate game birds unless the person holds a current game bird farm license issued by the Montana Department of Fish, Wildlife and Parks (FWP) with the exception of 1) a person who possesses game birds but does not sell the birds, or 2) a person who has a migratory game bird avicultural permit. The license expires on January 31 following the date issued. License renewal requires submission of an annual report.

- 1) No person may purchase live game birds from within the state except from the holder of a current game bird farm license.
- 2) Game bird farm operators shall provide proof of purchase to the purchaser in the form of a receipt or, alternatively, the birds may be banded with a leg band approved by the department. The receipt must include the following:
 - a) name of the species;
 - b) quantity of birds;
 - c) sex of birds (if known);
 - d) name of the game bird farm; and
 - e) the name of the purchaser and the date of purchase..
- 3) An authorized purchaser may also purchase live game birds from outside the state import permit issued by the Department of Livestock.
- 4) All captive-reared game birds sold in Montana shall originate from a National Poultry Improvement Plan (NPIP) certified flock, as licensed through the Department of Livestock. See: <https://liv.mt.gov/Animal-Health/National-Poultry-Improvement-Plan-NPIP>.

Statute: 87-3-603, 87-4-901, *et seq.*, MCA

Rule: ARM 12.6.1602, 12.6.1608, and 12.6.1610

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

Contact: DEPARTMENT OF LIVESTOCK
Animal Health Bureau

2. Application Requirements

An applicant for a game bird farm license must submit an application to the FWP that includes that person's name and address, the species of game bird and plans for its propagation, the legal description of the proposed game bird farm location, the type of fence or enclosure, and the source of the game birds. If the applicant is a nonresident owner, they must provide the name and address of a local resident agent. The resident agent must be responsible for the daily operation of the farm and be authorized by the nonresident owner to receive service of process.

A game bird farm license will only be issued to a responsible applicant who owns or leases the premises where the operations will be conducted and who has properly fenced or otherwise enclosed the area.

3. Permitting Procedures

Within 30 days of receiving the application, the FWP must notify the applicant of its decision to approve or deny the permit. If the application is denied, the department must specify the reason for denial. A permit will not be issued until the enclosures are inspected by a FWP representative.

4. Fees

The initial fee for a game bird farm license is \$100 and the renewal fee is \$50.

Rule: ARM 12.6.1601

OUTFITTERS AND GUIDES

1. Types of Activities Regulated

An individual who intends to provide services as an outfitter or guide must obtain a license from the Montana Department of Labor and Industry, Board of Outfitters.

A guide works under the supervision of a licensed outfitter. An outfitter may not hire a guide who does not hold a valid license. Licenses for outfitters and guides must be renewed by December 31 each year.

An outfitter's assistant works under the supervision of a licensed outfitter but is not required to obtain a license. An outfitter is required to disclose to each client that the outfitter's assistant is not a licensed guide or outfitter and the emergency causing the

need to employ the outfitter's assistant. An outfitter's assistant is not required to obtain a license but must carry proof of employment as required by the board. An outfitter's assistant may not work more than 15 days in a calendar year for an outfitter unless the outfitter's assistant is actively obtaining a guide's license.

An outfitter must provide an affidavit to the Board that permission and any needed permits from landowners (private, state, or federal) will be obtained before services are provided to clients.

Statute: 37-47-101, 37-47-301, 37-47-308, 37-47-325, and 37-47-404, MCA

Rule: ARM 24.171.407, *et seq.* and 24.171.2301

Contact: DEPARTMENT OF LABOR AND INDUSTRY
Business Standards Division
Board of Outfitters

2. **Application Requirements**

First Time Outfitter License: An applicant for an outfitter's license must file a completed license application, meet the licensing qualifications and requirements for experience, have a complete operations plan on file with the Board office, pass the required examinations, and receive an approved equipment inspection. If the application is denied, the Board will notify the applicant of the denial and the reasons for the denial. If the deficiencies are corrected, a license will be issued on reapplication.

Guide: An applicant for a guide's license must meet the qualifications designated by the Board of Outfitters and submit a completed license application. Applicants must be at least 18 years old; be endorsed and recommended by an outfitter with a valid license, unless otherwise qualified under standards established by the Board; and have been issued a valid conservation license. The applicant must also provide current proof of first aid certification.

Outfitter's Assistant: An outfitter's assistant must carry proof of employment as required by the board at all times during the service period but is not required to obtain a license. An outfitter's assistant may not be employed by an outfitter for more than 15 days in a calendar year unless actively pursuing a guide's license. The outfitter shall submit to the department a copy of the employment documentation required by the board and a \$25 fee within 15 days of the first date of service.

Statute: 37-47-302 through 37-47-308, 37-47-311, 37-47-325, and 37-47-341, MCA

Rule: ARM 24.171.410, 24.171.501, *et seq.*, and 24.171.601

3. Fees

The Board charges fees for new, amended, and renewed licenses; operations plans and plan amendments to support the licensing program. For fee amounts see the statutes and rules listed below or contact the Board.

Statute: 37-1-134, 37-47-306, MCA

Rule: ARM 24.171.401

4. Additional Information

A *Net Client Hunter Use* (NCHU) is the number of clients authorized to be served by an outfitter on private and state land and on any federal land where an outfitter's use of the federal land is not limited by some means other than NCHU.

Statute: 37-47-101 and 37-47-201, MCA

Rule: ARM 24.171.701

ROADSIDE MENAGERIES - WILD ANIMAL MENAGERIES - ZOOS - POSSESSION OF WILD ANIMALS

1. Types of Activities Regulated

- A. A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) for the following:
- 1) **Roadside menageries** that keep one or more wild animals, birds, or reptiles in captivity to exhibit or attract trade, or other commercial purposes. Exhibits by educational institutions or by a traveling theatrical exhibition or a circus based outside of Montana are not included.
 - 2) **Wildlife sanctuary** operating as nonprofit corporations or an accredited association for the purpose of providing homes for nonreleasable wild animals.
 - 3) **Wild animal menageries** where one or more bears or large cats are kept in captivity for use other than public exhibition.
 - 4) **Zoological gardens** operating as nonprofit corporations or accredited by the American Zoo and Aquarium Association and operating for the purpose of exhibiting wild animals.

Permits expire on December 31 and may be renewed by paying an annual fee and submitting a renewal application. Renewal applications for all roadside menageries and wild animal menageries must include an accounting of all wild animals on the facility.

- B. It is unlawful to possess a skunk, fox, raccoon, or bat except as part of a furbearing enterprise, roadside menagerie, zoo, or for scientific research.

Statute: 87-4-801 through 87-4-804, MCA
50-23-101 and 50-23-102, MCA

Rule: ARM 12.6.1301-12.6.1309

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (menageries and zoos)

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Public Health and Safety Division
Communicable Disease Control and Prevention Bureau
(possession of foxes, skunks, bats, or raccoons)

2. Application Requirements

An application for a roadside menagerie, wild animal menagerie, wildlife sanctuary or zoo permit may be obtained by completing forms provided by the FWP. A permit will not be issued until the department verifies that the animals will be cared for and the public protected, an environmental assessment is completed (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125), documentation is provided showing nonprofit corporation status and accreditation by and/or good standing with any zoological associations, animal sanctuary associations or federations. The FWP will conduct a final inspection of the enclosures before the permit is approved.

Statute: 87-4-803, MCA
Rule: ARM 12.6.1308

3. Fees

The annual permit fee for five animals or less is \$10. The annual fee for six or more animals is \$25.

Statute: 87-4-803, MCA

SEINING

1. Types of Activities Regulated

A commercial bait fish seining license is required from the Montana Department of Fish, Wildlife and Parks to seine or otherwise capture any nongame bait fish, as identified in the current fishing regulations for the purpose of selling or commercial transportation and distribution.

Seining nets may not exceed 12 feet by 4 feet, minnow traps may not exceed 2 feet by 1 foot by 1 foot, case nets may not exceed a 6-foot radius and dip nets may not exceed 3 feet by 3 feet. Persons with 24 dozen or more nongame bait fish, as identified in current fishing regulations, in their possession must be licensed, unless the person is under 15 years of age.

Statute: 87-3-203, 87-3-204, and 87-4-602, MCA

Rule: ARM 12.7.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Regional Offices (see APPENDIX 2)

2. Application Requirements

The applicant for a commercial seining license must submit a form provided by the FWP stating their name and address, the waters desired for seining, and the equipment that will be used to seine for bait fish. Licenses expire on December 31. Bait seining license holders are required to provide a report of their collections by December 31st of their permitted year. The report form is available at:
<https://fwp.mt.gov/buyandapply/fishinglicenses/commercial-scientific-permits>.

Rule: ARM 12.7.201-12.7.202

3. Fees

The fee for a commercial seining license is \$10.

Rule: ARM 12.7.201

4. Additional Information

Bait fish may not be imported into the state of Montana for commercial or other purposes by a licensee or other person unless permitted by the FWP.

It is unlawful to transport live fish away from the body of water from which the fish were taken unless the transporter is a licensed commercial seining operator or within the boundaries of the Eastern Montana Fishing District. The FWP should be contacted for information on special regulations associated with Aquatic Invasive Species Management Areas.

Statute: 87-3-203 and 87-3-204, MCA

SHOOTING PRESERVES

1. Types of Activities Regulated

The Montana Department of Fish, Wildlife and Parks (FWP) issues licenses or permits to any person, partnership, association, or corporation for operating a shooting preserve. All persons hunting on shooting preserves must have a valid resident or nonresident upland game bird license or a three day nonresident shooting preserve bird hunting license. Game that may be artificially propagated and hunted on a preserve is limited to ring-necked pheasants with no color mutations, chukar partridges, Hungarian partridges, Merriam's turkeys, and other species designated by the FWP. The shooting preserve season is September 1 through March 31. Licenses are issued annually and expire March 31 each year.

Statute: 87-2-404, 87-4-501 through 87-4-504, and 87-4-522, MCA

Rule: ARM 12.6.1202

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Criteria

Each shooting preserve is restricted to not more than 2,560 contiguous acres. No preserve may be located in an area that will substantially reduce hunting opportunities available to the public. The exterior boundary of each shooting preserve must be clearly defined and posted with signs placed around the extremity at intervals of 250 feet or less.

Statute: 87-4-502, MCA

3. Additional Information

All artificially propagated upland game birds released must be at least 14 weeks of age and must be marked prior to release in a manner that distinguishes them from wild birds. All harvested game must be tagged prior to removal from or consumption on the premises. The FWP will furnish self-sealing upland game bird tags to licensed shooting preserve operators for 10 cents each. Shooting preserve operators must maintain

detailed records for each season as per the requirements of the department. The records must be open to inspection at any reasonable time by a delegated representative of the department.

Statute: 87-4-522 and 87-4-525, MCA

Rule: ARM 12.6.1201

4. Fees

Fees for shooting preserve operating licenses or permits are \$100 per year for the first 320 acres of shooting preserve area plus \$40 per year for each additional 160 acres and any fraction of 160 acres.

Statute: 87-4-503, MCA

TAXIDERMY

1. Types of Activities Regulated

A person in the business of making mounts of, preserving, or preparing the dead bodies of wildlife or parts of wildlife must have a license from the Montana Department of Fish, Wildlife and Parks. A written record must be kept of all wildlife in the licensee's possession or control. The record should include information on who owns the wildlife, the kind and number of species, all articles of wildlife shipped, where shipped, and to whom. A state game warden may inspect the records of a taxidermist at any reasonable time. Licenses are issued annually and expire April 30 each year.

Statute: 87-4-201, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Fees

A taxidermy license is \$50.

USE OF CAPTIVE-REARED BIRDS IN DOG TRAINING

1. Types of Activities Regulated

A license is not required to train bird dogs using captive-raised game birds from March 1 through the end of February the following year. A person using captive-reared game birds for dog training or a field trial is required to retain proof of purchase that the birds were legally obtained from a licensed game bird farm. The person using the game birds

must either tag or band the birds with a band approved by the department or provide a receipt that includes the following:

- the name of the species;
- the quantity of birds;
- sex of birds, if known;
- the name of the game bird farm; and
- the name of the purchaser and the date of purchase.

Statute: 87-3-602, 87-3-603, 87-4-903, MCA

Rule: 12.6.1605, 12.6.1607, and 12.6.1608

2. **Additional Information**

For those training bird dogs on state land, a special recreational use license (SRUL) may be needed from the Montana Department of Natural Resources and Conservation. Contact the local DNRC Field Office for information. See also FIELD TRIAL PERMITS, p. 73

Rule: ARM 12.6.1605

USE OF WILD GAME BIRDS IN DOG TRAINING

1. **Types of Activities Regulated**

Any person training bird dogs on wild game birds must have a Class D-5 bird dog training license, whether on public or private land.

Statute: 87-3-601 through 87-3-603, MCA

Rule: ARM 12.6.1605

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division
Regional Offices (see APPENDIX 2)

2. **License Requirements and Fees**

A Class D-5 bird dog training license may be purchased online at: <https://ols.fwp.mt.gov/>, at an FWP office, or at any license provider. Licenses are \$5 for any Montana resident ages 18 and over, and \$10 for any nonresident ages 18 and over. For residents and nonresidents aged 12-17, the license is free of charge.

3. **Additional Information**

For those training bird dogs on state land, a special recreational use license (SRUL) may be needed from Montana Department of Natural Resources and Conservation. Contact the local DNRC Field Office for information.

WILDCRAFTING

1. **Types of Activities Regulated**

A person or organization collecting or transporting wild plant material for commercial purposes must have in their possession a bill of sale, a signed permission form, or a permit from the landowner of the property from which the plants are taken. Another permit issued by a land management or government agency may be valid in lieu of the wildcrafting permit. A permit or written permission are not required for a landowner to harvest wild plants on their own land or for a person to collect the amount of plant material that the landowner or other jurisdictional entity determines is for incidental or personal use.

Statute: 76-10-101, *et seq.*, MCA

Contact: PROPERTY OWNER

STATE OR FEDERAL LAND MANAGEMENT AGENCY

2. **Application Requirements**

The written permission form or permit must include the beginning and end dates for which the permission or permit are valid; basic information about the landowner, the permit or permission holder, and the plants that will be wildcrafted; a description of the location of the activity; and the license plate number of the vehicle used for wildcrafting.

3. **Additional Information**

A buyer of wildcrafted plant material must keep records with specific information outlined in state law about purchases or acquisitions for three years.

Statute: 76-10-105, MCA

FISHING, HUNTING, AND TRAPPING LICENSES

1. **Types of Activities Regulated**

All persons wishing to pursue, hunt, trap, take, shoot, or kill any game animal, game bird or furbearing animal must have a license from the Montana Department of Fish,

Wildlife and Parks. Annual hunting and fishing licenses expire on the last day of February and trapping licenses on the last day of June.

Statute: 87-2-301, *et seq.*, MCA (fishing licenses)
 87-2-401, *et seq.*, MCA (game bird licenses)
 87-2-501, *et seq.*, MCA (game animal licenses)
 87-2-601, *et seq.*, MCA (trapping licenses)
 87-2-701, *et seq.*, MCA (special licenses)

Rule: ARM 12.3.104-12.3.175, and 12.3.402-12.3.406

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
 Licensing and Permits
 Regional Offices (see APPENDIX 2)

2. Application Requirements

An applicant for a hunting, fishing, or trapping license must first acquire a Montana Conservation License to access most state lands. The license is valid from March 1 through the end of February of the following year.

An applicant for a trapping license must also acquire a Special Recreation Use License (SRUL) from the Department of Natural Resources and Conservation before trapping on state land. There is no charge for this license. A SRUL is subject to all FWP regulations and special stipulations. Applications may be submitted to the DNRC Field Office where applicant plans to trap and are accepted between March 1 and September 30.

An Aquatic Invasive Species Prevention Pass (AISPP) is required for all individuals who fish in Montana. The AISPP is \$2.00 for residents and \$7.50 for nonresidents. There is no fee for youth 15 and younger.

Nonresident hunters planning to bring their watercraft into Montana must purchase a Vessel AIS Prevention Pass before launching on state waters.

Montana Conservation Licenses, hunting, trapping or fishing licenses and AIS Prevention Passes may be obtained at a private sector license agent, an FWP office, or online at <http://ols.fwp.mt.gov>.

Statute: 23-2-541, 87-2-106, 87-2-130 and 87-2-201, MCA

3. Permitting Procedures

General hunting and fishing licenses are issued at the time of application. Special hunting licenses are issued via a random computer drawing process. Application deadlines as outlined on the next page:

License Type	Deadline
Bull/either sex elk and buck deer permits	April 1
Deer B, Elk B, and antelope licenses	June 1
Moose, sheep, goat and bison licenses	May 1
Nonresident combination big game licenses are limited and are issued on a first-come, first-served or drawing basis.	April 1

4. Fees

Fees vary according to the type of license issued. Contact the FWP.

5. Criteria

All applicants are eligible if they meet residence, hunter safety instruction, and age requirements. All necessary licenses and permits must be in the person's possession at the time of the activity.

FISHING, HUNTING, AND TRAPPING REGULATIONS

1. Types of Activities Regulated

Certain fishing, hunting, and trapping regulations are established annually by the Montana Department of Fish, Wildlife and Parks (FWP) depending on a number of factors: the current population of a species, climatic conditions, etc. Check with the FWP for the latest requirements for a specific area or species.

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

WILDLIFE PROTECTION

AERIAL HERDING PERMIT

1. Types of Activities Regulated

A property owner experiencing damage to the owner's property or crops from big game animals may apply for an aerial herding permit from the Montana Department of Fish, Wildlife and Parks (FWP) that allows the owner to use an aircraft or helicopter during

certain times of the year for the purpose of herding, driving, or hazing wild animals. The permit may be conditioned to address the individual circumstances of each application.

2. **Application Requirements**

To obtain an aerial herding permit, the applicant must submit a completed form to the FWP, written concurrence from affected property owners, and other related information requested by the department. Aerial herding authorized under a permit may not occur from May 1 to July 15 and for one week prior to and during the hunting season for the species being herded.

Statute: 87-3-126, MCA

Rule: ARM 12.6.2301-12.6.2310

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

CAPTIVE BREEDING OF RAPTORS

1. **Types of Activities Regulated**

The Montana Department of Fish, Wildlife and Parks (FWP) requires a permit for the captive breeding of raptors. The department may grant a permit whether or not the permittee is a licensed falconer. See also WILD BIRD PERMITS, p. 99 and NONGAME AND ENDANGERED SPECIES, p. 96.

Statute: 87-5-210, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division, or;

FISH AND WILDLIFE COMMISSION

2. **Application Requirements**

A person wishing to apply for a captive breeding permit must submit an application on a form provided by the FWP. Applications must be accompanied by a copy of a current federal captive breeding permit. Permits are issued for a five year period or a portion thereof with, and shall expire on the date designated on the face of the permit, unless amended or revoked.

Rule: ARM 12.6.1401

Contact: U.S. FISH AND WILDLIFE SERVICE
Regional Office
Permits Division

3. Fees

The state fee for a captive breeding permit is \$100.

Rule: ARM 12.6.1401

4. Additional Information

Captive raptors must be banded with a numbered, nonreusable marker provided by the U.S. Fish and Wildlife Service. Permitholders must submit a copy of the required federal report annually.

CONTROLLED EXOTIC SPECIES PERMIT

1. Types of Activities Regulated

A permit is required to possess, sell, purchase, breed or exchange a controlled exotic wildlife species in Montana. Any exotic wildlife species that is not native to Montana must be classified prior to authorization for shipment into Montana. Classification may be in the noncontrolled category (no permit required), the controlled category (permit required), or the prohibited category (permits limited to zoos, roadside menageries, or research organizations).

Statute: 87-5-705(2), MCA

Rule: ARM 12.6.2201, *et seq.*

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

An applicant for a controlled exotic wildlife species permit must submit an application to the Montana Department of Fish, Wildlife and Parks (FWP) that includes that person's name and address, the species of exotic wildlife, the purpose of the possession, the type of facilities in which the wildlife species will be held, compliance with city and county ordinances, and the means of identification for the species.

3. Permitting Procedures

Within 30 days of receiving the application, the FWP must notify the applicant of its decision to approve or deny the permit. If the application is denied, the department must specify the reason for denial. Depending on the species requested and the type of

enclosures required for the species, an inspection may be required prior to issuing a controlled exotic wildlife permit and specific conditions may be attached to the permit.

4. Fees

The fee to obtain or renew a controlled exotic wildlife species license for simple possession is \$25. If the applicant intends to sell, breed, or exchange a controlled species, the fee to obtain or renew a license is \$100. Licenses expire on January 31 following the date issued.

Rule: ARM 12.6.2210

FALCONRY PERMIT

1. Types of Activities Regulated

A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) to practice the sport of falconry. There are three classes of falconry permits with different requirements and allowances: apprentice, general, and master. Montana resident permits are valid for up to three years and are renewable and nontransferable. Nonresident permits are valid June 1 through March 31 and only for the species specified on the permit. Raptors taken from the wild may not be purchased or sold. See also WILD BIRD PERMITS, p. 99 and CAPTIVE BREEDING OF RAPTORS, p. 91.

Statute: 87-5-204, MCA

Rule: ARM 12.6.1103, 12.6.1112, 12.6.1120, and 12.6.1136

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

2. Application Requirements

New applicants for an apprentice falconry permit must pass an examination administered by the FWP. Before a permit is issued, the department inspects the raptor housing equipment and facilities.

Nonresident permits are available through a drawing. Applicants must submit their application to the Department by March 15. If chosen in the drawing, the applicant must purchase the permit by May 1.

The bald eagle and any species listed under the state or federal endangered species acts may not be captured in Montana for the sport of falconry.

Statute: 87-5-205, MCA

Rule: ARM 12.6.1106, 12.6.1109, 12.6.1122, and 12.6.1136

3. Fees

The state permit falconry fee for a Montana resident is \$125. A permit for a first-time apprentice falconer is \$50. Permits are issued for a three year period or a portion thereof and expire on the date designated on the permit. The state permit fee for a nonresident is \$200 and the permit is valid from June 1 through March 31.

Rule: ARM 12.6.1120, 12.6.1136

GAME PRESERVES

1. Types of Activities Regulated

It is unlawful for a person to hunt for, trap, capture, kill, or take game animals, furbearing animals, or birds within a game preserve established by the Legislature or by the Montana Fish and Wildlife Commission. It is also unlawful within the limits of a preserve for a person to carry or discharge firearms, create an unusual disturbance to frighten or drive away game animals or birds or to chase game or birds with dogs.

Permits to capture birds or animals for the purpose of propagation or for scientific purposes, to trap furbearing animals or to kill certain predatory animals or birds within a preserve may be granted by the FWP director on the payment of a fee and in accordance with rules established for the preserve by the Commission.

Statute: 87-5-401 through 87-5-406, MCA

Rule: ARM 12.9.202, 12.9.207, and 12.9.209

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

IMPORTATION OR INTRODUCTION OF FISH OR FISH EGGS

1. Types of Activities Regulated

It is unlawful to bring fish or fish gametes into Montana except for fish imported for aquariums without obtaining a permit and written certification that the fish are free of diseases as specified in Montana Department of Fish Wildlife and Park (FWP) rules. The department may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The FWP may impound shipments for further testing if reasonable cause exists.

Statute: 87-3-210, 87-3-221, 87-3-222, and 87-6-219, MCA

Rule: ARM 12.7.502, 12.7.505, and 12.7.701

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division

IMPORTATION OR INTRODUCTION OF WILDLIFE

1. Types of Activities Regulated

It is unlawful to import for introduction or transplant or to introduce any wildlife into Montana without authorization from the Montana Department of Fish, Wildlife and Parks (FWP). Only specified species of wildlife may be approved by the FWP for introduction or transplantation (see 87-5-714, MCA, for a list of species).

Statute: 81-2-701 through 81-2-708 and 87-5-701 through 87-5-721, MCA

Rule: ARM 12.6.2201, *et seq.*

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

DEPARTMENT OF LIVESTOCK
Animal Health Division

MIGRATORY BIRDS

1. Types of Activities Regulated

A. The U.S. Fish and Wildlife Service (USFWS) establishes laws relating to migratory birds. Under these regulations, no person is allowed to take, possess, import, export, transport, sell, purchase, or barter for any migratory bird, or the parts, nests or eggs of these birds except under the terms of a valid permit. The USFWS list of migratory birds may be found in 50 C.F.R. § 10.13.

Rule: Migratory Bird Treaty Act, 16 U.S.C. 703-712

Contact: U.S. FISH AND WILDLIFE SERVICE
Law Enforcement, Billings

B. Hunting seasons for migratory game birds are established by the Montana Department of Fish, Wildlife and Parks (FWP) through Fish and Wildlife Commission action. The seasons must fall within the federal frameworks established by the USFWS in consultation with the Flyway Councils, states, and other interested parties. Persons wishing to hunt migratory game birds must possess the appropriate license. See FISHING, HUNTING, AND TRAPPING LICENSES, p. 88.

Statute: 87-2-411, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

NONGAME AND ENDANGERED SPECIES

1. Types of Activities Regulated

No person may take, possess, transport, export, process, sell, or offer for sale or ship or receive for shipment any species or subspecies of nongame wildlife including species identified by the Montana Department of Fish, Wildlife and Parks (FWP) to be in need of management or listed as endangered by the state or the United States or on the United States list of endangered foreign fish and wildlife.

The designation of a species as endangered, threatened, or in need of management may change and species may be added and removed from the lists. Contact the FWP and the U.S. Fish and Wildlife Service for current listings.

The exceptions for the taking of endangered species are 1) in emergency situations; and 2) when necessary to prevent property damage or to protect human health if a permit is first obtained from the director of the FWP, and where possible, done by or under the supervision of a department agent. See also federal Threatened and Endangered Species Act, below.

Certain taking of nongame wildlife is specifically provided for in law in a number of ways, including via a management plan; a zoo/menagerie permit (see ROADSIDE ZOOS, p. 82); a rehabilitation permit; a raptor/falconry permit (see CAPTIVE BREEDING OF RAPTORS, p. 91 and FALCONRY PERMIT, p. 93) or an avicultural permit. The FWP director may permit the taking of endangered species for special purposes such as scientific research or for propagation in captivity.

In response to the exploitation of several nongame species for the pet trade, the Legislature specifically protected the northern flying squirrel, pika, pygmy rabbit, all native amphibians, and all reptiles native to Montana, except the prairie rattlesnake, from removal from the wild for commercial purposes.

Statute: 87-5-101, 87-5-102, 87-5-105 through 87-5-109, 87-5-116, and 87-6-202, MCA

Rule: ARM 12.2.501 and 12.5.201

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

2. **Additional Information**

Federal Threatened and Endangered Species Act

Under the federal Endangered Species Act (ESA), as amended, special protection is provided to a species or its habitat if the species is listed as endangered (in danger of extinction throughout all or a significant portion of its range), or threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range).

The ESA requires that all federal agencies, in consultation with the U.S. Fish and Wildlife Service (USFWS) must insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any threatened or endangered species. Federal agencies involved in major construction actions requiring the preparation of an Environmental Impact Statement are required to request a species list and prepare a biological assessment for the purpose of identifying any endangered or threatened species that is likely to be adversely affected by the action.

The ESA prohibits any person or agency from *taking*¹ any listed species without a special exemption/permit. Species may be added to or removed from the list. Contact the USFWS for current listings.

Statute: 16 U.S.C. 1531-1544 (federal Endangered Species Act of 1973, as amended)

Contact: U.S. FISH AND WILDLIFE SERVICE
Montana Field Office

SCIENTIFIC COLLECTORS PERMIT

1. **Types of Activities Regulated**

A permit is required from the Montana Department of Fish, Wildlife and Parks (FWP) for taking, killing, capturing, or possessing certain species for use in scientific studies. The permit holder may only take as many animals as are necessary for the investigation. A permit may not be granted for any species for which a taking is prohibited by statute or rule.

Statute: 87-2-806, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Fisheries Division
Wildlife Division

¹ To take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in these actions.

2. **Application Requirements**

A person or organization applying for a collection permit for a scientific investigation must submit an application to the FWP. The department may require the applicant to submit a plan of operations that includes the purpose for the collection, the methodology to be employed, and the qualifications of the collectors.

3. **Permitting Procedures**

The FWP may issue a permit with conditions on the time and number of animals that may be collected. The department may deny the permit if it determines the applicant is not qualified, the collection is not necessary for the investigation, the collection method is not appropriate, the collection may threaten the viability of a species or there is no valid reason for the proposed investigation.

The permit holder is required to submit a report before December 31 that indicates the species, number of individuals taken, and the locations of the collections. A permit holder who fails to file a report may be denied another permit.

Scientific collectors permits are not transferable and must be in the possession of the permittee at the time of the collection. Permits expire within the calendar year issued.

4. **Fees**

There is no fee for a collection permit for an educational institution or government agency. The fee for an individual is \$50.

USE OF POISON BAIT ON DEPARTMENT LANDS

1. **Types of Activities Regulated**

No 1080 baits can be placed on Montana Department of Fish, Wildlife and Parks lands without written permission from the Montana Fish and Wildlife Commission.

Statute: 87-1-201 and 87-1-301, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Wildlife Division

WILD BIRD PERMITS**1. Types of Activities Regulated**

- A. No person may hunt, capture, kill, possess, purchase, offer or expose for sale, ship, or transport any nongame wild bird or part of a wild bird or take or destroy nests or eggs without a certificate or permit from the Montana Department of Fish, Wildlife and Parks (FWP). Exceptions are 1) house sparrows, crows,* starlings, magpies*, rock doves, black birds*¹, and other species and their eggs or nests designated by the FWP, and 2) possession or transportation of parts or plumage of eagles used for religious purposes by a member of a Native American tribe when permitted by federal law.
- B. Licenses are required for any person to trap, possess, sell, or transfer possession of a raptor or to train a raptor in the practice of falconry. The bald eagle and any species listed under the state or federal endangered species acts may not be captured in Montana for the sport of falconry (see FALCONRY PERMITS, p. 93).
- C. The FWP may grant permits for the holding of raptors for captive breeding purposes under certain specific conditions (see CAPTIVE BREEDING OF RAPTORS, p. 91).
- D. A permit is required from the FWP to take, capture, or possess a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents, or collecting abandoned birds' nests for school or museum collections and nursing sick or injured birds.

A person seeking a scientific collection permit, rehabilitation permit, bird banding permit, or salvage permit must first obtain a federal permit from the U.S. Fish and Wildlife Service, Migratory Bird Permit Office in Denver before the state may issue a permit for any of those activities involving birds protected under the federal Migratory Bird Treaty Act.

Statute: 87-5-201 through 87-5-210, MCA

Rule: ARM 12.9.301

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

¹ The Fish and Wildlife Commission added Eurasian collared doves by rule (annual) in 2007 to the list of exotic bird species that may be taken without a license.

* Crows, blackbirds and magpies are protected by federal laws, (see MIGRATORY BIRDS, p. 95)

MINING

COAL AND URANIUM MINING: OPERATING PERMITS

1. Types of Activities Regulated

A permit is required from the Montana Department of Environmental Quality (DEQ) prior to initiating strip or underground mining operations. Mined lands must be reclaimed and revegetated. See also WATER QUALITY PERMITTING, p. 195 and AIR QUALITY PERMITS, p. 36.

The Employment Standards Division of the Montana Department of Labor and Industry (DLI) enforces mine safety regulations. The division's Workplace Safety and Health Bureau works with the mine operator and mining contractors to ensure worker safety. However, as long as the Federal Mine Safety and Health Act of 1977 is administered and enforced by federal inspectors, DLI is not authorized to conduct inspections in hard rock mines.

Statute: 82-4-201, *et seq.*, MCA (Strip and Underground Mine Reclamation Act), and
50-73-101, *et seq.*, MCA (Montana Coal Mining Code for mine safety)

Rule: ARM 17.24.301-17.24.1309 and 24.30.1302

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy & Mining Division
Mining Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Standards Division
Workplace Safety and Health Bureau

2. Application Requirements

A. Permit

An applicant for a coal or uranium mine operating permit must submit a complete and detailed plan for the mining, reclamation, revegetation, and rehabilitation of the resources that may be affected by the proposed operations. The application must include information on the climate, geology, hydrology, neighboring surface and ground waters, and vegetation, etc., and two copies of all maps that meet the requirements outlined in statute. An applicant for a coal mining permit must also submit a certificate issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy

for the strip or underground mining and reclamation operations described in the permit application.

Prior to the issuance of a permit, the operator must file a bond payable to the state of Montana with the DEQ in a sum to be determined by the department of not less than \$200 for each acre of the land affected, with a minimum bond of \$10,000. If federal coal is involved, the bond must also be made payable to the U.S. Department of Interior, Office of Surface Mining Reclamation and Enforcement. Permits may be renewed on each five-year permit anniversary by applying for a renewal. In order to renew a permit, the operator must be in compliance with the permit requirements.

B. Reclamation Plan

The reclamation plan for a coal or uranium mine must describe in detail how the applicant will comply with provisions regarding grading, backfilling, highwall reduction, subsidence stabilization, water control, topsoiling, reclamation and coal conservation, and measures that will be taken to eliminate damage to public and private lands from soil erosion, subsidence, landslides, water pollution, and hazards. In addition, the plan must list the steps that will be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards. Provisions also must be made for the protection and/or reclamation of alluvial valley floors and prime farmlands.

Statute: 82-4-221, 82-4-222, 82.4.223, 82-4-227, and 82-4-231, MCA

Rule: ARM 17.24.302-17.24.327

3. Permitting Procedures

- 1) An application is required for a permit or a major revision or amendment of a permit or reclamation plan. The DEQ reviews the application materials and determines if the application is administratively complete. Once the department makes its determination, it sends written notice to the applicant and if an Environmental Impact Statement is required (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125), it will also send notice of this determination at this time.

The applicant must publish a notice in an area newspaper and the DEQ must notify various local governments, planning agencies, sewage and water treatment authorities, and water companies in the area of the proposed mine. Any person having an interest that is or may be adversely affected or an officer of a federal, state, or local government agency may file written objections to the application within 30 days of the last publication of the applicant's public notice or receipt of the DEQ's notice. If written objections are filed and an objector requests an informal

conference, the DEQ must hold the conference in the area of the proposed mining and publish a public notice of the informal conference. The DEQ may proceed with the application review while the written objections and conference findings are assessed.

- 2) The DEQ must notify the applicant in writing within 120 days after receipt of the complete application whether the plan is acceptable. If the plan is not acceptable, the DEQ must indicate its reasons. The applicant may then revise the application. The DEQ then has another 120 days to make its decision concerning the acceptability of the application.
- 3) An acceptable application triggers public notice by the DEQ of the acceptability of the proposal. Again, any person having an interest that is or may be adversely affected by the department's decision may file written objections and/or request an informal conference. The informal conference must be held within 20 days of the request. The DEQ must issue its decision within 10 days of the conference.
- 4) An applicant, permittee, or person with an interest that is or may be adversely affected by the approval or denial of an application for a permit, a revision, or amendment of a permit or reclamation plan or a permit transfer or renewal may request a hearing before the Board of Environmental Review by submitting a written request within 30 days of the decision. The contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 124).

Statute: 82-4-206, 82-4-225, and 82-4-231, MCA

Rule: ARM 17.24.401-17.24.404

4. **Criteria**

The permit for a coal or uranium mining operation may not be approved for a number of reasons, including, but not limited to, an inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic or scientific characteristics or cultural resources, historic or geologic importance, critical biological productivity or ecological fragility, the threat of a public hazard, or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 82-4-228, MCA

Rule: ARM 17.24.1131-17.24.1148

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Types of Activities Regulated

A person interested in prospecting for coal or uranium must obtain a prospecting permit from the Montana Department of Environmental Quality (DEQ) if the land is not already included in a current operating permit (see p. 107) and if the prospecting is conducted to determine the location, quality, or quantity of mineral deposits. A reclamation plan and bond must be submitted. The permit is valid for one year and may be renewed.

A prospecting permit is not required for an operation that is conducted for the purpose of gathering environmental data to evaluate the conditions of an area before beginning strip or underground mining or conducted to determine drill hole locations and access routes prior to submittal of an application to prospect to determine the location, quality, and quantity of a mineral reserve provided the area to be disturbed is not one designated as unsuitable for coal mining (see 4. Criteria. p. 102). However, a notice of intent must be filed that meets the requirements in ARM 17.24.1018.

Statute: 82-4-226, *et seq.*, MCA (Strip and Underground Mine Reclamation Act)

Rule: ARM 17.24.1001-17.24.1018

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy & Mining Division
Mining Bureau

2. Application Requirements

The application for a prospecting permit must be made in writing, notarized, and submitted to the DEQ on forms provided by the department. The application form and permitting requirements vary according to the size and nature of the coal prospecting operation (see below) but will include a detailed prospecting map, a description of the proposed method of prospecting, the type of equipment to be used, and a reclamation plan.

A *short form* application is available for coal prospecting that does not remove more than 250 tons of coal and that does not substantially disturb the natural land surface (defined in ARM 17.24.301(121)). The information required for a short form application is described in 82-4-226(8), MCA. A *long form* application is required for prospecting conducted to determine the location, quality, or quantity of a uranium deposit or for coal prospecting that would substantially disturb the natural land surface. The information required for a long form application is outlined in ARM 17.24.1001.

3. Permitting Procedures

- 1) Short Form Applications: Within 10 working days of receipt of the application, the DEQ must notify the applicant in writing whether the application is complete and preliminarily acceptable. If the application is incomplete, the DEQ will provide information to the applicant on how to complete the application requirements. Within five working days of receipt of an applicant's response to the identified deficiencies, the DEQ reviews the response and determines if the application is complete and preliminarily acceptable. On receipt of the department's determination of preliminary acceptability, the applicant must advertise the public notice once in a newspaper of general circulation in the locality of the proposed prospecting. A 10-day public comment period follows the advertisement of the public notice. Within five working days following the end of the public comment period, the DEQ must notify the applicant as to whether the application is acceptable. If public comments are received, the department has 10 days to make this determination.

Long Form Applications: There are no established review timelines for long form applications, however, as a general guideline, the timelines for mine operating permit application review are used. All operations that are permitted under the long form must be conducted in compliance with ARM 17.24.1002 through 17.24.1013.

- 2) Prior to obtaining a prospecting permit, the applicant must file a reclamation bond with the DEQ based on the estimated cost of the required reclamation and restoration work as determined by department guidelines. The bond may be no less than \$200 per acre with a minimum bond of \$10,000.
- 3) At least 15 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal stating the number of holes permitted and drilled, listing surface disturbances, and supplying an updated map.
- 4) An applicant, permittee, or person with an interest that is or may be adversely affected by the approval or denial of an application for a permit may request a hearing before the Board of Environmental Review by submitting a written request within 30 days of the decision. The contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 124).

Statute: 82-4-206 and 82-4-226, MCA

Rule: ARM 17.24.1001, 17.24.1003, 17.24.1016, and 17.24.1102

4. **Criteria**

The permit for prospecting for coal and uranium may not be approved for a number of reasons, including, but not limited to, adverse reclamation possibilities, exceptional topographic or scientific characteristics or cultural resources, historic or geologic importance, critical biological productivity or ecological fragility, the threat of a public hazard, or designation of the land as unsuitable for mining.

Statute: 82-4-227 and 82-4-228, MCA

Rule: ARM 17.24.1131-17.24.1148

COAL MINING: IN SITU COAL GASIFICATION

1. **Types of Activities Regulated**

The Montana Legislature authorized the DEQ to establish rules to regulate underground mining using in situ coal gasification. In situ coal gasification is the use of a conduit or well to inject or recover a liquid, solid, sludge, or gas that causes the leaching, dissolution, gasification, liquefaction, or extraction of the coal.

Statute: 82-4-203(30), and 82-4-203(49), MCA

Rule: ARM 17.24.904 *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy & Mining Division
Mining Bureau

HARD-ROCK MINING: EXPLORATION

1. **Types of Activities Regulated**

A state exploration license is required from the Montana Department of Environmental Quality to conduct mineral exploration activities for ores and rock or rock products that result in a material disturbance of the land surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization (82-4-303(12), MCA). An exploration license is a statewide license and only one is issued per individual or company. Any additional projects are considered amendments to the license and each must be individually approved and bonded. A bulk sample of up to 10,000 short tons of material may be taken at each project for metallurgical testing.

Before exploration activities can progress into production mining, an Operating Permit (see HARD-ROCK MINING: OPERATING PERMITS, p. 107) must be obtained. Exploration and mining for oil, gas, bentonite, clay, coal, sand, gravel, peat, soil, or uranium are regulated under other statutes.

Statute: 82-4-303 and 82-4-331, *et seq.*, MCA

Rule: ARM 17.24.101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy & Mining Division
Mining Bureau

2. **Application Requirements**

To obtain an exploration license, the applicant must propose a specific project to the DEQ. The department has available a sample plan of operations that shows the level of information required. The DEQ also accepts copies of U.S. Forest Service or U.S. Department of the Interior, Bureau of Land Management operating plans as long as an adequate map is provided. Once the DEQ receives and reviews an exploration plan, an on-site visit is scheduled among the DEQ, the applicant, and usually, a representative from the appropriate federal agency, to calculate the amount of reclamation bond required for the project. Joint bonds with the DEQ and the federal agency are accepted to avoid duplicate bonding. The applicant must agree to post the bond, reclaim any damaged land, and not be in default of any other reclamation law.

Statute: 82-4-331 and 82-4-332, MCA

Rule: ARM 17.24.103-17.24.104

3. **Permitting Procedures**

On approval of the exploration plan by the DEQ and after the bond is submitted, the applicant will receive a hard-rock exploration license. The operator cannot legally begin explorations, however, until approval by any other state or federal agency, if applicable, is also granted. The license is renewable annually by filing an annual report and payment of the renewal fee.

Rule: ARM 17.24.103

4. **Fees**

The application fee for an exploration license is \$100 and the yearly renewal fee is \$25.

Statute: 82-4-332, MCA

HARD-ROCK MINING: OPERATING PERMITS

1. Permit Categories and Activities Regulated

<p>Hard Rock Mining Operations— an operating permit is required for:</p>	<p>Small Mine Operations— a Small Miner Exclusion Statement (SMES) may be filed to exclude an operation from the requirement to obtain an operating permit if:*</p>	<p>Recreational Miners—are not regulated by the state provided the miner:</p>
<ul style="list-style-type: none"> ■ land disturbance in anticipation of mining activities ■ mining ore ■ some industrial minerals ■ rock products ■ ore processing ■ ore reprocessing ■ mill construction ■ load out facilities <p>In addition:</p> <ul style="list-style-type: none"> ■ Annual reports and fees are required. ■ A reclamation bond and an operating and reclamation plan must be submitted and the DEQ conducts annual or more frequent inspections for compliance with the reclamation plan. ■ Tailings storage facilities must have a designated engineer of record and detailed design documents and operation and management plans must be submitted. Independent engineering review is required for tailings storage facility designs and a separate document fee is required for tailings storage facilities. ■ Community impact plans are required (see 6. Additional information). See also AIR QUALITY PERMITS, p. 36, WATER 	<ul style="list-style-type: none"> ■ The operation leaves no more than five acres disturbed and unreclaimed at any one time. ■ One person or business may have up to two SMES operations at one time, provided they are at least one mile apart. There is no limit on total disturbed and reclaimed acreage over time. ■ The small miner may not hold an operating permit that exceeds 100 acres of permitted disturbance at any time.. <p>* <u>An operating permit is required</u> for that portion of an SMES operation that uses cyanide or other metal leaching agents.</p> <p>In addition:</p> <ul style="list-style-type: none"> ■ the DEQ has the authority to require a maximum \$10,000 reclamation bond on placer and dredge mines and to recover costs over the \$10,000 limit by filing for the additional amount in District Court, ■ an operator, except for placer or dredge mining, must post a performance bond and obtain approval for the design, construction, operation, and reclamation of 	<ul style="list-style-type: none"> ■ does not use motorized excavation equipment ■ does not use blasting agents ■ does not disturb more than 100 ft² or 50 yd³ of material at any site ■ does not leave unreclaimed sites that are less than one mile apart ■ does not use mercury ■ does not use cyanide or other metal leaching solvents <p>A statewide permit is available for suction dredges with an intake of 4" or less. A one-time <i>application</i> fee of \$25 for Montana residents and \$100 for nonresidents is required. An <i>annual</i> fee of \$25 for Montana residents and \$100 for nonresidents is also required at the time of application and each year the permit is renewed. A person using a suction dredge must obtain a discharge permit from the DEQ (see MPDES Permits, p. 196) and a 310 permit from the county Conservation District (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 11).</p>

Hard Rock Mining Operations— an operating permit is required for:	Small Mine Operations— a Small Miner Exclusion Statement (SMES) may be filed to exclude an operation from the requirement to obtain an operating permit if:*	Recreational Miners—are not regulated by the state provided the miner:
APPROPRIATIONS, p. 188, and WATER QUALITY PERMITTING, p. 195.	any impoundment used to store waste from ore processing, and <ul style="list-style-type: none"> ■ an operator may post a bond for access roads to the operation to exclude the area of the access roads fro the calculation of the total area covered by the operation. 	

Statute: 82-4-301, *et seq.*, MCA

Rule: ARM 17.24.101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
 Air, Energy & Mining Division
Mining Bureau

The Employment Standards Division of the Montana Department of Labor and Industry (DLI) enforces mine safety regulations. The division's Workplace Safety and Health Bureau works with the mine operator and mining contractors to ensure worker safety. However, as long as the Federal Mine Safety and Health Act of 1977 is administered and enforced by federal inspectors, DLI is not authorized to conduct inspections in hard rock mines.

Statute: 50-72-101, *et seq.*, MCA

DEPARTMENT OF LABOR AND INDUSTRY
 Employment Standards Division
Workplace Safety and Health Bureau

2. Application Requirements

A. Operating Permit

An applicant for an operating permit must submit an application for each mine complex. Under certain conditions, operating permits for rock products operations may authorized multiple sites under one permit. The application consists of several parts: a description of the present condition of the area, i.e., hydrology, soils, vegetation, cultural resources, wildlife,

etc; an operating plan describing the type and size of the operation, equipment, etc; reclamation plans, stating the reclamation objectives and how they will be implemented; monitoring plans; contingency plans; and closure plans, including water treatment, if necessary.

For mines starting operations after November 3, 1998, open pit mining for gold or silver using heap leaching or vat leaching with cyanide ore-processing reagents is prohibited.

Statute: 82-4-335 through 82-4-338, 82-4-343, and 82-4-390, MCA

Rule: ARM 17.24.116

B. Tailings Storage Facility

An operating permit application that includes a tailings storage facility or impoundment that contains over 50 acre feet of free water or process solutions must provide the department with a written designation of an engineer of record and contact information. The engineer of record must certify that the design for the tailings storage facility is sufficient to ensure that the structure is safe and stable and in accord with statutory design criteria. The design document must be reviewed by an independent engineering review panel and a separate design document fee is required. Design documents, independent panel report, and operation, maintenance and monitoring manuals must be submitted before the issuance of the draft permit.

Statute: 82-4-303, 82-4-375 through 82-4-381, MCA

C. Small Mine Operations

The small mine operator must sign a Small Miner Exclusion Statement (SMES), available at the DEQ, which consists of a signed and notarized affidavit stating that the applicant will stay within the requirements or conditions of the exclusion. The applicant must submit a one-page plan of operation and a map locating the mine site. Placer mines are bonded for reclamation up to \$10,000. An annual report and renewal are required to maintain SMES status.

Statute: 82-4-305, MCA

3. **Permitting Procedures**

Operating Permit

- 1) Once a plan is submitted, the DEQ has 90 days for an initial review and 30 days for any subsequent review of the application, or 60 days for an

initial review and 20 days for any subsequent review of a rock products operating permit application, to determine if it is complete and compliant with the requirements of the Metal Mine Reclamation Act (MMRA) and associated rules.

- 2) If incomplete, the applicant is mailed a deficiency or completeness review letter on or before the review deadline. The letter alerts the applicant to additional resource or plan information required by the department. If it is a joint state/federal action (if permits are required by both the DEQ and the U.S. Forest Service or U.S. Department of the Interior, Bureau of Land Management), a joint deficiency letter is sent that includes comments from both the state and federal agencies. During the application process, the DEQ inspects the proposed site. If the site is not accessible because of extended adverse weather conditions, the DEQ may extend the review period by a term agreed to by the applicant.
- 3) There are no constraints on the amount of time an applicant has to prepare a response. Once a response is submitted, the DEQ again has 30 days, or 20 days in the case of rock products operating permit applications, to review the information. This process continues until the application is complete and compliant.
- 4) Once the application is deemed complete and compliant, the DEQ will declare in writing that it is complete and compliant, detail the substantive requirements of the MMRA and how the application complies with those requirements, and issue a draft permit. Tailings storage facility design documents, independent panel report, and operations, maintenance and monitoring manuals must be submitted before the issuance of the draft permit.
- 5) Issuance of the draft permit as a final permit is the state action subject to review under the Montana Environmental Policy Act (see p. 125). Some rock products operating permit application are not required to be reviewed under MEPA, in which case the draft permit is issued as the final permit without additional review (82-4-343(7), MCA)
- 6) The DEQ will calculate the amount of the reclamation bond required for the project and notify the applicant. The final permit will be issued after completion of the MEPA review (if applicable) or when one year has elapsed from the issuance of the draft permit, the reclamation bond has been received, and the DEQ has determined that the final permit meets the substantive requirements of the MMRA.
- 7) The DEQ can place stipulations in a draft or final permit, either with the consent of the applicant or by providing the applicant in writing the reason for the stipulation and a citation to the statute or rule that gives the DEQ the authority to impose the stipulation. For a stipulation in the final permit that was not contained in the draft permit, the DEQ has to state the

reason the stipulation was not contained in the draft permit (82-4-337(2)(b), MCA).

- 8) Legal actions challenging the DEQ's decision to grant or deny a permit have to be filed within 90 days after the decision is made (82-4-349(1), MCA). The applicant for an operating permit may request an administrative hearing on a denial of an application by submitting a written request for a hearing before the Board of Environmental Review within 30 days of the denial (82-4-353(2), MCA). For hearings before the board, the contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 124).
- 9) The final operating permit must provide that the reclamation plan may be modified by the DEQ, upon proper application of the permittee or after timely notice and opportunity for hearing, at any time during the term of the permit and for any of the following reasons: to modify the requirements so that they will not conflict with existing laws; when the previously adopted reclamation plan is impossible or impracticable to implement and maintain; or when significant environmental problem situations not permitted under the terms of regulatory permits held by the permittee are revealed by field inspection and the DEQ has the authority to address them under the MMRA (82-4-337(4), MCA).
- 10) The DEQ may also require the operator to submit an amended reclamation plan and post a temporary bond to guarantee the amended plan if it determines, based on unanticipated circumstances that are discovered following the issuance of a permit, that there is a substantial and imminent danger to public health, public safety, or the environment (82-4-338(7), MCA).

Statute: 82-4-337, 82-4-338, 82-4-349, and 82-4-353, MCA

4. Fees

The application fee for a hard-rock mining permit and a rock products operating permit is \$500. Operating permittees are required to pay a fee of \$100. The design document fee for a tailings storage facility is \$1,500.

Statute: 82-4-335 and 82.4.376, MCA

Rule: ARM 17.24.116 and 17.24.118

5. Criteria

An operating permit may be denied if the plan of development—mining or reclamation—conflicts with the Montana Clean Air Act (75-2-101, *et seq.*, MCA, p. 36),

the Montana Water Quality Act (75-5-101, *et seq.*, MCA, p. 195), the Public Water Supply Act (75-6-101, *et seq.*, MCA, p. 182), or if the reclamation plan is insufficient to accomplish the proposed reclamation.

Additional criteria apply if the applicant has outstanding enforcement or reclamation responsibilities.

Statute: 82-4-351, MCA

6. **Additional Information**

Large Scale Developments

- 1) When a proposed mining project will employ more than 75 people in a consecutive six-month period in the construction or operation of a mine or associated milling facilities, the applicant must submit an economic impact plan to the affected counties and to the Hard-Rock Mining Impact Board. The plan must include development timetables, work-force and population immigration projections, and the increased local government service and facility needs, costs, and revenues expected to result from the development. The developer must commit to pay to the affected local governments the increased costs identified in the approved plan, and if requested, must provide financial or other assistance to help local governments prepare for and evaluate the impact plan.
- 2) After the plan is submitted for review, the affected governing bodies have 90 days to submit objections to the Impact Board. If objections cannot be resolved by the developer and local governments, the Impact Board will hold a contested case hearing. Impact plan review is conducted concurrently with the DEQ mine operating permit review.
- 3) Within 30 days after receipt of the approved plan, the developer must provide to the Board and the DEQ a written guarantee that it will make all payments according to the plan schedule. If the plan requires prepayment of taxes, the developer must also provide a third-party financial guarantee acceptable to the Board. Compliance with the terms of an approved impact plan is a statutory condition of the DEQ's operating permit.
- 4) Under certain circumstances, as specified by statute or by the plan itself, the developer or an affected county may petition the Impact Board for an amendment to the impact plan. Jointly, they may petition for an amendment at any time.

Statute: 15-37-111, 82-4-335, 82-4-339, and 90-6-301, *et seq.*, MCA

Rule: ARM 8.104.201, *et seq.*

Contact: BOARD OF COUNTY COMMISSIONERS
DEPARTMENT OF COMMERCE
Community Development Division
Hard-Rock Mining Impact Board

LANDOWNER NOTIFICATION

1. Types of Activities Regulated

When surface and mineral rights are in separate ownership, the surface owner must be notified and give approval in writing of the proposed operations before any prospecting, exploration, or development of subsurface minerals may take place.

Statute: 82-2-301, *et seq.*, MCA (Landowner Notification Act)

Contact: SURFACE OWNER

MINING RIGHT-OF-WAY

1. Types of Activities Regulated

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. The right-of-way may be for roads, ditches, flumes, and other mine-related purposes. Application is made to the District Court.

Statute: 82-2-201, *et seq.*, MCA

Contact: DISTRICT COURT

2. Permitting Procedures

- 1) If the mine owner cannot obtain the agreement of adjacent landowners for right-of-way, the mine owner may file a complaint in District Court requesting that a right-of-way be created.
- 2) After receipt of the complaint, the district judge must issue a summons to the parties requiring appearance before the court. The court appearance must be 10 or more days from the date of service of the summons.
- 3) If the judge determines that the right-of-way is warranted, the judge must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

- 4) Use of right-of-way can only begin upon payment of the assessed damages.

Statute: 82-2-203 through 82-2-208, MCA

3. **Additional Information**

Any party may appeal the commissioners' assessment of damages to the District Court within 10 days after the report is filed.

Statute: 82-2-209 through 82-2-212, MCA

OPENCUT MINING

1. **Types of Activities Regulated**

The Opencut Mining Act and the related regulations apply to the mining of bentonite, clay, scoria, peat, soil, sand, gravel or mixtures of those substances. An operator conducting opencut operations including mine site preparation; removing overburden; mining; processing materials within 300 feet of an opencut mining permit; transporting, depositing, staging and stockpiling of overburden or materials within 300 feet of an opencut mining permit; reclamation; and parking or staging vehicles, equipment or supplies must obtain an opencut mining permit(s), with some exceptions.

A landowner may remove up to 10,000 cubic yards of material and overburden from their own property for personal or agricultural use on their own property as long as the removal does not affect surface water, groundwater, or water conveyance facilities. Exemptions may be available for operators that currently hold an opencut mining permit if the new operation will result in the removal of 10,000 cubic yards or less of material and overburden and disturbance does not exceed five acres. There are specific requirements for this exemption, however, and a completed form provided by DEQ must be submitted.

The Employment Standards Division of the Montana Department of Labor and Industry enforces mine safety regulations. The division's Workplace Safety and Health Bureau works with the mine operator and mining contractors to ensure worker safety.

Opencut operations may be subject to other requirements. For example, all opencut sand and gravel operations must comply with applicable zoning regulations. An air quality permit (see AIR QUALITY PERMITS, p. 36) from DEQ is required for the operation of any mineral crushing or other processing plant. All opencut operations must comply with any applicable federal, state, county, and local regulations, ordinances, permit, licenses, and approvals.

Statute: 82-4-401, *et seq.*, MCA (Opencut Mining Act)
50-72-101, *et seq.*, MCA (mine safety)

Rule: ARM 17.24.201, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy & Mining Division
Mining Bureau

DEPARTMENT OF LABOR AND INDUSTRY
Employment Standards Division
Workplace Safety and Health Bureau

2. Application Requirements

An operator must submit an application for a mining permit on a form furnished by DEQ. A bond in the amount it would cost DEQ to reclaim the affected land and an application fee must accompany applications submitted by operators that are not federal or State agencies, counties, cities or towns. A zoning compliance form, plans of the intended operation, and other details of the mine operation may be required depending on the type of permit and the commodity to be mined.

There are two types of opencut mining permits. A Standard opencut mining permit is required if there are 10 or more occupied dwelling units within a half-mile of the permit boundary or the operation would affect groundwater or surface water. A site is eligible to be mined under a Dryland opencut mining permit will not affect groundwater or surface water, and there are less than 10 occupied dwelling units within a half-mile of the permit boundary.

Statute: 82-4-432 through 82-4-434, MCA

Rule: ARM 17.24.203-17.24.223

3. Permitting Procedures

COMPLETENESS

- 1) For both the Dryland and Standard permit applications, the application materials are initially reviewed for completeness to ensure that each required item has been submitted. The materials required to be submitted vary based on the type of permit and the material to be mined.
- 2) The DEQ has five working days to notify the applicant whether the application is complete. If the application is not complete, the department must list the information necessary to make the application complete. This process continues for subsequent incompleteness responses until the application is complete. The applicant must respond to an Incomplete Letter within one year or the application is considered abandoned and void.

PUBLIC NOTICE

Public notice requirements are different for Dryland and Standard permit applications.

- 1) *Dryland Permit Application*: The applicant must provide public notice before submitting the application to DEQ. The specific information to be included in the notice is outlined in ARM 17.24.228(2). The applicant must certify in the application that they have provided public notice by:
 - Posting notice in at least two prominent locations at the proposed site including near a public road, if possible:
 - a) Posting notice in at least two prominent locations at the proposed site including near a public road, if possible;
 - b) Mailing notice to surface landowners within a half-mile of the permit boundary; and
 - c) Publishing notice at least twice, a minimum of a week apart, in a newspaper of circulation in the locality of the proposed site.

- 2) *Standard Permit Application (no possibility of a public meeting)*: The applicant must provide public notice after they are notified that the application is complete. The specific information to be included in the notice is outlined in 82-4-432(6). Within 15 days of DEQ sending notice to the applicant of a complete application, the applicant must provide public notice by:
 - a) Posting notice in at least two prominent locations at the proposed site including near a public road, if possible;
 - b) Mailing notice to surface landowners within a half-mile of the permit boundary; and
 - c) Publishing notice at least twice, a minimum of a week apart, in a newspaper of circulation in the locality of the proposed site; and
 - d) Mailing notice to the board of county commissioners of the county in which the site would be located.

- 3) *Standard Permit Application (with a possibility of a public meeting)*: If there are at least 10 occupied dwelling units within a half-mile of the permit boundary, there is a possibility that DEQ will be required to hold a public meeting. The application must provide the same public notice as outlined in 2) above, and also include a Public Meeting Request form that is provided by DEQ to the applicant.
 - a) DEQ accepts requests for a public meeting for 45 days after notifying the applicant of a complete application.
 - b) If DEQ receives requests for a public meeting from at least 10 or 51% (whichever is greater) of landowners with occupied dwelling units within a half-mile of the permit boundary, DEQ is required to hold a public meeting within 30 days of the voting deadline.

ACCEPTABILITY

For both Standard and Dryland permit applications, the permit materials are reviewed for acceptability. An acceptable application is one that complies with all applicable requirements of the Opencut Mining Act, and those requirements differed depending on the type of application.

- 1) *Dryland Permit Application:* The DEQ must review a Dryland permit application within 15 days of notifying the applicant that the application is complete. If the application is acceptable, DEQ must issue the permit. If the application is not acceptable, DEQ must notify the applicant of all identified deficiencies in a Deficiency Letter.
- 2) *Standard Permit Application (with no possibility of a public meeting):* The DEQ must review a Standard permit application for acceptability within 30 days of notifying the applicant that the application is complete. If the application is acceptable, the DEQ must issue the permit. If the permit is not acceptable, DEQ must notify the applicant of all identified deficiencies in a Deficiency Letter. The applicant must respond to a Deficiency Letter within one year or the application is considered abandoned and void.
- 3) *Standard Permit Application (with a possibility of a public meeting):* The DEQ must accept requests for a public meeting for 45 days after notifying the applicant that the application is complete. If, at the end of those 45 days, DEQ has not received enough votes for a public meeting, DEQ must either issue the permit if the application is acceptable or notify the applicant of all identified deficiencies in a Deficiency Letter.

If DEQ has received enough votes for a public meeting, DEQ must hold a public meeting within 30 days. By the end of those 30 days, DEQ must either issue the permit if the application is acceptable or notify the applicant of all identified deficiencies in a Deficiency Letter. See MONTANA ENVIRONMENTAL POLICY ACT, p. 125.

In either case, the applicant must respond to a Deficiency Letter within one year of the application is considered abandoned and void.

When DEQ receives a response to a Deficiency Letter for any type of permit application, the department has 10 days to review the materials for acceptability and then either issue the permit or issue another Deficiency Letter based on the acceptability determination. This process continues for subsequent deficiency reviews until the process is complete.

An applicant, permittee, or person with an interest that is or may be adversely affected by the approval or denial of an application for a permit may request a hearing before the Board of Environmental Review by submitting a written request stating the reasons for the appeal within 30 days of the decision. The

contested case provisions of the Montana Administrative Procedure Act apply (see MAPA, p. 124).

Statute: 82-4-427 and 82-4-432, MCA

Rule: ARM 17.24.212

4. **Criteria**

The DEQ will issue a permit only if the bond, reclamation plan, and other requirements of Title 82, chapter 4, part 4 are fulfilled. The reclamation plan must ensure that the applicant will establish a productive post-mining land use.

Statute: 82-4-432 through 82-4-434, MCA

Rule: ARM 17.24.203-17.24.223

OPERATIONS ON STATE LANDS: COAL MINING

1. **Types of Activities Regulated**

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary lease term is 10 years and may be extended if coal continues to be produced in commercial quantities and the terms of the lease have been met. Rent and royalties are required. Corporations not incorporated in Montana must obtain a certificate of authority from the Montana Secretary of State. See also WATER QUALITY PERMITTING, p. 195.

Statute: 77-3-301, *et seq.*, MCA

Rule: ARM 36.25.301, *et seq.*

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

2. **Application Requirements**

Applications are made on a form furnished by the Montana Department of Natural Resources and Conservation (DNRC). The application must include an adequate and sufficient description of the proposed tracts. All leases must comply with the requirements of the Strip and Underground Mine Reclamation Act, (82-4-201, *et seq.*, MCA, pp. 100-119). Mining operations must be as systematic as possible to prevent the waste of coal and to facilitate subsequent operations.

Statute: 77-3-306, MCA

Rule: ARM 36.25.304

3. **Permitting Procedures**

- 1) When a sufficient number of applications for leases have been received, or at the director's discretion, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for four weeks preceding the sale.
- 2) A lease may not be issued until the coal resources and the surface of the tract have been evaluated or competitively bid by the Montana Board of Land Commissioners to determine the lease's value.
- 3) Sales of state coal leases are through competitive bidding. The DNRC may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.
- 4) If no competitive bids are offered, the Board may enter into a lease that is at least at the fair market value as determined by an appraisal.

Statute: 77-3-312, MCA

Rule: ARM 36.25.304

4. **Fees**

A fee of \$50 is required for a lease application. Rent on a state coal lease cannot be less than \$2 per acre. The DNRC may authorize the bonus bid to be amortized for a period of up to five years. The lessee must pay a cash royalty on all coal produced from the leased premises at a rate of not less than 10 percent of the coal's value.

Statute: 77-3-316, MCA

Rule: ARM 36.2.1003, 36.25.309, 36.25.310, and 36.25.321

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. **Types of Activities Regulated**

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals (gold, silver, lead, zinc, copper, platinum, iron, and all other metallic minerals) and gems (sapphires, rubies, and other precious or semiprecious

stones). Royalties must be at least five percent of the full market value of the metalliferous minerals recovered under the lease. The primary lease term is 10 years and may be extended if minerals continue to be produced in commercial quantities and the terms of the lease have been met.

Statute: 77-3-101, *et seq.*, MCA

Rule: ARM 36.25.601

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

2. **Application Requirements**

Applications are made on a form furnished by the Montana Department of Natural Resources and Conservation (DNRC). The application must include an adequate and sufficient description of the proposed tracts.

Statute: 77-3-111, MCA

Rule: ARM 36.25.604

3. **Permitting Procedures**

- 1) Leases may be issued on a first-come, first-served basis or by competitive bid.
- 2) When the DNRC receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in trade journals and/or the official county newspaper of the county where the tract is located.
- 3) If bids are accepted, the tract will be leased to the highest bidder unless the Montana Board of Land Commissioners determines that the bid is not in the state's best interest.
- 4) A lease may not be issued until the mineral resources and the surface of the tract have been evaluated by the Board to determine the lease's value. The DNRC may require the applicant to pay up to \$500 for the evaluation.
- 5) The lease will contain provisions for prospecting and mining, royalties, etc. The Board also may require payment of a bond.

Statute: 77-3-111 through 77-3-112 and 77-3-119 through 77-3-121, MCA

Rule: ARM 36.25.602, *et seq.*

4. Fees

A fee of \$50 is required for a lease application. Rent on a state metalliferous and gem lease is \$1 per acre for the first three years, \$2.50 per acre for the fourth and fifth years, then \$3 per acre until the lease terminates. The lessee must pay a cash royalty on all minerals produced from the leased premises at a rate of not less than five percent of the mineral's value.

Rule: ARM 36.2.1003, 36.25.606, and 36.25.607

OPERATIONS ON STATE LANDS: PROSPECTING

1. Types of Activities Regulated

Permits may be issued by the Montana Department of Natural Resources and Conservation (DNRC) to non lease holders for prospecting for metalliferous metals (gold, silver, lead, zinc, copper, platinum, iron, and all other metallic minerals) and gems (sapphires, rubies, and other precious or semiprecious stones) on state lands. See also OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 119.

Statute: 77-3-101, *et seq.*, MCA

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

2. Fees

The applicant for a prospecting permit on state lands is required to pay an issuance fee and an annual fee during the life of the permit. The prospecting permit fee is set by the DNRC and approved by the Board of Land Commissioners. Contact the DNRC for fee information.

Statute: 77-1-302, MCA

Rule: ARM 36.2.1003

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NONMETALLIFEROUS MINERALS

1. Types of Activities Regulated

Leases for the mining of nonmetallic minerals (i.e., stone, limestone, oil shale, clay, bentonite, calcite, talc, mica, ceramic, asbestos, marble, diatomite, gravel and sand, phosphate, sodium, potash, sulphur, fluorite, barite, or any other nonmetallic mineral, excluding coal, oil, or gas) on state lands are issued on a royalty basis for up to a 10-year period. The lessee may have a preferential right of renewal of a producing lease under the readjustment of terms and conditions determined by the Montana Board of Land Commissioners to be in the best interest of the state. Monthly reports are required. The Board may issue permits on its terms and conditions to the Montana Department of Transportation, the Board of County Commissioners, or other local government entities for the removal and use of stone, gravel, or sand from state land for the construction and maintenance of streets, bridges, highways, etc. Compliance with air quality laws is also required. See AIR QUALITY PERMITS, p. 36 and OPENCUT MINING, p. 114.

Statute: 77-3-201, *et seq.*, MCA

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

2. Application Requirements

Applications must be made on forms supplied by the Montana Department of Natural Resources and Conservation.

3. Permitting Procedures

See OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS, p. 119.

4. Fees

An application fee of \$40 is required for a nonmetalliferous lease.

Statute: 77-3-202, MCA

Rule: ARM 36.2.1003

RECORDING OF MINING CLAIMS

1. Types of Activities Regulated

A person who discovers a vein, lode or ledge of rock on federal land bearing valuable mineral deposits and who wishes to locate a mining claim must follow these procedures:

- 1) Post a written notice at the point of discovery;
- 2) Within 30 days, mark the boundaries of the site;
- 3) Within 60 days, comply with United States mining laws and record the location with the county clerk and recorder, who in turn must provide a copy within 20 days to the Montana Department of Natural Resources and Conservation. The claimant must also, within 90 days, record the claim with the U.S. Department of the Interior, Bureau of Land Management (BLM), Montana State Office in Billings; and
- 4) File an affidavit of performance of annual work with the appropriate county. Claim maintenance fees must be paid or the applicant must comply with the BLM small miner maintenance fee waiver provisions by September 1 of each year. Small miners taking advantage of the fee waiver provisions must still file annual assessment filings on or before December 30 of each year.

Statute: 82-2-101, *et seq.*, MCA

Contact: COUNTY CLERK AND RECORDER

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Montana State Office

MONTANA ADMINISTRATIVE PROCEDURES ACT

1. Types of Activities

Whenever a statute requires a license or permit decision to be preceded by a hearing, the contested case provisions of the Montana Administrative Procedures Act (MAPA) apply.

Statute: 2-4-102, MCA and 2-4-601, *et seq.*, MCA

Rule: ARM 1.3.101, *et seq.*

2. MAPA Procedures

In a contested case, all parties must be given an opportunity for a hearing after reasonable notice. The notice must include the reason for and details of the meeting. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply except as otherwise provided by the statute. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decisionmakers. A transcript of the hearing will be made available upon request. Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to District Court.

Statute: 2-4-601, *et seq.* and 2-4-702(2)(a), MCA

MONTANA ENVIRONMENTAL POLICY ACT

1. Types of Activities Reviewed

As outlined in the Montana Environmental Policy Act (MEPA) and agency MEPA Administrative Rules, all agencies of the state must conduct an environmental review when making decisions or planning activities that may have an impact on the environment. Depending on the scope and significance of the project, the agency must prepare either an Environmental Assessment (EA), a Mitigated Environmental Assessment (Mitigated EA), or an Environmental Impact Statement (EIS). The environmental review process applies not only to actions initiated by the agency, but also to the issuance of state permits and licenses.

Statute: 75-1-101, *et seq.*, MCA

2. Review Process

A. Environmental Assessments (EA)

A state agency must prepare an EA when it is considering an action that may impact the environment and it is unclear whether an EIS is needed, or it is clear that the impacts of the proposed action are not significant, or statutory requirements do not allow sufficient time for the agency to prepare an EIS. The level of analysis required for an EA depends on the complexity of the proposed action, the environmental sensitivity of the area affected, the degree of uncertainty as to whether the proposed action will have a significant impact on the environment, and the need for and complexity of mitigation required to avoid significant impacts. If an EIS is not needed, the agency must explain why an EA is sufficient.

B. Mitigated Environmental Assessment (Mitigated EA)

A state agency may, as an alternative to preparing an EIS, prepare an EA whenever the action is one that might normally require an EIS, but effects that might otherwise be deemed significant appear to be mitigable below the level of significance through design, or enforceable controls or stipulations, or both, imposed by the agency or other government agencies.

C. Environmental Impact Statements (EIS)

A state agency must prepare an EIS whenever an EA indicates an EIS is necessary, or when the agency determines that the proposed action is a major action that will significantly affect the state's environment. An EIS must discuss the environmental impact of the proposed action, any adverse environmental effects that cannot be avoided should the action

be taken, alternatives to the proposed action if it is a state-sponsored project, the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources that would be involved if the proposed action were taken.

Prior to preparing an EIS, the agency must solicit public comment to determine the scope of the analysis.

The agency must then prepare a draft EIS and distribute it for public comment. Depending on the comments received, the agency may revise the draft EIS and publish a final EIS, or adopt the draft as the final EIS. The final EIS must include a summary of the major conclusions and supporting information from the draft EIS; a list of all sources of oral and written comments on the draft EIS; the agency's responses to those comments; information obtained subsequent to circulation of the draft EIS; and the agency's recommendation, preferred alternative, or proposed decision together with an explanation of the reasons for the decision.

3. **Actions Excluded or Exempted from Environmental Review**

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

A. **Actions Exempted By Statute**

23-2-657, MCA	The Montana Department of Fish, Wildlife and Parks (FWP) when taking actions as a snowmobile area operator or providing funding assistance to snowmobile area operators if the action or funding has been previously subject to an environmental review
30-16-103(3)(b), MCA	Small business licenses under the Montana Small Business Licensing Coordination Act
61-10-121, MCA	Issuance of an oversized load permit when existing roads through existing right-of-ways are used
75-1-201(1)(b), MCA	Legislation
75-1-201(1)(d), MCA	A 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(3), MCA	Montana Public Service Commission activities
75-2-211(5), MCA	The transfer of permits for portable emission sources

75-8-106, MCA	Coal-fired generation unit remediation plans
75-20-303(6)(c)(1), MCA	Siting modifications within a major facility siting corridor
76-4-136, MCA	Subdivision applications of more than 14 lots located more than 2 miles from high-quality waters
76-13-119, MCA	DNRC grants to conserve habitat, reduce wildfire risk, or improve forest health
76-15-107, 80-7-1031, 85-1-632, MCA	DNRC grants, loans, bonds for certain conservation, reclamations, and renewable recourse activities
77-1-121(2) & (3), MCA	Montana Department of Natural Resources and Conservation's (DNRC) or Montana Board of Land Commissioner's issuance of lease renewals and state leases and licenses subject to further permitting by the Montana Department of Environmental Quality
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(4), MCA	DNRC and Board action in relation to and compliance with local government actions concerning planning and zoning
77-1-130(6), MCA	Issuance of historic right-of-way deeds across state lands
77-1-617(2), MCA	A qualified exemption for reciprocal access agreements on state land
77-1-1112(7), MCA	Authorization of historic use of navigable river beds
77-2-363(7), MCA	Sale of a parcel formerly leased as a cabin or home site
77-5-201(3)(c), and 77-5-212, MCA	Certain emergency timber sale situations or time dependent access situations involving timber
82-4-229, MCA	Minor revisions to coal and uranium mine reclamation
82-4-250(4), MCA	Transfer of certain coal mine operating permits
82-4-305 and 82-4-227, MCA	Small Miners
82-4-342(5), MCA	Certain actions that involve minor amendments to a hard-rock mine operating permit
82-4-343, MCA	Rock product permits disturbing fewer than 15 acres or amendments to a previously reviewed permit disturbing less than 25 acres

87-1-303(3), MCA	Domestic livestock trailing on land owned or controlled by the FWP
90-2-1122, MCA	Dept. of Commerce grants, loans, or bonds for certain conservation, reclamation, and renewable resource activities
90-4-310(6), MCA	Emergency energy orders issued by the Governor
90-6-213, MCA	Coal board grants for highways or prepaid property taxes for major new industrial facilities

- B. Actions that qualify for a categorical exclusion as defined by rule or justified by a programmatic 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); DEQ, ARM 17.40.318, Montana Department of Fish, Wildlife and Parks, ARM 12.2.454, DNRC, ARM 36.11.447, Montana Department of Transportation, ARM 18.2.261);
- C. Administrative actions: routine, clerical or similar functions of a department, including but not limited to administrative procurement, contracts for consulting services, and personnel actions (MEPA Model Rule III(5));
- D. Minor repairs, operations or maintenance of existing equipment or facilities (MEPA Model Rule III(5));
- E. Investigation and enforcement: data collection, inspection of facilities, or enforcement of environmental standards (MEPA Model Rule III(5));
- F. Ministerial actions: actions in which the agency exercises no discretion, but rather acts upon a given state of facts in a prescribed manner (MEPA Model Rule III(5));
- G. Actions that are primarily social or economic in nature and that do not otherwise affect the human environment (MEPA Model Rule III(5)); and
- H. Actions taken that are immediately necessary to control the impacts of an emergency (MEPA Model Rule XIX).

4. Fees

If the cost of preparing the EIS exceeds \$2,501, the agency may collect a fee from the applicant to pay the costs of EIS preparation. A fee schedule based on the cost of the proposed project is outlined in the statute.

Statute: 75-1-203, MCA

5. Additional Information

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of the document.

Statute: 75-1-101, *et seq.*, MCA

Contact: Specific Agency

ENVIRONMENTAL QUALITY COUNCIL
LEGISLATIVE SERVICES DIVISION
Legislative Environmental Policy Office

OIL AND GAS

GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

A person or firm planning to conduct geophysical exploration must have a geophysical exploration permit issued by the county clerk and recorder.¹

Statute: 82-1-101, MCA

Contact: COUNTY CLERK AND RECORDER

2. Application Requirements

- 1) Before beginning exploration, the applicant must file a notice of intent with the clerk and recorder in each county where the exploration will occur.
- 2) The Montana Secretary of State's Office requires the designation of an authorized resident agent to contact in case of legal action related to the exploration. In addition, a surety bond or other guarantee must be filed with the Secretary of State to indemnify property owners against potential property damage resulting from the exploration.

Statute: 82-1-102 through 82-1-104, MCA

3. Permitting Procedures

- 1) When notified that a surety bond or other guarantee has been filed with the Secretary of State, the county clerk and recorder will issue an exploration permit valid for that calendar year. The county clerk forwards a notice of the application to the Board of Oil and Gas Conservation (BOGC), which then advises the clerk's office whether or not the applicant is in compliance with all applicable laws and rules. The BOGC is responsible for taking action to ensure compliance.
- 2) Before beginning operations, the person or firm conducting seismic activity must notify the surface owner of the schedule of exploration activities and provide copies of applicable laws², and, if available, the

¹ Most geophysical exploration in Montana is conducted using seismic equipment to identify the physical properties of subsurface rocks and minerals, in particular the potential presence of oil or gas, by measuring shock waves.

² Title 82, chapter 10, part 5 and Title 82, chapter 1, part 1, MCA.

publication, *A Guide to Split Estates in Oil and Gas Development*.¹ If requested, the permitholder must also provide the name and address of the exploration firm, proof of a valid permit, evidence of insurance, the number of the surety bond, a description and locations of planned activities, and the need, if any, to use water.

The surface owner is responsible for providing the permitholder with the name of a person to contact during operations. The surface owner must also provide the name and address of the permitholder to any lessees, tenants, or other parties responsible for surface operations on the property. Written permission from the surface owner is required to discharge shot holes within a prescribed distance from some structures and water features.

- 3) Within three months after any firing of shot points in seismic exploration, the permitholder must file a report with the county clerk and recorder. Shot holes must be plugged as specified by the BOGC unless otherwise agreed to between the surface owner and the company. When the exploration is completed, the land surface must be restored.
- 4) Exploration crews operating in the state must comply with crew identification requirements established by the BOGC.

Statute: 82-1-101 through 82-1-108, MCA

Rule: ARM 36.22.501-36.22.504

Contact: COUNTY CLERK AND RECORDER

BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Oil and Gas Conservation Division

SECRETARY OF STATE
Business Services Bureau

4. Fees

The fee for a geophysical exploration permit is \$5 per year.

Statute: 82-1-105, MCA

¹ *A Guide to Split Estates in Oil and Gas Development* is a brochure published by the Environmental Quality Council and is available online at <https://archive.legmt.gov/content/Publications/Environmental/hb790brochure.pdf>

OIL AND GAS

1. Types of Activities Regulated

A notice of intention to explore and drill for oil and gas on private or state lands¹ must be filed with the Montana Board of Oil and Gas Conservation (BOGC) and permits to drill are required. Wells must comply with spacing units and be operated in compliance with the BOGC's regulations and established pooling orders. Operators must also comply with the Montana Department of Environmental Quality's discharge regulations. See WATER QUALITY PERMITTING, p. 195. If water discharged from a well is to be put to a beneficial use, a permit from the Montana Department of Natural Resources and Conservation may be required (see WATER APPROPRIATIONS - GROUND WATER, p. 188 and WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 191).

Statute: 82-11-101, *et seq.*, MCA

Rule: ARM 36.22.601, *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Oil and Gas Conservation Division

2. Application Requirements

The notice of intention to drill must include information identifying the area where the proposed activity will occur. Well logs must be kept and filed with the BOGC; surface lands restored, fresh water supplies protected, and wells drilled, cased, operated, and plugged in accordance with Board rules. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

Rule: ARM 36.22.601-36.22.602 and 36.22.620

3. Permitting Procedures

- 1) An oil or gas operator or developer must give written notice of the proposed drilling operations to the surface owner of record and any purchaser under contract for deed at least 20 but not more than 180 days prior to any activity that will disturb the land surface. The notice must

¹ The BOGC's jurisdiction over federal lands is limited to the authority granted by the U.S. Bureau of Land Management in a Memorandum of Understanding. The BOGC has no jurisdiction over wells drilled on land held in trust by the United States for tribes or Indian allottees.

include a copy of applicable laws¹, and, if available, the publication *A Guide to Split Estates in Oil and Gas Development*.² The surface owner is responsible for providing the name and address of the oil and gas developer to any lessees, tenants, or other parties responsible for surface operations on the property. The owner or operator of an oil or gas well on state-owned land must notify the Montana Department of Natural Resources and Conservation before beginning operations.

- 2) An oil or gas operator must provide reasonable notice of the proposed drilling operations to all owners of record of an occupied structure within 1,320 feet of the proposed well. The notice must also advise each owner of the procedure required to request a hearing. If no request for hearing is received within the 14-day notice period, the permit may be administratively approved.
- 3) The operator is responsible for advertising a notice of pending permit for a well in undeveloped (wildcat) areas in the *Helena Independent Record* and in a newspaper of general circulation in the county where the well is located. Wells located in BOGC delineated fields do not need to be advertised, except under certain conditions. Advertisements must follow a format prescribed by the BOGC in rule and must advise of the procedure required to request a hearing. If no request for hearing is received within the 10-day notice period, the permit may be administratively approved. The staff is required to refer an application for permit to drill to the BOGC for notice and public hearing.
- 4) If an operator will be using hydraulic fracturing or other well stimulation techniques as part of the well completion process, additional requirements apply. Operators must generally obtain approval from the BOGC before fracturing occurs and submit a report of the actual work performed to the Board. In addition, operators must disclose the composition of the fracturing fluids (if a trade secret exemption is not applicable) either to the BOGC or through FracFocus.org or a similar website. Finally, the Board mandates specific construction and testing requirements for wells in which hydraulic fracturing will be used.
- 5) Prior to the development of a coal bed methane well, the developer must offer a reasonable water mitigation agreement to each ground water right holder with a well that is within one mile of the coal bed methane well or within 1/2 mile of a well that is adversely affected by the coal bed methane

¹ Title 82, chapter 10, part 5, MCA.

² *A Guide to Split Estates in Oil and Gas Development* is a brochure published by the Environmental Quality Council and is available online at <http://leg.mt.gov/content/publications/environmental/hb790brochure.pdf>.

well. See also WATER APPROPRIATIONS - GROUND WATER: Coal Bed Methane Wells, p. 191.

- 6) If the project complies with applicable statutes, rules, and regulations, a permit is issued. Operations must occur within the terms and conditions of the permit and the BOGC administrator has the authority to impose additional permit conditions if they are warranted.

Statute: 82-10-503, 82-10-603, 82-10-604, 82-11-122, 82-11-123, and 82-11-175, MCA

Rule: ARM 36.22.601, 36.22.602, 36.22.604, 36.22.608, 36.22.620, 36.22.1010, 36.22.1015, 36.22.1016, and 36.22.1106

4. Fees

Permit fees for oil or gas well drilling are:

- 1) For each well with an estimated depth of 3,500 feet or less, \$25;
- 2) For depths of 3,501 feet to 7,000 feet, \$75; and
- 3) For depths of 7,001 feet and deeper, \$150.

The BOGC also collects a privilege and license tax to fund the services of the Board that is .03% of the market value of each barrel of crude petroleum produced, stored, marketed, or stored and each 10,000 cubic feet of natural gas produced, stored, marketed, or stored.

Statute: 82-11-118, 82-11-131, and 82-11-137, MCA

Rule: ARM 36.22.603

OPERATIONS ON STATE LANDS: GEOPHYSICAL EXPLORATION

1. Types of Activities Regulated

The Montana Board of Land Commissioners may issue a geophysical exploration permit on state- owned lands for the purpose of prospecting and exploring for oil and gas.

Rule: ARM 36.25.230, *et seq.*

Contact: BOARD OF LAND COMMISSIONERS
DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Trust Land Management Division

*Minerals Management Bureau***2. Application Requirements**

A person wishing to prospect for oil and gas by geophysical methods on state land for which an oil and gas lease is not held must submit two copies of a permit application to the Montana Department of Natural Resources and Conservation (DNRC). The application must include a legal description of the areas where the exploration will take place. Descriptions of multiple sections of state-owned land are allowed. A permit from the Montana Board of Oil and Gas Conservation is also required (see OIL AND GAS, p. 130).

Rule: ARM 36.25.230, *et seq.*

3. Permitting Procedures

- 1) The applicant must be registered to do business in Montana and file a surety bond with the Montana Secretary of State's office. The name and permanent address of the geophysical exploration firm that will be doing the actual seismic work must also be submitted.
- 2) The applicant must provide proof that the surface owner or lessee has been notified of the approximate time schedule of activities. Permission from oil and gas lessees is also required to conduct exploration on lands covered by an oil and gas lease.
- 3) A geophysical exploration permit is valid for one year and does not grant any rights to an oil and gas lease or any other interests in the land.
- 4) There are several conditions for conducting exploration activities designed to protect the land surface.

Rule: ARM 36.25.231 and 36.25.232

Contact: SECRETARY OF STATE
Business Services Bureau

4. Fees

A fee of \$50 is required for a seismic permit application. The DNRC charges \$50 per shot hole or \$100 per mile for vibroseis, surface charges, or other surface activity, depending on the exploration procedures used.

Rule: ARM 36.2.1003 and 36.25.236

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Types of Activities Regulated

The Montana Board of Land Commissioners is authorized to lease any state-owned minerals for the purpose of oil and gas exploration or drilling and development. This includes private or state oil and gas rights beneath state surface-owned land and state oil and gas rights beneath non-state-owned land. Corporations not incorporated in Montana must obtain a certificate of authority to transact business in the state from the Montana Secretary of State's office prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: ARM 36.25.203 and 36.25.204

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

SECRETARY OF STATE
Business Services Bureau

2. Permitting Procedures

- 1) A person wishing to lease state lands for oil and gas operations must submit an application on forms available from the Montana Department of Natural Resources and Conservation (DNRC) offices or online at <http://dnrc.mt.gov/divisions/trust/docs/minerals-management/oil-and-gas/forms>.
- 2) Sale of oil and gas leases are normally held once each quarter (March, June, September, and December). Notice of each sale is published in a publication of general circulation in Montana and at least twice in a publication of general circulation in each county where a tract is nominated for sale. Notice is also posted on the DNRC, Minerals Management Bureau website and mailed to an interested persons mailing list.
- 3) The sale of each lease takes place through competitive bidding. The successful applicant is required to pay the first year's rental for the lease within 10 days following the lease sale.
- 4) The primary term of an oil and gas lease is generally five to 10 years. An oil and gas lease issued on state lands may not exceed 640 acres with the exception that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

- 5) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may approve assignment of oil and gas leases to qualified assignees.
- 6) The owner or operator of an oil or gas well on state-owned land must notify the DNRC in advance of any operations.
- 7) The lessee is required to submit a plan for the location of all facilities to the surface owner or lessee and is required to consult with the surface owner or lessee regarding reasonable location of access roads.
- 8) Oil and gas operations on state lands are subject to other applicable state regulatory authorities (see OIL and GAS, p. 130).

Statute: 77-3-404, 77-3-405, 77-3-411, 77-3-421, 77-3-429, 77-3-430, and 77-3-438, MCA

Rule: ARM 36.25.203, 36.25.205, 36.25.206, 36.25.216, and 36.25.217

3. Fees

The fee for an oil and gas lease application is \$15 and \$25 for a lease issuance. The lease rental fee is \$1.50 per acre but not less than \$100 per year. The delay drilling penalty is \$1.25 per acre in year six of the lease and \$2.50 per acre in years seven through 10 of the lease in addition to the rental fee. The royalty rate is 16.67 percent.

Rule: ARM 36.2.1003 and 36.25.208-36.25.210

UNDERGROUND INJECTION CONTROL

1. Types of Activities Regulated

Underground injection control permits are required from the Montana Board of Oil and Gas Conservation (BOGC) for new injection wells (wells where fluids are injected into porous rock formations or below the soil layer) or to convert existing wells to injection for the purposes of disposal, storage, or enhanced recovery of oil or gas (class II wells).

The U.S. Environmental Protection Agency regulates the classes of injection wells listed in the table below.

Class I	Injection of hazardous and nonhazardous wastes or municipal wastewater below the lowermost underground source of drinking water.
Class II wells on reservation lands except for within the boundaries of the Fort Peck Reservation where the tribe has been approved by the EPA to enforce its own UIC class II regulations.	
Class III	Injection of fluids associated with solution mining to extract minerals.
Class IV	Injection of hazardous or radioactive wastes into or above underground sources of drinking water are banned unless authorized under a federal or state ground water remediation project.
Class V	Injection wells that are not included in categories I-III and are usually shallow on-site disposal systems for nonhazardous fluids.
Class VI	Injection of carbon dioxide (CO ₂) for long term storage (sequestration).

Statute: 82-11-101, *et seq.*, MCA

Rule: ARM 36.22.1401, *et seq.*

Contact: BOARD OF OIL AND GAS CONSERVATION
DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Oil and Gas Conservation Division

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. Application Requirements

- 1) The application for an underground injection well filed with the BOGC must show the location of all wells and pipelines, a description of the formation, a description of the injection zone, logs and lithologic information, a description of the injected fluids, and the names and addresses of the lease holders and surface owners. In addition, the applicant must submit a corrective action plan and fulfill bonding requirements.
- 2) A notice of application for an underground injection permit must be mailed to each current operator, lease owner, and surface owner within the review area on or before the date the application is mailed to or filed with the BOGC.

- 3) Well abandonment plans must be filed with and approved by the BOGC. When wells have been plugged and the project completed, the land surface must be restored.

Rule: ARM 36.22.1307 and 36.22.1403-36.22.1425

3. Fees

The BOGC collects an annual fee of \$200 for each injection well.

Rule: ARM 36.22.1423

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. Types of Activities Regulated

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas to public utilities that transport or distribute natural gas for public use.

Statute: 77-3-501, *et seq.*, MCA

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

2. Permitting Procedures

- 1) The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.
- 2) Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. Criteria

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land or injury to oil or gas depo

PARKS AND RECREATION

BOATING

1. Types of Activities Regulated

All owners of motorboats and sailboats 12 feet in length or longer¹ must obtain a certificate of title from the Montana Department of Justice or the local county treasurer's office before operating the boat in state waters. Vessels must be properly numbered and display registration and validation decals. Validation decals are available from the Montana Department of Fish, Wildlife, and Parks (FWP) offices and online at <http://fwp.mt.gov>. See also RIVER RECREATION, p. 144.

Statute: 23-2-508 and 23-2-511, MCA
61-3-101, *et seq.*, MCA

Rule: ARM 12.11.325, 12.11.330, and 12.11.340

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE, AND PARKS
Enforcement Division (for general information)

DEPARTMENT OF JUSTICE
Motor Vehicle Division

2. Additional Information

A. Boat Racing

Written permission FWP is required for any person who plans to conduct a boating race, regatta or other marine event on Montana's waters. Letters of application should be sent to FWP at least 30 days before the scheduled event.

Contact: DEPARTMENT OF FISH, WILDLIFE, AND PARKS
Enforcement Division

B. Aquatic invasive species inspection, decontamination stations and Vessel AIS Prevention Pass requirement for nonresident vessels

¹ Canoes and kayaks using sails are exempt.

FWP has implemented certain quarantine measures in order to prevent the spread of aquatic invasive species. All motorized and non-motorized vessels and equipment are required to stop when they encounter an AIS inspection station. This includes rafts, drift boats, canoes, kayaks, personal pontoons, and sailboats. Any vessel from out-of-state must be inspected prior to launch anywhere in Montana and all vessels used on waters outside the Columbia River Basin must be inspected before launch in that basin. Any vessel found with an aquatic invasive species, or containing residual water and has been in infested water in the previous 30 days, will be decontaminated as arranged by FWP. Additionally, vessels and equipment traveling into the Flathead Basin must be inspected at a department inspection station prior to launching within the Flathead Basin.

Nonresidents are required to purchase a Vessel Aquatic Invasive Species Prevention Pass for each motorized or nonmotorized vessel. The pass is not transferable between vessels and expires at the end of each calendar year. The cost is \$30 for a motorized vessel and \$10 for a nonmotorized vessel.

<i>Species</i>	Statute: 23.5.541, MCA
	Title 80, chapter 7, Part 10, <i>Montana Aquatic Invasive Act</i>
	Rule: ARM 12.5.706, 12.5.707 12.5.709, and 12.11.340
	Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS Enforcement Division

C. Noise Restrictions

Motorboats or personal watercraft that emit noise greater than 86 dbA when measured at a distance of 50 feet or emit exhaust noise in excess of 90 dbA when measured at a distance of one meter from the muffler at idle speed are considered a public nuisance and constitute disorderly conduct. Noise standards for certain lakes are more restrictive because of population density and heavy recreational use.

Statute: 23-2-521(3), 23-2-523(9), and 23-2-526(3), MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

D. Discharge of Waste Prohibited

It is illegal to discharge garbage, refuse, waste, or sewage from any vessel into or near state waters.

Statute: 23-2-522, MCA

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division

CAMPGROUNDS - TRAILER COURTS - WORK CAMPS - YOUTH CAMPS

1. Types of Activities Regulated

Licenses from the Montana Department of Public Health and Human Services (DPHHS) are required for operating campgrounds, trailer courts, work camps, and youth camps and validation must be obtained from the local health officer or sanitarian. Acceptable plans must be submitted to the DPHHS and the local health department. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts, work camps, and campgrounds may also require review under the subdivision laws. See PUBLIC WATER SUPPLY, p. 182 and SUBDIVISIONS, p. 165.

Statute: 50-52-101, *et seq.*, MCA

Rule: ARM 37.111.201, *et seq.* (trailer courts and tourist campgrounds)
ARM 37.111.501, *et seq.* (youth camps)
ARM 37.111.601, *et seq.* (work camps)

Contact: LOCAL GOVERNMENT
Health Department

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Public Health and Safety Division
Food and Consumer Safety Section

2. Application Requirements

An application for a license to operate a tourist campground, trailer court or youth or work camp must be made to the DPHHS on the appropriate forms. All applicants must submit detailed information about the proposed facilities to the DPHHS and the local health authority for approval before beginning construction. Licenses expire December 31 of the year issued.

Statute: 50-52-201 and 50-52-203, MCA

3. Permitting Procedures

- 1) The local health officer must validate the license within 15 days after issuance by the DPHHS. If the local health officer refuses to validate the license on finding that not all conditions of the license have been met, the

health officer must notify the applicant and the DPHHS in writing, stating the reasons for the refusal.

- 2) A refusal to validate by the local health officer may be appealed to the local Board of Health within 30 days after receiving written notification of the local health officer's decision.

Statute: 50-52-208 and 50-52-209, MCA

4. Fees

The application fee for a new license or a license renewal is \$40 annually for a campground or trailer court with 10 or fewer spaces available for rental; \$60 annually for a campground or trailer court with 11 to 25 spaces available for rental; and \$120 annually for a campground or trailer court with more than 25 spaces available for rental. A late fee of \$25 is assessed for failure to renew a license prior to its expiration date.

Statute: 50-52-202, MCA

OFF-HIGHWAY VEHICLES

1. Types of Activities Regulated

No off-highway vehicle (OHV) may be operated on public lands, trails, easements, lakes, rivers, or streams unless issued a certificate of title and registered with the county treasurer's office. Registration decals must be displayed at a conspicuous place on the vehicle as proof that fees have been paid.

Montana residents are required to purchase a Resident OHV Pass to ride OHVs on designated motorized routes and trails on all public lands in Montana. The cost of the pass is \$20 and is valid for up to two years, expiring on December 31 of the second year. The pass decal must be attached and visible on the OHV. Passes may be purchased at many local vendors or online at: <http://stateparks.mt.gov/recreation/ohvProgram.html>.

Nonresidents using their off-highway vehicles in Montana must purchase a Nonresident Temporary Use Permit, which is valid for the calendar year. Residents of North Dakota are exempt. The permit allows OHV use on designated trails only. The permit costs \$35 and the permit decal must be attached and visible on the OHV. Permits may be purchased at many local vendors or online at: <http://stateparks.mt.gov/recreation/ohvProgram.html>.

Statute: 23-2-110 through 23-2-113, MCA
23-2-801, *et seq.*, MCA
61-3-101, *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

DEPARTMENT OF JUSTICE
Motor Vehicle Division

RIVER RECREATION

1. Types of Activities Regulated

The public has the right to the recreational use of the state's rivers and streams regardless of streambed ownership, but the Montana Parks and Recreation Board has the authority to limit, restrict, or prohibit activities to promote public health, safety, and welfare and to protect property and public resources. Restrictions on uses such as the use of motorized watercraft exist in a number of areas. For use and area restrictions, contact the Montana Department of Fish, Wildlife and Parks (FWP). See also BOATING, p. 140.

Statute: 23-2-301, *et seq.*, 23-2-522, *et seq.*, 87-1-303, and 87-1-306, MCA

Rule: ARM 12.4.101, *et seq.* and 12.11.301-12.11.650

Contact: MONTANA PARKS AND RECREATION BOARD

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

2. Additional Information

A. Beaverhead and Big Hole River Recreation Rules

There are FWP administrative rules that regulate fishing outfitting, nonresident float fishing, and watercraft launches. A permit is required to conduct commercial use on these two rivers. Contact the FWP Region Three Headquarters in Bozeman for more information (see APPENDIX 2 for the locations of regional offices).

Rules: ARM 12.11.202, *et seq.* and ARM 12.14.101, *et seq.*

B. Blackfoot River Special Recreation Permit

A Special Recreation Permit is required to conduct commercial use, a competitive event, or an organized group activity on the Blackfoot River and lands adjacent to the river that are owned or managed by the department. Contact FWP Region Two Headquarters in Missoula for more information (see APPENDIX 2 for the locations of regional offices).

Rule: ARM 12.11.6501, *et seq.* and ARM 12.14.101, *et seq.*

C. Clark Fork (Alberton Gorge) River Recreation Rules

The Parks Biennial Fee Rule limits the number of commercial users authorized to use the Alberton Gorge of the Clark Fork River. A permit is required to conduct commercial use. Contact FWP Region Two Headquarters in Missoula for more information (see APPENDIX 2 for the locations of regional offices).

Rule: ARM 12.14.101, *et seq.* and Parks Biennial Fee Rule

D. Madison River Special Recreation Permit

A Special Recreation Permit is required to conduct commercial use, a competitive event, or an organized group activity on the Madison River and lands adjacent to the river that are owned or managed by the department. Contact FWP Region Three Headquarters in Bozeman for more information (see APPENDIX 2 for the locations of regional offices).

Rule: ARM 12.14.101, *et seq.* and Parks Biennial Fee Rule

E. Smith River State Park Float Permit

A permit is required for private and commercial groups to float the 59 mile reach of the Smith River between Camp Baker and Eden Bridge. This does not apply to a landowner conducting a day float solely for the purpose of performing maintenance on the landowner's contiguous fee title property. A permit authorizes one private or commercial group to launch and float the Smith River with a maximum group size of 15 people. Floater fees are also charged in accordance with the Montana State Parks and Recreation Board Smith River Biennial Fee Rule.

Statute: The Smith River Management Act, 23-2-401 through 23-2-410, MCA, authorizes the board to provide for the administration of the Smith River waterway and adopt rules for this purpose. Other statutes and rules applicable to this rule are: 87-1-301 and 87-1-303, MCA

Rule: Montana State Parks and Recreation Board Smith River Biennial Fee Rule
ARM 12.14.101, 12.14.105, 12.14.115, 12.14.120, 12.14.121, 12.14.125, 12.14.130, 12.14.150, 12.14.155, 12.14.160, and 12.14.165 (commercial use)
ARM 12.8.213 (recreation use fees)

SNOWMOBILES

1. Types of Activities Regulated

Before operating a snowmobile on public lands, trails, easements, lakes, rivers, streams, roadways or shoulders of roadways, streets or highways, the owner must obtain a certificate of title and registration decal from the Montana Department of Justice or the local county treasurer's office. The registration decal must be displayed in a conspicuous space on the left side of the cowling.

A valid driver's license is required to operate a snowmobile on a public roadway unless the operator has taken an approved snowmobile safety education course and is in the presence and under the supervision of a person who is 18 years of age or older.

Residents must also purchase a Trail Pass to ride on groomed snowmobile trails. A Trail Pass costs \$20 and is valid for two seasons. Trail Passes apply to all mechanized equipment including snowmobiles, motorized snow bikes, fat tire pedal bikes and e-bikes. Rental equipment is exempt.

Nonresidents who plan to ride their snowmobiles and motorized snow bikes in Montana must purchase a Nonresident Temporary Use Permit prior to operation for \$35 per machine. The permit is valid for one year. Nonresidents who plan to ride mechanized equipment which is exempt from registration in Montana such as fat tire bikes or e-bikes must purchase a Nonresident Groomed Trail Pass. The pass costs \$35 and is valid for 2 seasons.

Statute: 23-2-601, 23-2-611, 23-2-614, 23-2-615 and 23-2-616, MCA
61-3-101, *et seq.*, MCA

Contact: COUNTY TREASURER

DEPARTMENT OF FISH, WILDLIFE AND PARKS
Enforcement Division (for general information)

DEPARTMENT OF JUSTICE
Motor Vehicle Division

2. Additional Information

A. Noise Restrictions

Snowmobiles must be equipped at all times with noise-suppression devices, including an exhaust muffler in good working order. In addition, the following noise levels, measured at a distance of 50 feet, may not be exceeded:

- 1) 82 dB(A) for machines manufactured from June 30, 1972 to June 30, 1975, and
- 2) 78 dB(A) for machines manufactured after June 30, 1975.

The noise restrictions do not apply to snowmobile races or competitive events held on private lands or those held on public lands provided consent from the appropriate government authority is obtained and the total sound produced does not exceed 50 dB(A) at any point 50 feet or more outside the area under the control of the sponsoring entity.

Statute: 23-2-634, MCA

Rule: ARM 12.6.602

B. Use on Public Waters

All public waters within the state of Montana are closed to snowmobile operation. Snowmobiles may cross or enter upon a public water if the water is frozen or if it is necessary to cross a small stream to continue travel on snow. When it is necessary to cross a stream, the stream crossing must be perpendicular to the flow of the stream.

Statute: 23-2-501, 23-2-632, and 87-1-303, MCA

Rule: ARM 12.11.331

STATE PARKS

1. Rules and Regulations

The Parks Division of the Department of Fish, Wildlife and Parks (FWP) has rules and regulations in place to help protect the park resources and ensure that visitors have a safe and quality experience. Examples include restrictions on the discharge of firearms and designated areas where campfires may be burned.

Montana residents are entitled to use any of our state parks. Parks are funded in part by a fee included with a person's motor vehicle registration. Residents who do not intend to use state parks or fishing access sites may opt out of this fee. Nonresident visitors pay an entrance fee. Overnight camping fees apply to residents and nonresidents.

Statute: 15-1-122 and 61-3-321, MCA

Rule: ARM 12.8.201, *et seq.*, (parks public use regulations)

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Parks Division, Helena Headquarters

2. Additional Information

Group Use and Special Uses

A group or special use permit is required for all groups or events of 30 or more people using a state park or fishing access site. Examples of groups or events that may require a special use permit include but are not limited to wedding parties, family reunions, competitive events, fishing contests, and research activities. Contact any FWP Regional Office (see APPENDIX 2 for the locations of regional offices) or FWP Headquarters for more information.

Statute: 23-1-106, MCA

Rule: ARM 12.8.205 (camping, day, and group use)
ARM 12.8.213 (recreation use fees)
Montana State Parks and Recreation Board, Parks Division
Biennial Fee Rule

Contact: DEPARTMENT OF FISH, WILDLIFE AND PARKS
Parks Division
Fisheries Division

Commercial Use

A Commercial Use Permit is required to conduct commercial use in a state park.

Statute: 23-1-106, MCA

Rule: 12.14.120, 12.14.130, 12.14.150, and 12.14.160 (commercial use)
Montana State Parks and Recreation Board, Parks Division,
Commercial Use Fee

Contact: DEPARTMENT OF FISH, WILDLIFE, AND PARKS
Parks Division
Fisheries Division
Wildlife Division

SOLID WASTE - HAZARDOUS WASTE

HAZARDOUS WASTE DISPOSAL

1. Types of Activities Regulated

A waste meets the definition of hazardous waste if it is included in an EPA list of specific hazardous wastes, demonstrates any of the characteristics of ignitability, corrosiveness, reactivity, or toxicity under standard test procedures, or is a mixture of any waste and one or more listed hazardous wastes. Hazardous wastes may only be transported, stored, treated, disposed of, or used for the purposes of resource conservation or recovery in a manner consistent with state and federal law. Hazardous wastes must be properly contained and labeled.

A permit from the Montana Department of Environmental Quality (DEQ) is required to construct or operate a hazardous waste management facility for the treatment, storage or disposal of hazardous wastes.

Certain wastes are exempt from the regulations of the Montana Hazardous Waste Act: for information on these exempt wastes, contact the DEQ.

Statute: 75-10-401, *et seq.*, MCA (Montana Hazardous Waste Act)

Rule: ARM 17.53.101, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste and Management Bureau

2. Application Requirements

The permit application for a hazardous waste management facility is divided into two parts, A and B. Part A is a short standard form calling for general information that includes the name of the applicant and a description of the activities of the facility.

Part B is the federal Resource Conservation and Recovery Act (RCRA) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements.

A permit may be issued for a period specified by the DEQ and is subject to either renewal or revocation depending on compliance with the permit's provisions.

Statute: 75-10-406, MCA

Rule: ARM 17.53.1201 and 17.53.1202

3. **Permitting Procedures**

- 1) The DEQ may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for the treatment, storage, or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit.
- 2) The DEQ may grant permits to certain hazardous waste management facilities if the owner or operator already holds a license or permit from the DEQ pursuant to other state environmental statutes, or for an interim period, until final administrative action on a permit application is made.
- 3) If it is determined that an application for a certificate under the Montana Major Facility Siting Act (MFSA) will result in the generation, transportation, storage, or disposal of hazardous wastes, the DEQ must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the MFSA. See MAJOR FACILITY SITING, p. 50.

Statute: 75-10-405, 75-10-406, and 75-10-407, MCA

4. **Fees**

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(1)(i), 75-10-432, and 75-10-433, MCA

Rule: ARM 17.53.112

5. **Criteria**

The DEQ may deny an application or impose conditions on a permit if the applicant, within the five years before the date of application, has a record of complaints and convictions for the violation of environmental protection laws. In making the decision to deny a permit or impose conditions, the DEQ will consider the number and severity of the violations, the culpability and cooperation of the applicant, and other factors.

Statute: 75-10-427, MCA

6. Additional Information

A. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including the use of a manifest system for tracking the movement of all hazardous wastes.

Persons who generate hazardous waste, with certain exceptions, are required to maintain an annual generator registration and to pay a registration fee each year, in addition to obtaining an identification number.

Persons who transport hazardous wastes are required to notify the DEQ and to obtain an identification number. A hazardous waste transfer facility must also comply with regulations established by the DEQ.

Rule: ARM 17.53.601, *et seq.* and 17.53.701, *et seq.*

B. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Montana Board of Environmental Review for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under the act.

Statute: 75-10-408, MCA

INCINERATORS - HAZARDOUS WASTE/BOILERS AND INDUSTRIAL FURNACES

1. Types of Activities Regulated

A permit is required for a boiler and industrial furnace that burns hazardous waste or for a hazardous waste incinerator. The owner or operator must submit an application to the Montana Department of Environmental Quality (DEQ) prior to construction or operation. In addition, the applicant must obtain an air quality permit, or if applicable, an air quality permit modification from the DEQ prior to construction or operation (see AIR QUALITY PERMITS, p. 36).

Statute: 75-10-401, *et seq.*, MCA

Rule: ARM 17.53.801, *et seq.* (hazardous waste incinerators)
ARM 17.53.1001, *et seq.* (BIFs)

40 C.F.R. § 264, subpart O (hazardous waste incinerators)

40 C.F.R. § 266, subpart H (BIFs)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Air, Energy, & Mining Division
Air Quality Bureau

Waste Management & Remediation Division
Waste Management Bureau

U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

2. Application Requirements

The permit application is divided into two parts, A and B. Part A is a short standard form calling for general information which includes the name of the applicant and a description of the activities of the facility.

Part B is the federal Resource Conservation and Recovery Act (RCRA) permit application and requests specific technical information on how the facility proposes to meet the relevant regulatory requirements. Part B must also contain the *trial burn plan*, describing the engineering details of the system and outlining a plan for demonstrating compliance with performance standards and for establishing limits on certain operating conditions that will become part of the facility's permit.

Statute: 75-10-405 and 75-10-406, MCA

Rule: ARM 17.53.1201 and 17.53.1202

3. Permitting Procedures

- 1) The applicant must submit parts A and B of the application to the DEQ.
- 2) The DEQ conducts a completeness review of the application to determine that all required information and documents have been included in the application. If the application is incomplete, the agency issues a Notice of Deficiency (NOD). When the applicant has submitted all the required information and documentation, the DEQ will issue a notice of completeness.
- 3) The DEQ then conducts a technical review, analyzing the technical information submitted in the application to determine whether the facility will meet the appropriate requirements. Additional NODs may be issued.
- 4) The DEQ will then issue a draft permit or a notice of denial.

- 5) Public notice is given and a public hearing is held.
- 6) The DEQ then makes a final decision and issues a final permit. The department must respond to public comments on the final permit and must indicate where changes to the draft permit have been made.
- 7) If applicable, appeals are made. The facility owner/operator may challenge the denial of a permit or a condition of a permit.

4. Fees

The DEQ assesses an application fee and a permit modification fee to defray the costs of processing applications for permits or permit modifications.

Statute: 75-10-405(1)(i), 75-10-432 and 75-10-433, MCA

Rule: ARM 17.53.112

INFECTIOUS WASTE

1. Types of Activities Regulated

Persons who are licensed by a board or department to operate a health care facility or to engage in a related profession or occupation must comply with the board or department rules for generating, storing, or transporting infectious waste. The associated boards and departments must adopt rules and may impose fees to pay for the cost of regulation.

Infectious waste must be separated from other waste at the source. It must be stored, transported, and disposed of in a container marked with the biohazard warning. Infectious waste other than sharps (items or implements that are capable of puncturing or cutting human skin) must be contained in closed, moisture-proof plastic bags that will not tear or burst under normal conditions of handling and use. Sharps must be stored, transported, and disposed of in leak-proof, rigid, puncture resistant containers that stay closed.

Transporters of infectious waste must register annually with DEQ and submit a transportation and management plan to ensure waste is hauled and stored according to specific standards.

All infectious waste must arrive at the treatment facility with the containers intact and lids securely in place. Prior to final disposal, the infectious waste must be rendered sterile by chemical or steam sterilization, incineration, or other DEQ approved techniques. Liquid or semi-solid infectious wastes, after having been chemically sterilized, may be disposed of in municipal sanitary sewers that convey wastes to a secondary treatment plant.

All infectious waste containers that have been autoclaved must be marked with heat-sensitive tape or labels so that it is visually apparent that the wastes have been sterilized. If chemical or other sterilization techniques have been used the containers must be labeled appropriately.

Statute: 75-10-1005 and 75-10-1006, MCA

Rule: ARM 24.111.402, 24.147.901, 24.225.520, 37.104.208, 37.106.1738, 37.106.1829, 37.106.2432, and 37.112.137, and 17.50.1501 through 1508.

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste Management Bureau

DEPARTMENT OF LABOR AND INDUSTRY

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

METHAMPHETAMINE LABS - CLEANUP OF CLANDESTINE OPERATIONS

1. Types of Activities Regulated

The Montana Department of Environmental Quality (DEQ) maintains statutory authority to establish minimum standards for the training and certification of methamphetamine cleanup contractors who are qualified to perform assessments and remediation efforts of inhabitable properties reported by law enforcement due to operation of clandestine methamphetamine laboratories (CML) or that has been contaminated from smoke from the use of methamphetamine. When a property owner elects to decontaminate an inhabitable property under the Methamphetamine Cleanup Program, the property owner must use certified methamphetamine cleanup contractors, to meet the standard.

Statute: 75-10-1304, MCA

Rule: ARM 17.74.507, 17.743.508, 17.74.511, 17.74.512, 17.74.517, and 17.74.518

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste Management Bureau

2. Certification Requirements

A person seeking certification as a methamphetamine cleanup contractor must attend and pass an examination from a DEQ approved methamphetamine cleanup training

provider and successfully complete or maintain Hazardous Waste Operations and Emergency Response training under 29 C.F.R. 1910.120. Once training is satisfied, individuals may submit a completed application provided by DEQ, along with the associated processing fee to become a certified methamphetamine cleanup contractor. The certification is effective for two years from the date of issuance.

Statute: 75-10-1304, MCA

Rule: ARM 17.74.507, 17.74.508, 17.74.517, and 17.74.518

3. Fees

A person seeking initial certification or renewal of certification as a methamphetamine cleanup contractor must concurrently submit fees along with their certification application. The \$500 processing fee must be submitted with each initial or reveal methamphetamine cleanup contractor application.

Statute: 75-10-1304, MCA

Rule: ARM 17.74.518

MOTOR VEHICLE WRECKING FACILITIES

1. Types of Activities Regulated

An annual license is required from the Montana Department of Environmental Quality (DEQ) to operate a motor vehicle wrecking facility. Possession at a single location of four or more junk vehicles is presumptive evidence that the possessor is operating a motor vehicle wrecking facility. One or more junk vehicles at a single location must be shielded from public view.

Statute: 75-10-502, 75-10-505, and 75-10-511, MCA

Rule: ARM 17.50.201, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste and Underground Tank Management Bureau

2. Application Requirements

An application for a license to operate or maintain a private wrecking facility or a county program junk vehicle graveyard can be obtained from the DEQ and must include certification from the appropriate local government office that the proposed facility does not violate local zoning ordinances. The DEQ will consider the effect of the proposed

facility on adjoining landowners and land uses and will inspect the property before issuing a license. Rules regarding what materials may be used for shielding the facility from public view must be met. The license expires on December 31 of the year issued.

Statute: 75-10-504, 75-10-511, and 75-10-516, MCA

Rule: ARM 17.50.201-17.50.203

3. **Permitting Procedures**

- 1) The DEQ will continue to process an application that the local government has certified as complying with local zoning ordinances. Applications certifying that the facility does not comply are denied. If the local government makes no statement, then the DEQ will make its own determination.
- 2) The DEQ may deny, suspend, or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission, fraud, or rule violation.
- 3) The DEQ's decision to deny, suspend, or revoke a license may be appealed by the applicant to the Board of Environmental Review within 30 days of the decision.

Statute: 75-10-514 and 75-10-515, MCA

Rule: ARM 17.50.201 and 17.50.206

4. **Fees**

The DEQ requires an annual fee of \$100 for a motor vehicle wrecking facility license.

Statute: 75-10-511, MCA

5. **Additional Information**

The owner of a motor vehicle wrecking facility must keep a record of every junk vehicle obtained and mail a quarterly report to the Montana Department of Justice, Motor Vehicle Division, with the required information.

Statute: 75-10-512, MCA

Rule: ARM 17.50.210

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste and Underground Tank Management Bureau

RADIOACTIVE WASTE DISPOSAL

1. Types of Activities Regulated

Disposal of a *large quantity* of radioactive material, byproduct material, and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes, and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research, and medical, etc.) are exempt from this prohibition.

Statute: 50-79-101 and 50-79-302, MCA (Montana Nuclear Regulation Act)

Contact: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Office of General Inspector (Quality Assurance Division)

SOLID WASTE DISPOSAL (NONHAZARDOUS)

1. Types of Activities Regulated

A license is required from the Montana Department of Environmental Quality (DEQ) for the disposal of solid waste and for the operation of a solid waste management system. In certain circumstances, the on-site disposal of solid wastes from a person's household or farm and certain categories of on-site industrial waste disposal operations are excluded from this licensing requirement. Sites are approved and licensed by DEQ and validated by local health officials. *Solid waste* means all putrescible and non-putrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; sludge from sewage treatment plants and water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts and inert materials. Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes, slash and forest debris regulated by the Montana Department of Natural Resources and Conservation of marketable wood byproducts.

Statute: 75-10-201, *et seq.*, MCA (Solid Waste Management Act)

Rule: ARM 17.50.501, *et seq.*, 17.50.1001, *et seq.*, 17.50.1101, *et seq.*, 17.50.1201, *et seq.*, 17.50.1301, *et seq.*, and 17.50.1401, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste Management Bureau

2. Application Requirements

Prior to disposing of solid waste or operating a solid waste management system or expanding the boundary of an existing system, a person must submit a license application to the DEQ on department-supplied forms. Details about the proposed

facility and surrounding waterways; site and landfill design plans; geological, hydrological, and soil information; operation and maintenance, and closure plans; maps; a demonstration project, if applicable; and other information described in department rules or necessary to protect human health are required.

Statute: 75-10-221, MCA

Rule: ARM 17.50.508, 17.50.509, 17.50.1001-17.50.1009, and 17.50.1201-17.50.1205

3. Licensing Procedures

- 1) The DEQ has 60 days to evaluate an application for completeness and conduct public scoping, if necessary. The department also notifies the health officer in the county of the proposed solid waste system. If the application is incomplete, the DEQ notifies the applicant within 15 days after the initial review is completed. If the DEQ has not received the necessary additional information within 90 days after the applicant has been notified, a new application and application fee are required.
- 2) Once the application is complete, the DEQ has 90 days to conduct an Environmental Assessment or 180 days if an Environmental Impact Statement is necessary (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125). The public hearing requirements of the DEQ's MEPA administrative rules apply.
- 3) After the comment period has ended, the DEQ makes its final decision and notifies the applicant, the local health officer, and other interested persons.
- 4) If the department decides to issue the license, the local health officer has 15 days after receiving written notice to make a final decision on whether the license will be validated. If the local health officer refuses to validate the license based upon a finding that the requirements of the solid waste management laws and rules cannot be met, the officer sends written notice to the applicant, tDEQ, and any other interested person.
- 5) The applicant or any person aggrieved by the decision of DEQ or the local health officer may appeal the decision to the Board of Environmental Review within 30 days after receiving written notice of the decision. The hearing before the board must be held under the contested case provisions of the Montana Administrative Procedure Act (see MAPA, p. 124).

Statute: 75-10-222 through 75-10-224, MCA

Rule: ARM 17.4.610, 17.4.620, 17.4.636, 17.50.513, and 17.50.514

4. Fees

The DEQ charges a license application fee for any new solid waste management facility or for a substantial change to an existing facility. The department also charges an annual license renewal fee to cover the costs of annual renewals and inspections. Disposal facilities pay a base fee for the type and size of the facility and an annual per-ton fee on wastes received by the facility. This disposal fee is set at 40 cents per ton for in-state waste and an additional 27 cents for out-of-state waste. All fees are deposited into an earmarked revenue account and are used to support a portion of the costs of the DEQ's solid waste program.

Statute: 75-10-115, MCA

Rule: ARM 17.50.410, 17.50.411, 17.50.415, and 17.50.416

5. Additional Information

A. Variances

A person may apply to the Board of Environmental Review for a variance from the rules issued pursuant to the Montana Solid Waste Management Act. The Board may grant a variance if it finds that 1) failure to comply with the rules does not result in a danger to public health or safety, or 2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

Rule: ARM 17.50.602, *et seq.*

B. Cesspools, Septic Tanks and Privies

See SEPTIC TANKS, CESSPOOLS AND PRIVIES, p. 184.

UNDERGROUND STORAGE TANKS

TANK INSTALLERS AND INSPECTORS

1. Types of Activities Regulated

A valid Montana Department of Environmental Quality (DEQ) license is required for all individuals who install, close, inspect or oversee the installation, closure, compliance, or inspection of underground storage tanks (UST). A license is also required for individuals who test and inspect containment sumps used for interstitial monitoring, test and inspect spill prevention equipment such as spill buckets, and test and inspect overflow prevention equipment such as flapper valves and outside high level overflow alarms.

Withing 30 days of completion of a UST system activity, the licensee must deliver the permit and other required documentation to the department and to the owner or operator of the tank. A permit is required from the DEQ for most tank work on most UST systems (see exceptions on the following page). all active and inactive UST facilities must have a compliance inspection conducted by a DEQ-licensed compliance inspector at least once every three years.

Statute: 75-11-201, *et seq.*, MCA (Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act)
75-11-509, MCA (Montana Underground Storage Tank Act)

Rule: ARM 17.56.1301, *et seq.* and 17.56.1401, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Tanks, Brownfields, and Federal Facilities Bureau
Waste and Underground Tank Management Bureau

2. License Application Requirements

An applicant for a license must be at least 18 years of age, submit a license application on a form provided by the DEQ, pass the licensing examination(s), and pay the required fee(s). Also, the applicant may not have been previously cited for violations of state and federal underground storage tank laws and has not had a similar license suspended or revoked in Montana, another state or U.S. territory.

Statute: 75-11-210, MCA

Rule: ARM 17.56.1401, *et seq.* and 17.56.1403, *et seq.*

3. Fees

The license application and examination fee is \$483 and the annual renewal fee is \$483.

Rule: ARM 17.56.1404

TANK OWNERS AND OPERATORS

1. Types of Activities Regulated

A. Tank Registration and Standards

Owners and operators of underground storage tanks (USTs) and aboveground storage tanks with underground lines must register each

service. Tank systems must meet certain standards for construction and design, corrosion protection, and leak detection.

B. Permits for Tank Installations, Modifications, Repairs or Closures

The DEQ requires permits for tank or piping installations or closures, modifications, or repairs and for the installation of cathodic protection (to prevent corrosion). See also TANK INSTALLERS AND INSPECTORS, p. 159.

C. Operating Permit

An owner or operator of a UST may not place a regulated substance in or otherwise operate a tank unless the owner or operator has a current DEQ UST operating permit.

D. Exceptions

Certain underground tanks are not included in the definition of underground storage tanks and the provisions of the Montana Underground Storage Tank Act do not apply. These include: noncommercial motor fuel tanks and heating oil tanks and their underground piping *provided that* 1) they are located at farms or residences, 2) they have a capacity of 1,100 gallons or less, and 3) they were installed prior to April 27, 1995.

E. Exemptions

Certain other underground tanks are included in the definition of underground storage tanks but are exempted from some subchapters of Montana's UST regulations. These exemptions are detailed in ARM 17.56.102 "Applicability".

Statute: 75-11-501, *et seq.*, MCA (Montana Underground Storage Tank Act)
42 U.S.C. §§ 6901-6987 (federal Resource Conservation and Recovery Act)

Rule: ARM 17.56.101, *et seq.*, 17.56.102, and 17.56.803(15)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Tanks, Brownfields, and Federal Facilities Bureau
Waste and Underground Tank Management Bureau

2. **Application Requirements**

A. Permits for Tank Installations, Modifications, Repairs or Closures

Permit applications must be submitted at least 30 days before beginning any tank work. In the event of an emergency requiring immediate UST system work, the DEQ may issue an emergency permit valid for no more than ten (10) days.

B. Operating Permit

In order to obtain an operating permit, the owner or operator of a UST system must file with the DEQ an inspection report signed by a licensed inspector that certifies that the operation and maintenance of the tank comply with relevant DEQ laws and rules.

Rule: ARM 17.56.308 and 17.56.1301, *et seq.*

3. **Installation, Operation and Closure Requirements**

A. Permits for Tank Installations, Modifications, Repairs or Closures

Tank installations or closures must either be completed by a person licensed for UST work. For tank installations, the licensee must ensure that the tank and piping are properly installed according to industry standards, that the tank and piping are protected from corrosion, that the system will be monitored to detect a release within a 30-day period, and that the tank is equipped with devices that prevent spills and overfills. For all energy act tank and piping installations (tank and/or piping installed on or after November 26, 2009) the tank and piping must be secondarily containment and continuously monitored. A licensee, owner, or operator must notify the DEQ of a suspected or actual leak within 24 hours of discovery. The owner or operator must retain proof of financial responsibility on file guaranteeing that cleanup costs can be paid, should a tank leak occur. For tank closures, an environmental site assessment must be conducted that includes the collection and analysis of soil samples to evaluate the condition of the site after tank closure or removal. See PETROLEUM TANK RELEASE CLEANUP FUND, p. 164.

B. Operating Permit

The DEQ will issue a UST operating permit and a permanent non-expiring tag for each UST system in compliance with the program's requirements. The department may authorize a temporary permit for tanks that do not meet the operating permit requirements. The DEQ will require that the

noncompliance be corrected at the earliest practicable time. Operating permits are valid for three years.

If the department determines that a facility is not compliant with inspection requirements, poses an immediate or substantial threat to the public health, safety or environment, it may immediately revoke the operating permit. A permittee whose operating permit has been revoked may request a hearing before the department. The department shall schedule a hearing within ten (10) days of the request for hearing.

Rule: ARM 17.56.308, 17.56.309, 17.56.311, and 17.56.1301, *et seq.*

4. Fees

The annual registration fee for a tank with a capacity of 1,100 gallons or less is \$36, and for a tank with a capacity greater than 1,100 gallons, \$108. Fees are assessed even if the tank is out of service.

Permit review and inspection fees are assessed for tank installations, closures, and modifications. Fees vary according to the type of tank and the intended work.

Rule: ARM 17.56.1001 and 17.56.1301, *et seq.*

5. Variances

A person may apply for a variance from a requirement or procedure of the underground storage tank program by requesting the approval of an alternative from the DEQ. Certain conditions apply.

Rule: ARM 17.56.105

6. Additional Information

A. Aboveground Storage Tanks

The Montana Department of Justice, Fire Prevention and Investigation Section, regulates the installation, operation, and removal of aboveground storage tanks to ensure safety from fire and verify compliance with the International Fire Code and referenced materials. The unauthorized discharge or release of flammable or combustible liquids and petroleum waste products must be handled as set forth in IFC Sections 2701.3.3.4, spill mitigation, and 2703.3, release of hazardous materials. Discharges or releases may also be regulated under the federal Clean Water Act in the event the discharge or release enters navigable waters.

Above ground Storage Tanks may be regulated by the Federal Environmental Protection Agency Oil Spill Prevention and Preparedness Regulation and programs including the Spill Prevention Control and Countermeasure (SPCC) Rule and Facility Response Plan (FRP) Rule.

Contact: DEPARTMENT OF JUSTICE
Division of Criminal Investigation
Fire Prevention and Investigation Section

DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Tanks, Brownfields, and Federal Facilities Bureau

ENVIRONMENTAL PROTECTION AGENCY
Oil Spill Prevention and Preparedness Section
SPCC and FRP Programs

Rule: ARM 17.57.101, *et seq.* and 17.58.326 (Petroleum Tank Release Fund reimbursement for releases)

B. Petroleum Tank Release Cleanup Fund:

The state has established a Petroleum Tank Release Cleanup Fund to financially assist owners and operators with the cleanup and damages caused by an accidental tank release. Contact the Petroleum Release Compensation Board for information on qualifying for financial assistance with tank releases.

Statute: 75-11-301 through 75-11-321, MCA

Rule: ARM 17.58.101-17.58.344

Contact: PETROLEUM TANK RELEASE COMPENSATION BOARD

DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division

SUBDIVISIONS

When land is subdivided, that division of land is subject to the requirements of both chapter 3 (Subdivision and Platting Act) and chapter 4 (Sanitation in Subdivisions Act) of Title 76, Montana Code Annotated. An explanation of each chapter follows.

SANITATION IN SUBDIVISIONS (Title 76, chapter 4)

The Montana Department of Environmental Quality (DEQ) sets standards for the review and approval of water, wastewater and stormwater systems for subdivisions to protect the quality of water for public uses and to assure that adequate sanitation facilities can be constructed, operated, and maintained to support each division of land. Review under the sanitation in subdivisions regulations is limited to sanitation facilities, including water supply, sewage disposal, solid waste disposal, and storm drainage systems. Review of certain subdivisions and enforcement of these requirements may be delegated to a local department or board of health.

1. Types of Activities Regulated

Divisions of land that create a parcel of less than 20 acres and any condominium, mobile home park, and recreational vehicle park, regardless of size, are subject to sanitary review. A person may not dispose of any lot within a subdivision, erect any facility for the supply of water or disposal of sewage or solid waste, erect any building or shelter in a subdivision that requires facilities for the supply of water or disposal of sewage or solid waste, or occupy any permanent buildings in a subdivision until the subdivision has been reviewed and approved by the Montana Department of Environmental Quality or by the local reviewing authority if the DEQ has certified a local department or board of health. Subdivisions that meet the requirements described in statute (76-4-127, MCA), and for which municipal water, sewage disposal, solid waste, and storm drainage will be provided are not subject to review, but will be required to provide a notice of certification of adequate municipal facilities (municipal facilities checklist).

Statute: 76-4-101, *et seq.*, MCA (Sanitation in Subdivisions Act)

Rule: ARM 17.36.101-17.36.800, *et seq.*, local regulations
ARM 17.36.900, *et seq.*, minimum standards

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Engineering Bureau

LOCAL GOVERNMENT
Health Department

2. **Application Requirements**

An applicant planning to subdivide land must submit a completed subdivision application form, supporting information (see ARM 17.36.103), and public comment collected by the governing body regarding water and sanitation information to the DEQ. If the DEQ has certified a local department or board of health to review subdivisions, the application must be submitted to the local reviewing authority. Application forms are available from the DEQ or on the department website at <http://deq.mt.gov/water/Programs/eng>.

Statute: 76-3-504 (1)(g)(iii)(B), 76-3-604, 76-3-622, 76-4-104, and 76-4-125, MCA

Rule: ARM 17.36.101-17.36.104

3. **Review Procedures**

- A. The DEQ has 15 days for an initial element review and 40 days for final action on receipt of a subdivision application. If a resubmittal or additional information is provided by the applicant within 30 days of receipt of a denial letter, DEQ has 30 days to review the additional information. If a resubmittal or additional information is provided by the applicant more than 30 days after receipt of a denial letter, DEQ has 55 days to review the additional information. If an Environmental Impact Statement is required, final action must be taken within 120 days. See MONTANA ENVIRONMENTAL POLICY ACT, p. 125.
- B. If a local government or board of health has been certified as the reviewing authority, it has the same 15-day element review described above and then has 40 days to recommend action on the application to the DEQ. The DEQ then has 10 days to take final action. If the application is denied, the statutory time limits begin again once a response has been received.
- C. An independent reviewer may be certified by the department to review subdivisions proposed to connect to existing municipal or county water and/or sewer district water and wastewater systems previously approved by the department if no extension of the system is required. Independent reviewers have the same time limits as local government or board of health reviewers.

Statute: 76-4-104 and 76-4-125, MCA

Rule: ARM 17.36.106 and 17.36.108

4. **Criteria**

The DEQ's subdivision rules set standards and procedures relating to the development of parcels based on topography, geology, hydrology, type of facilities proposed, and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation, and wildlife. There must be adequate water supply, drainage, sewage, and solid waste disposal systems. The DEQ will issue a certificate of subdivision approval when it is satisfied that adverse impacts to state waters will not occur and the water supply is of adequate quantity, quality, and dependability; the sewage disposal facility is sufficient in terms of capacity and dependability; and the solid waste disposal and storm drainage plans and designs are in accordance with state and local laws and regulations.

Rule: ARM 17.36.101, *et seq.*
ARM 17.30.701, *et seq.*

5. **Fees**

A schedule of fees is set out in the rules or can be found on the department website at <https://deq.mt.gov/water/Programs/eng>, A portion or all of the fees may be refunded to the applicant for extensions requested by the department of deadlines outlined above in Section 3(A) .

Statute: 76-4-105, MCA
Rule: ARM 17.36.801, *et seq.*

6. **Additional Information**

If there is a denial of approval of the subdivision that relates to facilities reviewed under the Sanitation Act, the aggrieved developer may request a hearing before the Board of Environmental Review.

Statute: 76-4-126, MCA

SUBDIVISION AND PLATTING ACT (Title 76, chapter 3)

The purpose of the Montana Subdivision and Platting Act is to promote orderly development and protect public health and safety. The Act requires local governments to adopt subdivision regulations that are consistent with state law. Subdivision regulations are one of the three basic legal elements local governments are authorized to use to address growth and development. Comprehensive plans (or growth policies) and zoning regulations are the other two.

1. Types of Activities Regulated

All divisions of land creating parcels less than 160 acres in size for sale, rent, lease, or other conveyance, including condominiums and manufactured home or recreational vehicle parks, are regulated under the Montana Subdivision and Platting Act and rules pursuant to the Act, unless exempt (see next page).

Title to land may not be sold or transferred until a certificate of survey or a final subdivision plat (if required) approved by the governing body has been filed with the county clerk and recorder.

Exemptions: There are numerous exemptions outlined in Title 76, chapter 3, part 2, MCA, that exclude certain divisions of land from surveying requirements, local subdivision review, or both. As an example, local subdivision review is not required for the following divisions of land under certain conditions, although applicable zoning regulations apply and a certificate of survey and certification that property taxes and special assessments have been paid are required: divisions for the purpose of relocation of common boundaries, a one-time gift or sale to an immediate family member (one per family member per county), and transfers that include a covenant running with the land that limits the use of the land exclusively to agriculture.

Exemptions may not be used for the purpose of evading the Montana Subdivision and Platting Act. Local governments must adopt evasion criteria as part of their subdivision regulations. These criteria are used to evaluate whether or not a proposed exemption represents an intention to evade the requirements of the Act.

Statute: 76-3-101, *et seq.*, Title 76, chapter 3, part 2, and 76-3-302, MCA

Rule: ARM 24.183.1101, *et seq.*

Contact: LOCAL GOVERNMENT

2. Review Procedures

- 1) General Information: Cities, counties, and towns are required to adopt subdivision regulations that establish procedures for submission and review of subdivision plats. The procedures and requirements vary depending on the size and nature of the proposed subdivision and whether or not a planning board has been appointed. A general overview of the procedures that apply to most major subdivisions (a *major subdivision* creates six or more parcels; a *minor subdivision* creates five or fewer parcels) is provided below, but all of Title 76, chapter 3, parts 5 and 6 and local regulations should be consulted.

For jurisdictions with , the review may be two-tiered: the planning board conducts the initial review and acts in an advisory capacity, and the final decision is made by the governing body. For areas without planning

boards, the governing body is the only reviewing entity. Whether or not a hearing or a subsequent hearing will be held depends on the circumstances. In most jurisdictions, a subdivision administrator (planner or sanitarian) will be the subdivider's initial contact person and liaison.

- 2) The state Act requires that local subdivision regulations provide for a preapplication meeting between the subdivider and subdivision administrator. The Act also requires that the local governing body provide certain information to the subdivider at the preapplication stage. Local regulations may also require a list of information that must be submitted by the subdivider at the preapplication stage.
- 3) A subdivision application, including, in most cases, either an environmental assessment or a summary of probable impacts, must be submitted to the governing body or its authorized agent or agency. A fee may be assessed by the governing body to defray the expense of subdivision review.
- 4) The local governing body, after notice and a public hearing (if a hearing is required), may approve, conditionally approve, or deny the proposed subdivision. Depending on the size of the major subdivision, the governing body must make its final decision within 60 or 80 working days of a determination that the application is sufficient for review (35 working days for certain minor subdivisions) unless the parties mutually agree to an extension or suspension of the review period or a subsequent public hearing is scheduled upon the receipt of new information regarding the subdivision application. A penalty may be assessed if the governing body does not act on a major subdivision within the statutory time limits.
- 5) The governing body shall consider all relevant evidence relating to the public health, safety, and welfare, including the environmental assessment, if required, to determine whether a subdivision application should be approved, conditionally approved, or denied by the governing body. As part of the subdivision review process, the governing body must collect public comment submitted at a hearing or hearings regarding the water and sanitation information presented and make the comments available to the subdivider within 30 days after conditional approval or approval of the subdivision application and preliminary plat. The subdivider must, as part of the application for sanitation approval, forward the comments provided by the governing body to the DEQ or its certified agent for subdivisions that will create one or more parcels containing less than 20 acres and to the local health department or board of health for proposed subdivisions that will create one or more parcels containing 20 acres or more and less than 160 acres.
- 6) In general, the developer of a major subdivision and some minor subdivisions must donate a portion of the subdivided land for public parks. A cash contribution may be accepted in lieu of a land donation.

- 7) Once the governing body approves, conditionally approves, or denies the subdivision, it must provide a written statement to the applicant within 30 days following its decision. The written statement must identify the regulations and statutes used in reaching the decision and an explanation of how they apply; the facts and conclusions that are the basis for the decision, including documents, testimony, or other materials that form the basis of the decision; the conditions that must be satisfied before the final plat may be approved; and information regarding the appeal process.
- 8) If a governing body approves or conditionally approves a subdivision, it grants preliminary plat approval to the applicant. The preliminary plat may be approved for one to three years. During this time frame, the subdivider must meet the conditions of preliminary plat approval, file for, and obtain final plat approval before it may move forward with the subdivision. Certain extensions to the preliminary plat time frame are permitted under the Act.
- 9) Final subdivision plats must be prepared and certified by a licensed professional land surveyor. The final plat and certificate of title must be submitted to the governing body. The final plat must be approved by the governing body only if it conforms with the conditions imposed on the preliminary plat and all property taxes and special assessments have been paid.
- 10) Compliance with the Sanitation in Subdivisions Act is required before a final plat that creates one or more parcels of less than 20 acres may be filed with the county clerk and recorder. See SANITATION IN SUBDIVISIONS, p. 165.
- 11) The subdivider may bring an action in District Court to recover damages caused by a decision of the governing body that is arbitrary or capricious under the Subdivision and Platting Act. Certain other aggrieved parties, including contiguous landowners and county commissioners, may appeal a decision on a preliminary or final plat to the District Court within 30 days from the date of the written decision.

Statute: 76-3-402, 76-3-501 through 76-3-510, 76-3-601 through 76-3-612, 76-3-615, 76-3-616, 76-3-620 through 76-3-622, 76-3-625, and 76-4-122, MCA

3. Subdivision Review Criteria

The Montana Subdivision and Platting Act establishes minimum requirements for local subdivision regulations. Local subdivision regulations include both procedural and substantive requirements. Among other requirements, the regulations must include standards for design of lots, streets, and roads; grading and drainage; and for water supply, sewage, and solid waste disposal at least as stringent as Montana Department of Environmental Quality rules.

In reviewing a proposed subdivision, the governing body must consider: 1) compliance with local subdivision regulations established under Title 76, chapter 3, Part 5 and the Title 76, chapter 3, part 6 review procedure; 2) compliance with surveying requirements; 3) provision and recording of legal and physical access to each lot within the subdivision; 4) provision of easements within and to the proposed subdivision for any planned utilities; and 5) the subdivision's impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (*primary criteria*). In specific circumstances, the local government may waive certain requirements and procedures in areas where a growth policy and zoning regulations are in place.

Statute: 76-3-501 through 76-3-511, 76-3-608, and 76-3-616, MCA

4. **Water and Sanitation Information**

Unless exempt from review under Title 76, chapter 4, MCA, (see SANITATION IN SUBDIVISIONS, p. 165), information about water and sanitation must be submitted to the governing body, or its agent or agency, with the subdivision application for a proposed subdivision that will include new water supply or wastewater facilities, including gray water irrigation. Public comment about the water and wastewater facilities will be provided to the subdivider for submission to the DEQ.

Statute: 76-3-604 and 76-3-622, MCA

UTILITIES

HIGHWAY UTILITY EASEMENTS

1. Types of Activities Regulated

Utility facilities used to transport or distribute hydrocarbons, electric power, energy, communication signals, broadband, water, and sewage are authorized to occupy highway rights-of-way if they conform to certain standards approved by the Montana Department of Transportation (MDT) (see also HIGHWAY ENCROACHMENTS, p. 66). All other facilities are considered privately owned and must receive a permit from the MDT before being constructed in a highway right-of-way. City councils and Boards of County Commissioners may grant similar approval along city streets and county roads.

Statute: 7-13-2101 and 7-13-4101, MCA

Rule: ARM 18.7.201, *et seq.*

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

DEPARTMENT OF TRANSPORTATION
Division Office

2. Permitting Procedures

An applicant must apply for a utility encroachment permit or utility occupancy agreement through the department's Utility Permitting Administration System (UPAS), through the department's website at www.mdt.mt.gov or mdtupas.com, for the installation of any utility facility on right-of-way under the jurisdiction of the department. Permits are only issued in the name of the utility owner.

- 1) A utility owner, utility company, or utility company contractor may not begin any work on the right-of-way until an approved Utility Permit is issued by the department and utility owner is authorized to proceed. Additional information such as names and contact information for contractors and subcontractors and an executed construction agreement, if required. If travel lane capacity is impacted, traffic control concepts must be discussed with a department district office in advance of submitting a Utility Permit application. A copy of the completed Utility Permit, including all attachments, must be available at the work site at all times.

- 2) Each application must be complete and accompanied by all required supplemental materials. The department may request additional information, if warranted. The additional information must be supplied within 30 days. If no response is received, the application will be denied. A non-refundable electronic convenience fee is required.
- 3) Applications must include a detailed electronic plan set in PDF depicting the proposed installation and a traffic control plan. An American Society of Civil Engineers (ASCE) standard survey-grade Global Positioning System (GPS) survey of the utility facility location(s) and other surveys and documents must also be submitted, as requested by the department..
- 4) The department may revoke a permit for failure to comply with the terms and conditions of a permit. Prior to revocation, the department shall notify the utility owner of any violations, in writing, and shall provide the utility owner a specified amount of time to correct the violations.

Rule: ARM 18.7.207

IMPROVEMENT AND UTILITY DISTRICTS

1. Types of Activities Regulated

A number of means of funding are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water, and sewer systems, etc., and for provision of services. Provisions vary, but typically, creation of a special district may be initiated by the local government or by a petition submitted by a proposed district's residents. An election may be required and property owners are usually allowed to protest creation of a district. A board of directors may be elected or appointed, or the local government itself may be the authority. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should contact local authorities to determine applicable requirements. See Title 7, chapter 11, Part 10, *Special Districts -- Creation and Governance*.

Statute: Business Improvement Districts:
 7-12-1101, *et seq.*, MCA
 Consolidated Local Government Water Supply and Sewer Districts:
 7-13-3001, *et seq.*, MCA
 County Water/Sewer Districts:
 7-13-2201, *et seq.*, MCA
 Fire Hydrant Maintenance Districts:
 7-12-4601, *et seq.*, MCA
 Hospital Districts:
 7-34-2101, *et seq.*, MCA

Library Districts:

22-1-701, *et seq.*, MCA

Lighting Districts:

7-12-2201, *et seq.* and 7-12-4301, *et seq.*, MCA

Local Water Quality Districts:

7-13-4501, *et seq.*, MCA

Metropolitan Sanitary/Storm Sewer Districts:

7-13-101, *et seq.*, MCA

Municipal Revenue Bonds:

7-7-4401, *et seq.*, MCA

Municipal Sewage/Water Systems:

7-13-4301, *et seq.*, MCA

Public Sewer Systems:

7-13-4201, *et seq.*, MCA

Rural Fire Districts:

7-33-2101, *et seq.*, MCA

Rural Improvement Districts:

7-12-2101, *et seq.*, MCA

Special Districts:

7-11-1001, *et seq.*, MCA

Special Improvement Districts:

7-12-4101, *et seq.*, MCA

Street Maintenance Districts:

7-12-4401, *et seq.*, MCA

Street Parking Districts:

7-12-4501, *et seq.*, MCA

NATURAL GAS SUPPLIERS

1. Types of Activities Regulated

Gas suppliers must be licensed by the Public Service Commission PSC before offering natural gas for sale to retail customers. Contact the PSC at 1-800-646-6150 for licensing information. License suppliers must also file annual reports.

Statute: 69-3-1401, *et seq.*, MCA

Rule: ARM 38.5.7010-38.5.7016

Contact: PUBLIC SERVICE COMMISSION
Regulatory Division

2. Application Requirements

The license application requests detailed information about the company's organization and services to ensure that the supply will be provided as offered and is of adequate

quality, safety, and reliability. Unless rejected for cause, a license application becomes effective 30 days after filing.

Statute: 69-3-1405, MCA
 Rule: ARM 38.5.7010
 Contact: PUBLIC SERVICE COMMISSION
 Regulatory Division

PIPELINES: UNDERGROUND EXCAVATION

1. Types of Activities Regulated

A. Common Carrier Pipelines

An entity owning, operating, or managing a pipeline for others for the transportation of crude petroleum, coal, the products of crude petroleum or coal, or carbon dioxide from a plant or facility that produces or captures carbon dioxide may obtain the right to construct and operate pipelines in public streams or highways by filing a written agreement with the Montana Public Service Commission (PSC) to become a common carrier pipeline. Entities constructing pipelines must follow statutory condemnation procedures. The pipelines may not be placed in public streets or alleys without obtaining permission from the city.

Statute: 69-13-101, *et seq.*, MCA
 Rule: ARM 38.7.101 and 38.7.102
 Contact: PUBLIC SERVICE COMMISSION
 Regulatory Division
 CITY OR TOWN COUNCIL
 BOARD OF COUNTY COMMISSIONERS

B. Natural Gas Pipelines

The PSC enforces the safety regulations adopted under the Natural Gas Pipeline Safety Act of 1968, as amended. This authority extends over intrastate pipeline operators and systems. The PSC also has the power to investigate all methods and practices of pipeline owners and operators, make report filing requirements, issue informal reports of probable violations and orders to show cause, establish formal enforcement procedures, hold hearings, and enter onto the property and inspect books and records relevant to the PSC's enforcement responsibilities.

Statute: 69-3-207, MCA
Rule: ARM 38.5.2201, *et seq.*
Contact: PUBLIC SERVICE COMMISSION
Regulatory Division

C. Underground Excavations

Prior to moving earth, rock, or other ground material, excluding surface road grading, an excavator must first obtain information from a one-call notification center on the possible location of any underground facility. Every public utility, municipal corporation, underground facility owner, or person with the right to bury underground facilities must be a member of a one-call notification center in the region where the facilities are located.

Before beginning a project, the excavator must notify the owners of underground facilities through the center. The owners must mark the locations of the facilities within two business days or respond immediately if informed it is an emergency. If the excavator has not excavated within 30 days, the excavator must request relocations and marks and is responsible for the associated costs.

Architects and engineers designing projects requiring excavation in a public right-of-way or easement must obtain information on underground facilities from the owners and then make the information part of the plan by which the contractors operate.

Statute: 69-4-501 through 69-4-504, MCA

Contact: PUBLIC SERVICE COMMISSION
Regulatory Division

CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

UTILITY AND MOTOR CARRIER REGULATION

1. Types of Activities Regulated

The Public Service Commission (PSC) regulates the rates and services of privately owned public utilities and has the authority to inquire into their management. Public utilities are defined as entities owning, operating, or controlling plant or equipment for delivering or furnishing heat, light, power, water, sewer, or telecommunications services to others.

Utilities owned or controlled by a municipality, town, or village or by a county or city-county water or sewer district or water or sewer association are excluded from PSC regulation. The rates and services for these systems are determined by the local government, district, or association.

The PSC regulates certain types of intrastate motor carriage transportation—issuing a Certificate of Public Convenience and Necessity or Certificate of Compliance to certain carriers of passengers, household goods, and garbage.

Cooperative or reciprocal vehicle registration licenses are issued through the Montana Department of Transportation, Motor Carrier Services Division. To receive a license, carriers traveling interstate must show proof of insurance with the Federal Highway Administration.

Statute: 69-3-101, *et seq.*, 69-7-101, *et seq.*, MCA (public and municipal utilities)
69-12-101, *et seq.*, MCA (motor carriers)
61-3-708 and 61-3-710, MCA (cooperative or reciprocal vehicle registration)

Rule: ARM 38.3.401, *et seq.* (motor carriers)

Contact: PUBLIC SERVICE COMMISSION
Regulatory Division

MUNICIPAL GOVERNMENT
City or City-County water or sewer district

DEPARTMENT OF TRANSPORTATION
Motor Carrier Services Division

UTILITY LINES

1. Types of Activities Regulated

A. Construction or Extension of Electric/Telecommunication Lines: Underground Facilities

The city or town council may regulate the erection of poles and stringing of wires, rods, or cables in the streets or alleys or within the limits of the city or town, but not within highway rights-of-way. Corporations, persons, or public bodies owning or operating electric power or telecommunication service and supply facilities are authorized to install and construct power or telecommunications lines or wires along and on any public roads, streets, and highways in the state, and to erect posts, piers, and abutments necessary to support the wires provided that they do not endanger the public in its use of roads, streets, or highways. An entity

exercising the right to use these public rights-of-way to construct electric distribution lines and facilities in a new service area must install underground lines where technically and economically feasible.

Landowners, cities, towns, counties, rural electric cooperatives, or public utilities that wish to convert existing overhead electric and communication facilities to underground locations may institute special improvement district proceedings. The governing body on its own initiative or by petition signed by 60 percent of the property owners owning 60 percent of the land of a proposed district can pass a resolution, make a study, and make the study available for inspection in the governing office.

Utilities or customers wishing to extend transmission lines to new subdivisions or areas must comply with the Territorial Integrity Act. Agreements are generally submitted to the PSC for review.

The Public Service Commission (PSC) enforces the National Electric Safety Code, which governs all construction (overhead and underground electrical supply and communication lines) involving wires for power, heat, light, telephone, telegraph, or signal transmission or reception. There are exceptions for railroad electrification and private construction of wires less than 450 volts. Cities and towns in the state may not enact any ordinance that conflicts with any provisions of the code, and conflicting ordinances are void.

Statute: 7-13-4106, 69-4-101 through 69-4-103, and 69-4-301, *et seq.*, MCA, 69-4-102, 69-4-201 through 69-4-204, 69-5-121 through 69-5-123, MCA

Rule: ARM 38.5.1002

Contact: CITY OR TOWN COUNCIL

BOARD OF COUNTY COMMISSIONERS

PUBLIC SERVICE COMMISSION
Regulatory Division

B. Moving/Raising or Cutting Overhead Utility Lines or Poles

- 1) A person moving a structure through an area in which wires, cables, or poles will interfere with the move must provide at least 10 days written notice of the time and place of the move to the person owning or controlling the utility lines or poles and to that person's office nearest to the move.

- 2) At least three days prior to the move or within 10 days after the receipt of the notice, whichever is sooner, the owner must give the person moving the structure a written estimate of the total cost of raising or cutting the wires or cables and moving the poles. The owner or person controlling the utility lines or poles furnishes the workers.
- 3) The costs of the move are the responsibility of the person moving the structure, except, if the structure is owned by a person for occupancy and use by that person, the person moving the structure and the person owning or controlling the utility lines or poles must split the expenses. Prepayment of the estimate by the person moving the structure is required in some instances.
- 4) Public utilities, cable television companies, and unregulated telecommunications providers must file with the PSC, by April 1 of each year, an application for approval of a cost schedule for labor and equipment for all work related to raising wires or cables or moving poles. The cost schedule is effective on a temporary basis, subject to a rebate and a surcharge pending a final order by the PSC.
- 5) The owner of agricultural lands may petition the District Court for permission to relocate overhead lines for the purposes of installing an agricultural improvement. After a hearing, the court may grant or deny the petition. The owner of the land must pay the costs of relocating the overhead lines.

Statute: 69-4-601, *et seq.* and 69-4-401, *et seq.*, MCA

Rule: ARM 38.5.2410 and 38.5.2414

Contact: PUBLIC SERVICE COMMISSION
Regulatory Division

WATER

If the project requires water use, a water supply, or discharges wastes into state waters, the following regulations may apply.

DAMS AND RESERVOIRS

1. Types of Activities Regulated

The Federal Energy Regulatory Commission licenses and inspects hydropower dams (see HYDROELECTRIC POWER DEVELOPMENT, p. 44). The U.S. Department of the Army, Corps of Engineers ensures compliance with regulations governing navigable waters (see STREAM BEDS - STREAM BANKS - WETLANDS, p. 10). If the proposed dam facility will be on a stream located on state-owned lands, a lease or license must be obtained from the Montana Board of Land Commissioners (see STATE LANDS, p. 7). The Montana Department of Natural Resources and Conservation (DNRC) should be contacted to acquire any necessary water permit or change authorization (see WATER APPROPRIATIONS - SURFACE DIVERSIONS, p. 191).

A person proposing to construct a dam or reservoir must submit an application to the DNRC for a determination of whether the dam or reservoir is classified as high-hazard.¹ A dam owner must also obtain a dam safety construction permit from the DNRC prior to constructing, enlarging, removing, extensively repairing, or altering a high-hazard dam. Before operating a high-hazard dam, a dam safety operation permit must be obtained from the department. There are several categories of dams that are exempt from these requirements, including federal dams and reservoirs and dams regulated by the Federal Energy Regulatory Commission. At its discretion, or upon complaint, the DNRC may inspect any dam on state waters.

Statute: 85-15-105, *et seq.*, MCA (Montana Dam Safety Act)

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Water Resources Division
Water Operations Bureau

2. Application Requirements

- A. For a hazard classification, the dam owner must apply for a determination from the DNRC. The owner must submit an application to the department with information describing the dam or reservoir, including its capacity, purpose, and location.

¹ A high-hazard dam is a dam or reservoir with an impounding capacity of 50 acre-feet or more at the maximum normal operating pool, the failure of which would be likely to cause loss of life.

- B. For a construction permit, the dam owner must submit an application form, an engineering design report, and the construction plans and specifications.
- C. For an operation permit, the dam owner must submit an application that includes an operation plan. An inspection report is also required except for in the case of a new dam for which a construction permit has been issued.

Statute: 85-15-209 through 85-15-212, MCA

Rule: ARM 36.14.201-36.14.204, 36.14.301, *et seq.*, and 36.14.401-36.14.403

3. **Permitting Procedures**

- A. The DNRC will notify the applicant for a dam hazard classification of its receipt of the application within 10 days and advise the applicant if it requires additional information. The DNRC will then schedule an inspection with the dam owner to gather information to make a hazard determination. The department will base its decision on the potential loss of life downstream resulting from dam failure, not the safety of the structure. The DNRC has 60 days after the receipt of a completed application to make its determination.
- B. Within 30 days after receipt of an application for a construction permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. The DNRC has 60 days after receiving the application to issue the permit, deny the permit, or issue the permit with conditions or modifications.
- C. Within 30 days after receipt of an application for an operating permit, the DNRC will notify the applicant of any errors or omissions and request any additional information necessary to evaluate the application. After receipt of all required information, the DNRC has 90 days to issue or deny the permit. The permit is valid for up to five years.

Rule: ARM 36.14.205-36.14.208, 36.14.301, *et seq.*, and 36.14.401, *et seq.*

4. **Fees**

There is a \$125 inspection fee for a hazard classification.

Rule: ARM 36.14.204

PUBLIC WATER SUPPLY

1. Types of Activities Regulated

A water system that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year is regulated as a public water supply by the Montana Department of Environmental Quality (DEQ). Plans and specifications for public water supply sources and plans for construction, alteration, or extensions of any water system or treatment facilities must be approved. Operators in charge of community public water supplies and nontransient noncommunity public water supplies must be certified by the DEQ.

Water supply systems for food and lodging establishments that do not serve 15 or more service connections or 25 or more people for any 60 or more days in a calendar year are regulated by the Montana Department of Public Health and Human Services.

Statute: 37-42-101, *et seq.*, MCA (water treatment plant operators)
50-50-101, *et seq.*, MCA (private systems for food and lodging establishments)
75-6-101, *et seq.*, MCA (public water supply systems)

Rule: ARM 17.38.101-17.38.607 (public water supply systems)
ARM 17.40.201-17.40.215 (water treatment plant operators)
ARM 37.110.267 (private systems for food and lodging establishments)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Public Water Supply Bureau
Engineering Bureau

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Public Health and Safety Division
Food and Consumer Safety Section

2. Application Requirements

- 1) Prior to operating, constructing, altering, or extending a public water supply, the applicant must submit an engineering report along with the necessary plans and specifications to the DEQ or a delegated division of local government for review and written approval.
- 2) The engineering report, plans, and specifications for a community public water supply must be prepared and designed by a professional engineer according to specific engineering criteria. An engineer may be required to prepare plans and specifications for a noncommunity public water supply

when the complexity of the proposed system warrants that level of involvement by an engineer.

- 3) The applicant must identify the legal entity responsible for the ownership, operation, maintenance, and perpetuation of the public water supply system and wastewater system. If a change of ownership occurs, the DEQ must receive written notice within 30 days.
- 4) The department will provide a written response to the applicant within 60 days that either approves, approves with conditions, describes additional information that must be submitted, or denies the proposal, except that a regional public water system's initial review will be completed within 40 calendar days and re-reviews will be completed within 20 working days. The DEQ or a delegated division of local government will issue a written approval for a public water supply system if it determines that the design report, plans, and specifications are complete and the applicant has complied with department rules.
- 5) If construction, alteration, or extension of the community public water supply or wastewater system has not been completed within three years after approval, the applicant must resubmit all of the information required in 1-3 above. A regional public water system, as defined in 75-6-301, MCA, may not be subject to changes in design and construction standards or issued deviations for 72 months after approval.
- 6) A person may not begin operation of any portion of a public water supply system or public wastewater system subject to plan review until the project engineer (for community systems) or owner (for noncommunity systems) certifies to the DEQ that the required work was completed according to the approved plans and specifications. Within 90 days after completion of construction, a complete set of certified as-built drawings must be submitted to the department.

Statute: 75-6-101, *et seq.*, MCA public water supplies, distribution, and treatment)

Statute: 75-6-131 and 75-6-301, *et seq.*, MCA (regional water supply)

Rule: ARM 17.38.101

3. Fees

A schedule of fees for plan review is listed in ARM 17.38.106. The fees must be paid before plan approval may be issued.

An annual fee is required and must be postmarked or delivered to the DEQ by March 1. The annual fee for a community public water supply system is \$2 per active service connection, with a \$100 fee minimum. The annual fee for a nontransient,

noncommunity public water supply system is \$100 and for any other noncommunity public water supply system, \$50.

Water treatment operators must pay a \$70 application fee that entitles the applicant to take one or more exams for 12 months from the date of application. Each exam is \$70. The annual renewal fee is \$30 and must be postmarked or delivered to the DEQ by June 30.

Statute: 37-42-304, 75-6-103, and 75-6-108, MCA

Rule: ARM 17.38.106, 17.38.248, and 17.40.212

4. **Additional Information**

Wellhead and Source Water Protection Programs

The DEQ has the authority to administer wellhead protection and source water assessment programs that involve delineation of the boundaries of the assessment areas from which a public water system receives supplies of drinking water, certification of local source water protection areas, assessment of source water susceptibility to regulated contaminants, certification of local source water protection areas, and the review of source water protection area ordinances. A supplier of a public water supply system may voluntarily submit a petition to the DEQ to establish a source water protection program for the system. The governing body of a county in which a source water protection area or areas exist may adopt an ordinance to regulate, control, and prohibit conditions that threaten the quality of water used within the source water protection area or areas.

Statute: 75-6-120, MCA (Wellhead and Source Water Protection Programs)
7-13-45, *et seq.*, MCA (Local Water Quality Districts)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

SEPTIC TANKS, CESSPOOLS AND PRIVIES

1. **Types of Activities Regulated**

A person may not engage in the business of cleaning cesspools, septic tanks, portable toilets, privies, grease traps, car wash sumps or similar treatment works, or disposal of septage and other wastes from these sources, unless licensed by the Montana Department of Environmental Quality (DEQ). Hazardous wastes are regulated separately (see HAZARDOUS WASTE DISPOSAL, p. 149).

Statute: 75-10-1211 through 75-10-1223, MCA

Rule: ARM 17.50.801, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Waste Management & Remediation Division
Waste and Underground Tank Management Bureau

2. **Application Requirements**

Applications for licenses must be made to the DEQ on forms provided by the department. The application must contain the licensee's name and address, a list of counties in which business will be conducted, a list and information about proposed disposal sites, an equipment certification by the local health officer, the estimated volume of septage and other wastes to be disposed of at each disposal site annually, and other information requested by the department. Licenses expire on December 31 of each year and are nontransferable.

Statute: 75-10-1211 and 75-10-1212, MCA

Rule: ARM 17.50.803

3. **Permitting Procedures**

The DEQ will review an application for a new or renewed license to ensure that it is complete. If additional information is required, the DEQ will send the applicant written notification. After receiving a completed application, the DEQ will notify the relevant local health officer or designated representative. The department may not issue a license until 14 days after notifying local officials in order to allow them a period for review and comment. A license is issued within 30 days after the DEQ's decision to approve the license.

Statute: 75-10-1202, 75-10-1210, 75-10-1212, and 75-10-1221, MCA

Rule: ARM 17.50.806

4. **Fees**

The annual license fee is \$300. A late fee of \$125 is assessed by the DEQ for failure to renew a license before January 31 of the year following the license expiration.

Statute: 75-10-1201 through 75-10-1223, MCA

Rule: ARM 17.50.803

SEWER SYSTEMS

1. Types of Activities Regulated

Approval from the Montana Department of Environmental Quality (DEQ) is required to construct, alter, or extend a public sewer system serving 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year. Plans and specifications must be approved for construction, alteration, or extension of any wastewater system or treatment facilities. Operators in charge of public wastewater treatment systems must be certified by the DEQ.

Statute: 75-6-101, *et seq.*, MCA (public sewage systems)
37-42-101, *et seq.*, MCA (water treatment plant operators)

Rule: ARM 17.38.101-17.38.103
ARM 17.40.201-17.40-215

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Public Water Supply Bureau
Engineering Bureau

BOARD OF WATER AND WASTEWATER OPERATORS

2. Application Requirements

- 1) Prior to operating, constructing, altering, or extending a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the DEQ or a delegated division of local government for review and written approval.
- 2) The engineering report, plans, and specifications for a public sewer system must be prepared and designed by a professional engineer licensed in the state of Montana according to specific engineering criteria developed by the DEQ. However, subsurface sewage treatment plans with design flows less than 2,500 gallons per day do not require an engineer.
- 3) The applicant must identify the legal entity responsible for the ownership, operation, maintenance, and perpetuation of the public sewer system. If a change of ownership occurs, the DEQ must receive written notice within 90 days.
- 4) The DEQ has 60 days to approve, approve with conditions, deny the application, or to request more information. The DEQ or a delegated division of local government will issue a written approval for a public sewer

- system if it determines that the design report, plans, and specifications are complete and the applicant has complied with department rules.
- 5) If construction, alteration, or extension of the public sewer system has not been completed within three years after approval, the applicant must resubmit all of the information required in 1-3 above.
 - 6) A person may not begin use of any portion of a public wastewater system subject to plan review until the project engineer or designer certifies to the DEQ that the required work was completed according to the approved plans and specifications. Within 90 days after completion or construction, a complete set of as-built drawings must be submitted to the department.

Statute: 75-6-121, MCA

Rule: ARM 17.38.101

3. Fees

A schedule of fees for plan review is listed in ARM 17.38.106. The fees must be paid before plan approval may be issued.

Wastewater treatment operators must pay a \$70 application fee that entitles the applicant to take one or more exams for 12 months from the date of application. Each exam is \$70. The annual renewal fee is \$40 and must be postmarked or delivered to the DEQ by June 30.

Statute: 75-6-103, MCA

Rule: ARM 17.38.106 and 17.40.212

4. Additional Information

The Montana Legislature authorized the DEQ to establish rules to regulated reclaimed wastewater from public sewage systems and to adopt treatment standards, monitoring, recordkeeping, and reporting requirements.

Statute: 75-6-102(16), MCA

Rule: ARM 17.38.101

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Public Water Supply Bureau
Engineering Bureau

WATER APPROPRIATIONS - GROUND WATER

1. Types of Activities Regulated

In 1973, the state of Montana developed a permitting system for the new use (appropriation) of state waters. By law, Montana waters may be appropriated for *beneficial uses*. These uses include, but are not limited to, agricultural, domestic, fish and wildlife, mining, industrial, irrigation, municipal, power, recreational uses, and aquifer recharge or mitigation (see 85-2-102(4), MCA, for a complete definition). The Montana Department of Natural Resources and Conservation (DNRC) administers the permitting system and regulates all new ground water uses or changes to existing ground water rights. Specific requirements are outlined below. Application forms for these activities are available on the DNRC website or at the Water Rights Bureau Office in Helena and the local Water Resources Regional Offices.

- A. A ground water appropriation that will exceed 35 gallons of water a minute or 10 acre-feet of water a year, or is located within a compact area¹ must be permitted by the DNRC before the water is put to beneficial use.
- B. Inside the boundaries of an established controlled ground water area, water use must be permitted or granted according to the requirements of the rules established for the area before the water is put to beneficial use. (See CONTROLLED GROUND WATER AREA, p. 190, for more information.)
- C. Outside the boundaries of a controlled ground water area, a person appropriating 35 gallons of water a minute or less, with an annual volume of 10 acre-feet or less, is not required to obtain a permit before beginning a project. However, within 60 days after the well is completed or the ground water spring is developed and the water put to beneficial use, the individual must file a notice of completion of ground water development with the DNRC. A certificate of water right will be subsequently issued. See also WATER WELLS, p. 204.

If the person appropriating water does not have a possessory interest in the property from which the water will be withdrawn, they must notify the landowner 30 days before any related construction or appropriation begins.

A combined appropriation of two or more wells or developed springs from the same source that exceeds these allowable conditions requires a permit.

¹ A compact area is one in which the Montana Reserved Water Rights Compact Commission has completed a negotiated settlement with a tribal group or federal agency.

- D. Except for municipal use, public water supplies or for irrigation of cropland owned and operated by the applicant--for appropriations of ground water in excess of 3,000 acre-feet per year, the DNRC's decision to grant a permit must be affirmed by the Legislature.
- E. A permit is not required for a water user who must replace an existing well if the well does not exceed 35 gallons a minute and 10 acre-feet a year, or, for a municipal well, 450 gallons a minute. The existing well must be abandoned and the volume and rate of water used by the replacement well must be equal to or less than the existing well. In addition, the new well must draw from the same aquifer and a replacement well notice must be filed with the DNRC after the replacement well is completed.
- F. A permit is not required for ground water appropriations for emergency fire developments by a local governmental fire agency where the appropriation is used only for emergency fire protection, emergency fire training and emergency fire-related operations which may include enclosed storage. The development must be completed before a department approved form is filed and a certificate issued.
- G. A permit is not required for ground water appropriations for completed developments where the water has been put to use for nonconsumptive geothermal heating or cooling with a maximum use of 350 gallons of water per minute. The development must be completed before a department approved form is filed and a certificate issued.
- H. A change in place of use, point of diversion, place of storage, or purpose of use of an appropriated water right requires approval by the DNRC. Also, an application to change must be submitted is a water right will be leased to someone or if a temporary change is desired. The historic flow rate and volume diverted, consumed volume and use of the water right to be changed must be provided.
- I. An appropriator may change a water right without the prior approval of the DNRC to construct a redundant water supply well in a public water supply system if the new water supply well withdraws water from the same source as the original well and is required by a state or federal agency. Only one well may be used at one time. Within 60 days of completion of a redundant water supply well, the appropriator must file a redundant well construction notice with the DNRC.
- J. Approval from the DNRC is not required for leasing all or part of an appropriation right for road construction or dust abatement as long as the DNRC's requirements for the lease are met. The public must be given notice at least 30 days before the use of the water. A copy of the public notice and the lease agreement must be submitted to the DNRC at least two days before the use of the water. In addition to other conditions, the

lease term may not exceed 90 days or 60,000 gallons of water per day or the quantity of the existing lease, whichever is less.

Statute: 85-2-301, *et seq.*, MCA
Rule: ARM Chapter 36.12.101 - 36.12.122 and 36.12.13010 - 36.12.2001
Contact: DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources Regional Offices (see APPENDIX 2)

2. **Application Requirements**

For application permitting procedures for obtaining a water right permit or a change authorization, see WATER APPROPRIATIONS - SURFACE DIVERSIONS, next page.

3. **Permitting Procedures**

For permitting procedures for obtaining a water right permit or a change authorization, see WATER APPROPRIATIONS - SURFACE DIVERSIONS, next page.

4. **Fees**

Fees vary according to the type of application and are due at the time the application is submitted. For a schedule of fees see ARM 36.12.103 or contact the DNRC.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. **Additional Ground Water Information**

A. Controlled Ground Water Area

To protect water availability or quality, controlled ground water areas may be established by the DNRC or by petition of a state or local public health agency, municipality, county, conservation district, or local water quality district, or proposed by petition of local users. Several controlled ground water areas have been established in Montana. In a controlled ground water area, anyone wishing to appropriate water must apply for and receive a permit or follow the requirements of the controlled ground water area rules. Contact the DNRC to determine the location of controlled

ground water areas and to determine special requirements applicable to a particular controlled ground water area.

Statute: 85-2-506, 85-2-508, 85-2-523, and 85-2-524, MCA

B. Coal Bed Methane Wells

Ground water produced as a result of coal bed methane development has special management requirements. The produced water must be put to beneficial use, reinjected to an acceptable subsurface area, discharged to the surface or surface waters in compliance with permit requirements, or managed by other legal means. Developers of coal bed methane wells must offer mitigation agreements to area appropriators whose point of diversion is within one mile of the coal bed methane well or within 1/2 mile of a well that is adversely affected by the coal bed methane well.

Statute: 82-11-175, MCA

WATER APPROPRIATIONS - SURFACE DIVERSIONS

1. Types of Activities Regulated

In 1973, the state of Montana developed a permitting system for the new use (appropriation) of state waters. By law, Montana waters may be appropriated for *beneficial uses*. These uses include, but are not limited to, agricultural, domestic, fish and wildlife, mining, industrial, irrigation, municipal, power, recreational uses, and aquifer recharge or mitigation (see 85-2-102, MCA, for a complete definition). The Montana Department of Natural Resources and Conservation (DNRC) administers the permitting system and regulates all new surface water use and all new surface water use or changes to existing surface water rights. Specific requirements are outlined below. Application forms for these activities are available on the DNRC website or at the Water Rights Bureau Office in Helena and the local Water Rights Regional Offices.

- A. A permit to appropriate water for a beneficial use is required from the DNRC before beginning a project that proposes the use of unappropriated surface water.
- B. A permit to appropriate water is not required for construction of a pit or reservoir for use by livestock if: 1) the pit or reservoir has a maximum capacity of less than 15 acre-feet of water, 2) the impoundment is constructed on and will be accessible to a parcel of land that is owned or controlled by the applicant and is at least 40 acres in size, and 3) the appropriation is less than 30 acre-feet per year and is from a nonperennial flowing stream. However, an application for a provisional permit for a completed stockwater pit or reservoir must be submitted to the DNRC within 60 days after construction of the pit or reservoir. If the pit or

reservoir adversely affects prior water rights, the DNRC may require modifications or revoke the permit.

- C. A change in place of use, point of diversion, place of storage, or purpose of use of an appropriated water right also requires approval by the DNRC. An application to change must be submitted if a water right will be leased to someone or if a temporary change is desired. The historic use of the water rights to be changed must be provided.
- D. A water user or the Montana Department of Fish, Wildlife and Parks may apply to temporarily change or lease a water right for instream flow to maintain or enhance instream flow to benefit the fishery resource.

Statute: 85-2-301, *et seq.* and 85-2-402, *et seq.*, MCA

Rule: ARM 36.12.101 - 36.12.106 and 36.16.103 - 36.12.106

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Water Resources Division
Water Rights Bureau Office in Helena; or local Water Resources
Regional Offices (see APPENDIX 2)

2. Application Requirements

An application for a beneficial water use permit or an application to change a water right must be made on forms available from the DNRC. During this time the department may conduct an environmental review to determine the impacts of the proposed project (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125). Members of the public may track an application through an online water rights notification tool.

Statute: 85-2-302, 85-2-307, 85-2-308, 85-2-310, and 85-2-402, MCA

Rule: ARM 36.12.101-36.12.122, 36.12.1301-36.12.2001, and
36.16.101-36.16.122

3. Application Procedures

1) For a *permit* application:

- (1) The applicant may participate in a preapplication meeting with the DNRC, submitting a preapplication meeting form and a technical analysis, which may be conducted by the DNRC.

- (2) An applicant submits the application with a technical analysis, if not preapplication meeting help. The DNRC delivers a draft preliminary determination using the relevant technical analysis.
- (3) The department performs a deficiency review to determine if the application is correct and complete.
- (4) The department issues a draft preliminary determination with a notice for public comment.
- (5) If public comments are received, a notice of objection is published. If no public comments are received, the draft preliminary determination is final.
- (6) The department adopts the preliminary determination as final, or the department conducts hearings to consider objections. The DNRC will hold a hearing if:
 - (a) The department determines objections are valid after the draft preliminary determination is issued and the public comment and objections periods end.
 - (b) The department proposed to deny an application and the applicant does not withdraw the application.
 - (c) A hearing is held on objections to an application is limited to evidence in support of the application.
- (7) PERMITS ARE PROVISION UNTIL ALL CLAIMS OF EXISTING WATER RIGHTS IN A BASIN OR SUBBASIN HAVE BEEN ADJUDICATED IN THE STATE WATER COURT.¹
- (8) Change authorization may not adversely affect the use of existing water rights, permits, certification, or reservations.

Statute: 85-2-301 *et seq.*, 85-2-402, *et seq.*, and 2-4-101, MCA (Montana Administrative Procedures Act)

Rule: ARM Chapter 36.12

¹ Permits for new or additional water use have been required since July 1, 1973. Water rights claimed before that date are currently being quantified and recorded through a statewide water adjudication process. Contact the Montana Water court or the DNRC for adjudication procedures.

4. **Fees**

Fees vary according to the type of application and are due at the time the application is submitted. For a schedule of fees see ARM 36.12.103 or contact the DNRC.

Statute: 85-2-113, MCA

Rule: ARM 36.12.103

5. **Criteria**

Regardless of whether objections are received, the DNRC must base its decision for issuance of a permit on the criteria found in 85-2-311, MCA. Approval for an Application to Change a Water Right is based on the criteria in 85-2-402, MCA. All permits and change applications are subject to prior existing water rights and the final determination of those rights. Other conditions may be imposed to protect the rights of other water right appropriators on a case-by-case basis.

6. **Additional Information**

A. Closed Basins

Several highly appropriated basins have been closed by the Legislature or the DNRC. Issuance of water use permits in these basins is limited, although issuance of permits for certain uses is usually allowed. Contact the DNRC to determine the location of basin closures and the limits that apply to a particular basin.

Statute: 85-2-319 through 85-2-370 and Title 85, chapter 20, parts 1-16, MCA

Rule: ARM 36.12.120 and 36.12.1010, *et seq.*

B. Water Right Ownership Update

A change of ownership of a water right must be disclosed with a realty transfer certificate. The DNRC will update the ownership of a water right based upon the information received from the Montana Department of Revenue once the proper fee is paid.

Statute: 85-2-423, 85-2-424, and 85-2-426, MCA

Rule: ARM 36.12.103 and subchapter 36.12.10

WATER QUALITY PERMITTING

The Department of Environmental Quality, under the authority of the Montana Water Quality Act (75-5-101, *et seq.*, MCA), regulates the discharge of pollutants into state waters through the adoption of water quality standards and the permit application process. Water quality standards specify what changes in water quality are allowed during the use of state waters and establish a basis for wastewater discharge permitting.

ANIMAL FEEDING OPERATIONS

1. Types of Activities Regulated

Animal feeding operations (AFOs) are areas where animals are kept in confined conditions. Waste from these operations may be discharged to state waters¹ as a result of precipitation or infiltration. Discharges of waste to state waters are regulated by the Montana Water Quality Act. A Montana Pollutant Discharge Elimination System (MPDES) permit is generally required from the Montana Department of Environmental Quality (DEQ) for a concentrated animal feeding operation (CAFO) when the following conditions are met:

The lot or facility meets *both* of the following criteria (see 75-5-801(1)):

- 1) Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in a 12-month period; and
- 2) Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

And the facility meets at least one of the following criteria for a concentrated animal feeding operation:

- 1) The animal confinement numbers and discharge requirements described in 75-5-801, MCA.
- 2) The facility is designated as a CAFO by the DEQ. Criteria for designation by the DEQ are described in ARM 17.30.1330

¹ Section 75-5-103(34), MCA, describes a state water as a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to: ponds or lagoons used solely for treating, transporting, or impounding pollutants or irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

Other permits may also be required. See STREAMBEDS, STREAM BANKS, WETLANDS, p. 10 and CONSERVATION DISTRICTS, p. 1.

Statute: 75-5-801 through 75-5-803, MCA
Rule: ARM 17.30.201 through 17.30.1301, *et seq.*
Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

2. Application Requirements

A CAFO operator applies for a discharge permit by completing *DEQ Form 2B* for concentrated animal feeding operations and a *Nutrient Management Plan* (NMP). The information required in the application includes details on the design and operation of the facility and a map or series of maps. The information required in the NMP includes how animal wastes are handled, removed, and disposed of and how the facility will protect water quality. An environmental review (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125) and other items may also be required as part of the application process. See DISCHARGE PERMITS, below, for additional information on application requirements and permitting procedures or contact the DEQ, Water Protection Bureau.

3. Fees

For a schedule of fees see 75-5-803, MCA.

DISCHARGE PERMITS

1. Types of Activities Regulated

A Montana Pollutant Discharge Elimination System (MPDES) permit or a Montana Ground Water Pollution Control System (MGWPCS) permit is required from the Montana Department of Environmental Quality (DEQ) to construct, modify, or operate a disposal system or to construct or use any outlet for discharge of sewage or industrial or other wastes into state surface or ground water. A permit is not required for the discharge of certain wastes under specific circumstances (see ARM 17.30.1022 and 17.30.1310 and 75-5-401(1)(b) and 75-5-401(5), MCA).

Statute: 75-5-101, *et seq.*, MCA (Montana Water Quality Act)
Rule: ARM 17.30.1301, *et seq.* (MPDES permit)
ARM 17.30.1001, *et seq.* (MGWPCS permit)

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

2. **Application Requirements**

MPDES Permits - General

The DEQ may issue a general MPDES permit to cover all facilities that engage in a general type of activity in a discrete geographical region, or statewide. These categories include, among others, storm water point **sources**¹, suction dredge mining operations, and construction dewatering operations. Applications must be submitted 30 days before the initiation of a proposed discharge of stormwater, except for construction stormwater discharge.

Statute: 75-5-401, *et seq.*, MCA

Rule: ARM 17.30.1310, *et seq.*
ARM 17.30.1115 (Notice of Intent Procedures)

MPDES Permits - Individual

Individual MPDES permits are required for facility-specific industrial, commercial, or municipal discharges. An application must be filed at least 180 days prior to the operation of a point source, unless permission for a later date has been granted by the department. Application information must include site plans and specifications, descriptions of adjacent state waters, soil conditions, ground water characteristics, process and waste flow diagrams, and the volume and nature of projected discharges., with additional requirements described in ARM 17.30.1252. Storm water discharges may be incorporated into this application, permitted under a separate individual MPDES permit, or permitted under a general MPDES permit.

Statute: 75-5-401, *et seq.*, MCA

Rule: ARM 17.30.1322

MGWPCS Permits

An application for a Montana Ground Water Pollution Control System (MGWPCS) permit must be filed at least 180 days prior to the operation of a point source. Application information must include a site plan; the location of treatment works and disposal systems; the location of adjacent surface waters; a list of surface owners and lessees, the location of water supply wells and

¹ **A point source** is an identifiable point where pollutants are discharged, including pipes, ditches, channels, sewers, and tunnels.

springs, hydrological information about the receiving water, a description of ground water quality and uses within one mile of the source, and other information that the DEQ considers necessary to process the application.

Statute: 75-5-401, *et seq.*, MCA

Rule: ARM 17.30.1023

3. **Permitting Procedures**

MPDES General Permits

- 1) Within 30 days of receiving a completed application, the DEQ will issue an authorization to operate under a general MPDES permit, or notify the applicant that the source does not qualify, citing one or more of the reasons listed in ARM 17.30.1341(4).
- 2) For construction stormwater point sources, authorization to discharge is effective upon receipt by the department of a complete notice of intent and storm water pollution prevention plan and permit fee by the time construction disturbance begins.
- 3) If an authorization to operate under a general MPDES permit is denied, the DEQ may process the application as an individual MPDES permit, with the receipt of additional fees, unless the application is withdrawn.
- 4) All MPDES permits are issued for a fixed term, not to exceed five years.

MPDES Individual Permits

- 1) For new sources of discharges, the DEQ has 30 days from application receipt to evaluate the information for completeness and notify the applicant if additional information is needed. Public notice is required if a tentative determination has been made to deny the permit. At least 30 days are provided for written comments from the public regarding the application. During this public comment period any interested person may request a public hearing.
- 2) For existing sources, the DEQ has 60 days to review new permit applications for completeness and 30 days for completeness review of deficiency responses. During the permit development process, DEQ determines discharge limits and the length of mixing zones¹ to ensure water quality standards are met.

¹ Mixing zones are established areas where water quality standards may be exceeded while a discharge is mixed with receiving waters. (see ARM 17.30.501, *et. seq.*).

- 3) If the DEQ denies the discharge permit, the applicant may appeal the decision to the Board of Environmental Review (BER). The hearing must be held within 30 days of the receipt of the written request.
- 4) All MPDES permits are issued for a fixed term, not to exceed five years.

Statute: 75-5-403, MCA

Rule: ARM 17.30.1301, *et seq.*

MGWPCS Permits

- 1) Once the application is received, the DEQ must evaluate the information for completeness and notify the applicant within 30 days if additional information is needed. After the application is complete, DEQ will make a tentative determination whether to issue or deny the permit. Public notice is required if a tentative determination has been made to issue the permit. At least 30 days are provided for written comments from the public regarding the application. A public hearing on the tentative determination may be requested. If the determination is to deny the permit, DEQ will provide written notice to the applicant including the reason for denial.
- 2) During the permit development process, DEQ determines discharge limits, monitoring requirements, reporting requirements, and the length of mixing zones¹ to ensure water quality standards are met.
- 3) If the DEQ denies the discharge permit, the applicant may appeal the decision to the Board of Environmental Review (BER). The hearing must be held within 30 days of the receipt of the written request.
- 4) All MGWPCS permits are issued for a fixed term, not to exceed 10 years.

Statute: 75-5-403, MCA

Rule: ARM 17.30.1301, *et seq.* and 17.30.1024 *et seq.*

4. Fees

The DEQ assesses fees sufficient to cover the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

Statute: 75-5-516, MCA

¹ Mixing zones are established areas where water quality standards may be exceeded while a discharge is mixed with receiving waters. (see ARM 17.30.501, *et seq.*).

200 WATER

Rule: ARM 17.30.201

5. Additional Information

Short-term Exemptions: The DEQ may authorize short-term turbidity standards for construction projects that affect water bodies (318 standards). The DEQ may also authorize short-term exemptions from the water quality standards (308 exemptions) for the purposes of emergency remediation that has been approved, authorized, or required by the DEQ. The DEQ must issue the authorization before the applicant may begin the activity.

Statute: 75-5-308 and 75-5-318, MCA

6. Criteria

All discharges of pollutants into state waters authorized by a discharge permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits; create floating debris; produce odors; create toxic concentrations harmful to human, animal, plant, and aquatic life; or create conditions capable of producing undesirable aquatic life. All discharges must meet water quality standards.

Rule: ARM 17.30.637, 17.30.1030, and 17.30.1342

GRAY WATER REUSE PERMIT

1. Types of Activities Regulated

The Montana Legislature authorized the Department of Environmental Quality and the BER review to establish rules to allow the diversion of gray water (generally, wastewater from laundry, dishwashing, and bathing) from wastewater treatment systems and to address when and how gray water may be used.

Statute: 75-5-305, 75-5-317, and 75-5-325 through 75-5-327, MCA

Rule: ARM 17.38.101, 17.36.319, and 17.36.919

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Public Water Supply Bureau

LOCAL GOVERNMENT
Health Department

NONDEGRADATION REVIEW

The state's nondegradation policy outlines three levels of water protection, stipulating what level of degradation, if any, is allowed in each level. For waters classified as *outstanding resource waters* (see p. 202), the DEQ may not grant an authorization to degrade and may not allow a permanent change of the water quality. For *high quality waters*, nonsignificant changes in water quality are allowed. If changes are greater than the nonsignificant thresholds the state may authorize degradation of *high quality waters* up to but not exceeding water quality standards. For *other waters* not classified as outstanding resource waters or high quality waters, there is no nondegradation review requirement, but water quality standards and discharge permit conditions still apply.

1. Types of Activities Regulated

A person proposing an activity that may degrade *high quality waters* must 1) make a self-determination that the activity is nonsignificant using the standards in ARM 17.30.715 and 17.30.716, 2) receive a determination of nonsignificance from the Montana Department of Environmental Quality (DEQ) or, 3) if the activity is not within the definition of nonsignificant, petition the DEQ for an authorization to degrade. For all activities that are licensed, permitted, approved or otherwise authorized by the DEQ, the department will make the determination whether the activity may cause degradation.

Statute: 75-5-303 and 75-5-317, MCA

Rule: ARM 17.30.701-17.30.708, 17.30.715, and 17.30.716

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Water Quality Division
Water Protection Bureau

2. Application Requirements

If a proposed activity will cause significant degradation of high quality waters and the applicant wishes to continue with the proposed activity, the DEQ will require the applicant to submit information necessary for the department to determine: 1) the degradation is necessary because there are no feasible modifications to the proposed project that would result in no degradation, 2) the proposed project will result in important economic or social development and the benefit of the development exceeds the costs to society of degrading high quality waters, 3) existing and anticipated use of state waters will be fully protected, and 4) the least degrading water quality protection practices determined by the DEQ to be economically, environmentally, and technologically feasible will be fully implemented by the applicant prior to, during, and after the proposed activity.

Statute: 75-5-303, MCA

Rule: ARM 17.30.706-17.30.708

3. **Permitting Procedures**

- 1) The DEQ must review an Application for Determination of Significance and make its decision on the application within 60 days. If the DEQ determines that the activity will cause degradation, and the applicant wishes to proceed with the activity as planned, then the applicant must complete an application to degrade state waters.
- 2) The DEQ will issue a preliminary decision either authorizing or denying the degradation within 180 days of the receipt of a completed application. This time period may be extended by agreement of the applicant or whenever an Environmental Impact Statement is required to comply with the Montana Environmental Policy Act (see p. 125).
- 3) The DEQ will issue its preliminary decision and provide public notice and a 30 to 60 day comment period. The department will hold a hearing if it determines there is a significant degree of public interest.
- 4) Within 60 days after the close of the public comment period, the DEQ will issue a final decision accompanied by a statement of basis for the decision and, if applicable, a statement of conditions. An interested person¹ wishing to challenge the final decision may request a hearing before the Board of Environmental Review within 30 days of the DEQ's decision.

Statute: 75-5-303, MCA

Rule: ARM 17.30.706-17.30.708

4. **Additional Information**

Outstanding Resource Waters

State surface waters located wholly within the boundaries of areas designated as national parks or national wilderness areas as of October 1, 1995; or other surface waters or ground waters classified by the department under the provisions of 75-5-316 and approved by the legislature.

The DEQ may not grant an authorization to degrade waters in this classification or allow a new or increased point source discharge that would result in a permanent in water quality.

¹ Interested person is defined in statute as the applicant or a person who has a real property, economic, or watered right that is or may be directly and adversely affected by the DEQ's decision, (75-5-103(13), MCA).

A person may petition the department for rulemaking to classify state waters as outstanding resource waters. The department shall initially review a petition against the criteria identified below to determine whether the petition contains sufficient credible information for the department to accept the petition:

-the waters identified in the petition constitute an outstanding resource based on the criteria provided:

- (a) whether the waters have been designated as wild and scenic;
- (b) the presence of endangered or threatened species in the waters;
- (c) the presence of an outstanding recreational fishery in the waters;
- (d) whether the waters provide the only source of suitable water for a municipality or industry;
- (e) whether the waters provide the only source of suitable water for domestic water supply;

and

- (f) other factors that indicate outstanding environmental or economic values not specifically mentioned in this subsection.

-the increased protection under the classification is necessary to protect the outstanding resource identified under subsection (3)(a) because of a finding that the outstanding resource is at risk of having one or more of the criteria provided in subsection (4) compromised as a result of pollution; and

-classification as an outstanding resource water is necessary because of a finding that there is no other effective process available that will achieve the necessary protection.

The department may reject a petition without further review if it determines that the petition does not contain the sufficient credible information required under the above criteria. If the department rejects a petition, it shall specify in writing the reasons for the rejection and the petition's deficiencies.

Statute: 75-5-103 and 75-5-315 through 75-5-317, MCA

Rule: ARM 17.30.617, 17.30.638, 17.30.702 and 17.30.705

WATER POLLUTION: FEDERAL - INDIAN RESERVATIONS

1. Types of Activities Regulated

Under the federal Clean Water Act, a person who discharges pollutants from a point source into waters of the United States¹ must obtain a National Pollutant Discharge

¹ Waters of the United States includes essentially all surface waters such as all navigable waters and their tributaries, all interstate waters and their tributaries, all wetlands adjacent to these waters, and all impoundments of these waters. (See

Elimination System (NPDES) permit. For information on wastewater permitting within the boundaries of Montana's Indian reservations, contact the U.S. Environmental Protection Agency.

Statute: 33 U.S.C. 1251, *et seq.* (federal Water Pollution Control Act)

Contact: U.S. ENVIRONMENTAL PROTECTION AGENCY
Montana Office, Helena

WATER WELLS

1. Types of Activities Regulated

All wells must be drilled by a water well contractor, water well driller or monitoring well constructor licensed by the Board of Water Well Contractors (BWWC) or by a person who has obtained an exemption permit from the BWWC to drill a well on their own land for agricultural or residential use.

Within 60 days after completion of the well, water well contractors and drillers must file a well log report form with the Montana Bureau of Mines and Geology (MBMG). Drillers must provide a location for the well using at least two methods as specified on the report form. Forms may be mailed to the Ground Water Information Center at the MBMG or filed electronically at <http://mbmaggwic.mtech.edu/>.

Wells drilled by individuals for private use must conform to the minimum construction standards set by the BWWC. See also WATER APPROPRIATIONS - GROUND WATER, p. 188.

Statute: 37-43-101, *et seq.*, MCA
85-2-516, MCA

Rule: ARM 36.21.634, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

Water Resources Division office in Helena; or local Water
Resources Regional Offices (see APPENDIX 2)

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
BOARD OF WATER WELL CONTRACTORS

MONTANA TECH OF THE UNIVERSITY OF MONTANA
Bureau of Mines and Geology

2. Application Requirements

A person planning the drilling, making, construction, alteration, or rehabilitation of one or more water or monitoring wells for underground water must file a license application with the BWWC. The application must include verification of one or more years in the water well or monitoring field or equivalent education, experience, or both.

Individuals applying for a permit to drill a well on their own property must show interest in the land on which the well will be constructed and the method of construction to be used.

3. Permitting Procedures

Water well driller and monitoring well constructor license applications are reviewed for completeness by the Board of Water Well Contractors. Once the application is reviewed, then an exam may be taken at a DNRC office in Helena or at the Water Resources Division regional offices. A bond or its equivalent must be posted by water well contractors and monitoring well constructors. Licenses are issued when the exam is passed and any required bonds are submitted.

Rule: ARM 36.21.402, *et seq.*

4. Fees

A. A filing fee may be required for a new permit or for a change to or modification of an existing permit.

B. Driller's license application and license renewal fees are:

Category	Application Fee	Renewal Fee	Dates Valid
Water Well Contractor	\$575	\$575	July 1 - June 30
Water Well Driller	\$475	\$475	July 1 - June 30
Monitoring Well Constructor	\$575	\$575	July 1 - June 30

C. There is no fee for filing the well log report form. There is a \$100 Exemption Permit fee for drilling a well on one's own property.

Statute: 37-43-307, MCA

Rule: ARM 36.12.103 and 36.21.415

WEATHER MODIFICATION

1. Types of Activities Regulated

A license and permit from the Montana Department of Natural Resources and Conservation (DNRC) are required to engage in weather modification and control activities. License and permit forms are available from the department.

Statute: 85-3-101 through 85-3-401, MCA

Rule: ARM 36.20.102 - 36.20.401

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Water Resources Division
Water Management Bureau

2. Application Requirements

A. License

An applicant for a weather modification license must demonstrate competence in the field of meteorology and complete an application form available from the Water Resources Division of the DNRC. A license expires at the end of the calendar year. Qualified licensees may apply for a renewal.

B. Permit

A person holding a valid weather modification license must receive a permit before engaging in actual weather modification and control activities. Separate permits are required for each operation. A permit applicant must also file a notice of intention. The notice must include the applicant's name and address; the nature, purpose, and objective of the intended operation and the person or organization on whose behalf the operation will be conducted; the approximate time during which the operation will be conducted; the area affected; and the materials and methods that will be used. The DNRC must publish the notice at least once a week for two consecutive weeks in a newspaper having general circulation in the affected county(ies).

Statute: 85-3-201 through 85-3-210, MCA

3. **Permitting Procedures**

A. License

Information provided in the license applications is corroborated by the DNRC. The DNRC then approves or denies the application based upon the statutory criteria.

B. Permit

Permit applications must be submitted at least 180 days prior to the date the weather modification operation is scheduled to begin. If the operation is new, the applicant is advised to consult with the DNRC prior to submitting a permit application. Once received, the application is evaluated, and an Environmental Impact Statement (see MONTANA ENVIRONMENTAL POLICY ACT, p. 125) must be prepared by the DNRC. A hearing may be required at the applicant's expense. The DNRC may approve, approve with conditions, or reject an application based on the criteria described below.

Statute: 85-3-206, MCA

Rule: ARM 36.20.301

4. **Fees**

A. The fee for a license or license renewal to conduct weather modification operations is \$100.

B. The fee for a permit to conduct weather modification operations is one percent of the estimated cost of the operation.

C. The applicant must reimburse the DNRC for all costs associated with any public meetings or hearings, preparing the report, and preparing the EIS.

Statute: 85-3-202(1), 85-3-205, 85-3-206(2d), and 85-3-212, MCA

5. **Criteria**

A. License

Competence in the field of weather modification and meteorology must be demonstrated by the applicant's experience and education or certification by a nationally recognized weather modification professional society, agency, or organization. A minimum of one year of experience in management and control of a weather modification operation is required.

B. Permit

The following approval criteria must be met.

- 1) the person in charge is licensed to conduct weather modification activities in Montana;
- 2) the project has been properly noticed;
- 3) the project has been insured in a manner that would protect victims of any unintended weather modification results;
- 4) the fees have been or will be paid, in accordance with the statute; and
- 5) the project is determined by the DNRC to be for the general welfare and public good.

Statute: 85-3-206, MCA

6. **Additional Information**

On petition of county residents, a county may establish a weather modification authority to engage in weather modification activities.

Statute: 85-3-401, *et seq.*, MCA

APPENDIX 1: MONTANA STATE AGENCIES

DEPARTMENT OF ADMINISTRATION

Director, Misti Ann Giles
Mitchell Building
125 N. Roberts St.
P.O. Box 200101
Helena, MT 59620-0101
(406) 444-2032
<http://doa.mt.gov>

Burial Preservation Board

Chief Legal Counsel, Don Harris
P.O. Box 200101
(406) 444-3310
don.harris@mt.gov

Human skeletal remains and burial materials

DEPARTMENT OF AGRICULTURE

Interim Director, Zac Coccoli
Agriculture and Livestock Building
302 N. Roberts St.
P.O. Box 200201
Helena, MT 59620-0201
(406) 444-3144
<http://agr.mt.gov>

Agricultural Sciences Division

Administrator, Ian Foley
(406) 444-9454
ifoley@mt.gov

Aerial pesticide applications
Agricultural seed dealers, cleaners, and labelers
Anhydrous ammonia dealers
Beekeeping
Commercial Hemp Production
Fertilizer registration and distribution
Noxious weed free forage
Nurseries
Organic certification
Pesticide applicators
Pesticide registration
Plant exportation

Agricultural Development Division

Deputy Director/Administrator, Zac Coccoli
(406) 444-0132
z.coccoli@mt.gov

Natural beef cattle certification

DEPARTMENT OF COMMERCE

Director, Paul Green
301 S. Park Ave.
P.O. Box 200501
Helena, MT 59620-0501
(406) 841-2700
<http://commerce.mt.gov>

Community Development Division

Administrator, Galen Steffens
301 S. Park Ave.
P.O. Box 200523
Helena, MT 59620-0523
(406) 841-2784
galen.steffans@mt.gov

Hard-Rock Mining Impact Board

Board Officer, Rachel Young
(406) 841-2867
rachel.young@mt.gov

Hard-rock mining, community impact

Community Planning Programs
Community Technical Assistance Program
Supervisor, Ann Schwend
(406) 841-2819
ann.schwend@mt.gov

Subdivisions (general information)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Director, Sonja Nowakowski
1520 E. 6th Ave.
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-2544
<http://deq.mt.gov>

Director's Office

Director, Sonja Nowakowski
(406) 444-0946

Emergency Planning & Community Right to Know

Public Policy

Director, Rebecca Harbge
(406) 444-2813
rharbage@mt.gov

*Major Facility Siting Act
Pipelines*

Air, Energy & Mining Division

Administrator, Dan Walsh
(406) 444-6791
dwalsh@mt.gov

Air Quality Bureau

Chief, Bo Wilkins
Ph: (406) 444-0286
bo.wilkins@mt.gov

*Air quality permits
Burning permits
Incinerators
Air quality monitoring
Registered facilities*

Energy Bureau

Chief, Ben Brouwer
(406) 444-6658
bbrouwer@mt.gov

*Energy Support Function #12 (Energy Emergencies)
Energy planning, finance, and technical assistance
Public buildings and energy efficiency
Radon Control
Renewable Energy (wind, solar, hdyro, biomass, etc. - general information)
Energy Codes for buildings
Alternative transportation (electric vehicles and charging, propane, clean diesel)
Small Business Ombudsman
Alternative Energy Revolving Loan Program
SMART Schools*

Mining Bureau

Acting Chief, Eric Dahlgren
(406) 444-5245
edahlgren@mt.gov

Hard Rock Mining Main Number
(406) 444-4953

Hard-rock mining
Milling/reprocessing
Small miner exemption

Coal & Opencut Mining Main Number
(406) 444-4970

Coal mining
Gravel pits/opencut mining
In situ coal gasification

Water Quality Division

Administrator, Lindsey Krywaruchka
(406) 444-4632
lkrywaruchka@mt.gov

Public Water Supply Bureau

Chief, Greg Olsen
(406) 444-0493
gregolsen@mt.gov

Gray water reuse permits
Public sewer systems
Public water supplies

Engineering Bureau

Chief, Rachel Clark
(406) 444-1277
rachel.clark.2@mt.gov

Drinking water state revolving fund
Water pollution control state revolving fund
Public water/wastewater engineering plan review
Subdivisions, sanitary restrictions

Water Protection Bureau

Chief, Tatiana Davila
(406) 444-0420
tatiana.davila@mt.gov

308 and 318 authorizations
401 permitting
Animal confinement facilities
Discharge permits
Feedlots
Nondegradation review
Oil and gas wells
Outstanding resource waters
Storm water permits
Water pollution discharge permits
Wellhead protection
Wetland program
Watershed management

Water Quality Planning Bureau

Chief, Andy Ulven
(406) 444-2680
andrew.ulven@mt.gov

Water data management
Water quality monitoring and standards

Waste Management & Remediation Division

Administrator, Amy Steinmetz
(406) 444-6383
asteinmetz@mt.gov

Tanks, Brownfields, and Federal Facilities Bureau

Chief, Terri Dorrington
(406) 444-6435
tmavencamp2@mt.gov

Contaminated site cleanup
Leaking underground storage tanks
Petroleum releases
Site response

Federal Superfund, AML & Construction Bureau

Chief, Katie Garcin-Forba
(406) 444-6445
tstoops@mt.gov

Superfund hotline (800) 246-8798

Superfund
Abandoned mine waste cleanup

Waste Management Bureau

Chief, Rick Thompson
(406) 444-5345
ruthompson@mt.gov

Asbestos control
Landfills
Hazardous and medical waste incinerators
Hazardous waste
Methamphetamine labs - cleanup of illegal labs
Motor vehicle wrecking facilities
Roadside junkyards
Solid waste
Septic tank, cesspool, and privy cleaning
Underground storage tanks

ENVIRONMENTAL QUALITY COUNCIL

Legislative Branch, Legislative Environmental Policy Office
Legislative Environmental Analyst, Jason Mohr
State Capitol, Room 171
P.O. Box 201704
Helena, MT 59620
(406) 444-3742
<http://legmt.gov/eqc>

MEPA

Environmental Assessments
Environmental Impact Statements

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Director, Christy Clark
1420 E. 6th Ave.
P.O. Box 200701
Helena, MT 59620
(406) 444-3186
<http://fwp.mt.gov>

Fish farms or hatcheries
Registration of experimental use pesticides
Recreational use of rivers
Smith River float permits

Chief of Conservation Policy

Quentin Kujala
(406) 444-3196
qkujala@mt.gov

Chief of Operations

Marina Yoshioka
(406) 444-4600
MYoshioka@mt.gov

Chief of Administration

Robin Graham
(406) 444-4625
rgrahan@mt.gov

Chief of Staff

Melissa Watson
(406) 444-3888
Melissa.Watson@mt.gov

Chief of Law Enforcement

Ron Howell
(406) 444-5657
RHowell@mt.gov

Aerial herding permit
Alternative livestock ranches
Avicultural permit
Boating (for general information)
Captive breeding of raptors
Commercial use of Fish, Wildlife and Parks lands
Controlled exotic species permit
Falconry permit
Field trial permit
Fishing, hunting, trapping regulations
Fur dealers
Game bird or fur farms
Game farms
Ice fishing shelters
Migratory birds
Off-highway vehicles (for general information)
Possessing live upland game birds
Possessing wild animals
Roadside menageries
Shooting preserves, shooting preserve bird tags
Snowmobiles (for general information)
Taxidermy
Trapping
Using wild game birds in dog training
Using captive-reared birds in dog training
Wild animal menageries
Zoos

Fisheries Division

Administrator, vacant
(406) 444-2448

Commercial fishing or seining
Commercial pond license
Fish ponds
Fishing derbies
Importation of fish or fish eggs
Nongame and endangered fish species
Private pond license
River recreation
Salmon eggs
Scientific collectors permit (fish)
Seining
Streambed protection

Wildlife Division

Administrator, Ken McDonald
(406) 444-5645
kmcdonald@mt.gov

Baits on FWP lands
Game preserves
Importation or introduction of wildlife
Nongame and endangered wildlife species
Scientific collectors permit (wildlife)
Use of poison bait on FWP lands
Wild bird permits

Parks and Outdoor Recreation Division

Administrator, vacant
(406) 444-4585

Commercial use of Fish, Wildlife and Parks lands
State fishing access site permit
State parks
Conservation easements
Habitat preservation

MONTANA HISTORICAL SOCIETY

Director, Molly Kruckenberg
225 N. Roberts St.
P.O. Box 201201
Helena, MT 59620-1201
Ph: (406) 444-5485
<http://mhs.mt.gov>

State Historic Preservation Office

Jessica Bush, State Archeologist
1410 8th Ave.
P.O. Box 201202
(406) 444-0388
jbush@mt.gov

Antiquities permits
Burial site preservation
Heritage site preservation

DEPARTMENT OF JUSTICE
Attorney General, Austin Knudsen
215 N. Sanders St., 3rd Floor
P.O. Box 201401
Helena, MT 59620
(406) 444-2026
<http://doj.mt.gov>

Division of Criminal Investigation

Administrator, vacant
2225 11th Ave.
P.O. Box 201417
(406) 444-2967
Helena, MT 59604

Fire Prevention and Investigation Section

State Fire Marshall, Dirk Johnson
Department of Justice
P.O. Box 991
Great Falls, MT 59403
(406) 771-1510
dirk.johnson@mt.gov

Aboveground storage tanks

Motor Vehicle Division

Administrator, Laurie Bakri
302 N. Roberts St., Scott Hart Building
P.O. Box 201430
(406) 444-3638
LaurieBakri2@mt.gov

Boat registration
Motor vehicle wrecking facility quarterly reports
Off-highway vehicle registration
Snowmobile registration

DEPARTMENT OF LABOR AND INDUSTRY

Commissioner, Sarah Swanson
1327 Lockett, Walt Sullivan Building
P.O. Box 1728
Helena, MT 59624
(406) 444-1785
<http://dli.mt.gov>

Business Standards

Deputy Administrator, Dave Cook
301 S. Park Ave.
P.O. Box 200517
Helena, MT 59620
(406) 841-2303
dcook@mt.gov

Builder and Commercial Measurements Bureau

Chief, Eric Copeland
(406) 437-4240
ECopeland@mt.gov

Building codes

Professional and Occupational Licensing Bureau

Deputy Administrator, David Cook
(406) 841-2303
dcook@mt.gov

Board of Outfitters and Guides
Interim Executive Officer, Missy Poortenga
301 S. Park Ave., 4th Floor
P.O. Box 200513
(406) 841-2004, main number
dlibsout@mt.gov

Outfitters and guides

Board of Realty Regulation
Executive Officer, Rhonda Morgan
(406) 841-2244
dlibsdrre@mt.gov

Radon disclosure statements (general information)

Employment Standards Division

Administrator, Eric Strauss
1805 Prospect Ave.
P.O. Box 8011
(406) 444-1574
EStrauss@mt.gov

Safety Compliance

Supervisor, Jake Sandau
301 South Park Ave., Floor 5
P.O. Box 8011
(406) 444-6595
JSandau@mt.gov

Coal mining safety regulations
Hard-rock mining safety regulations
Health and safety - public buildings
Opencut mining safety regulations

DEPARTMENT OF LIVESTOCK

Executive Officer, Mike Honeycutt
Scott Hart Building, 3rd Floor
301 N. Roberts St.
P.O. 202001
Helena, MT 59620
(406) 444-7323
<http://liv.mt.gov>

Meat, Milk and Egg Inspection Bureau

Chief, Alicia Love
(406) 444-5202
alicia.ove2@mt.gov

Slaughterhouses and meatpacking plants
Dairies

Animal Health Division

Administrator/State Veterinarian, Tahnee Szymanski, DVM
(406) 444-0982
tszymanski@mt.gov

Animal health
Importation of livestock

Brands Enforcement Division

Administrator, Jay Bodner
Scott Hart Building, Second Floor
(406) 444-2925

jay.bodner@mt.gov

*Livestock inspection
Predator control*

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Director, Amanda Kaster
1539 11th Ave.
P.O. Box 201601
Helena, MT 59620
Ph: (406) 444-2074
<http://dnrc.mt.gov>

Conservation and Resource Development Division

Administrator, Mark Bostrom
(406) 444-9708
mbostrom2@mt.gov

Conservation Districts Bureau

Chief, Stephanie Criswell
(406) 444-6669
steph.criswell@mt.gov

*Conservation districts
Stream banks, stream beds*

Forestry Division

Administrator, Shawn Thomas
2705 Spurgin Rd.
Missoula, MT 59804
Ph: (406) 444-4300
sthomas@mt.gov

Fire Protection Bureau

Chief, Matt Hall
(406) 542-4304
matthall@mt.gov

Burning permits

Forestry Assistance Bureau

Chief, Matt Arno
(406) 542-4239
mattarno@mt.gov

*Best Management Practices
Hazard reduction*

Slash disposal
Streamside management zones

Forest Management Bureau

Chief, Dan Rogers
2705 Spurgin Rd.
(406) 542-4300
danrogers@mt.gov

Contract timber harvesting
Timber conservation license
Timber removal
Timber sales

Board of Oil & Gas Conservation Headquarters

Administrator/Petroleum Engineer, Ben Jones
2535 St. John's Avenue
Billings, MT 59102
(406) 656-0040
bjones@mt.gov

See also APPENDIX 2: State agency regional offices

Geophysical exploration
Oil, gas, and coal bed methane development

Trust Land Management Division

Administrator, Shawn Thomas
(406) 444-2074
sthomas@mt.gov

Agriculture and Grazing Management Bureau

Chief, Kelly Motichka
(406) 444-3847
kmotichka@mt.gov

Cropland leases on state land
Grazing leases on state land

Minerals Management Bureau

Chief, Trevor Taylor
(406) 444-3843
ttaylor2@mt.gov

Mineral leases on state land
Underground storage of natural gas

Real Estate Management Bureau

Chief, Deidra Kloberdanz
(406) 444-3844
deidra.kloberdanz@mt.gov

Cabin leases
Easements on state land
Exchanges of state land
Hydroelectric sites
Leases of state land
Land use licenses
Navigable waters
Recreational use licenses
Sales of state land

Water Resources Division

Administrator, Anna Pekenham Stevenson
1424 9th Ave.
(406) 444-6601
anna.pakenhamstevenson@mt.gov

State Water Projects Bureau

Chief, Mark McNearney
(406) 444-6646
mmcnearney@mt.gov

State water projects - canals, dams, hydropower

Planning, Implementation and Communications Bureau

Chief, Cori Hach
(406) 444-4571
pazevedo@mt.gov

Water planning
Weather modification

Water Operations Bureau

Chief, John Connors
(406) 444-0860
jconnors@mt.gov

Dams safety program
Floodplain regulation
Lakeshores
Water measurement program
Water well construction standards

Water Rights Bureau

Chief, Nathaniel Ward
(406) 444-6610
nward@mt.gov

*Closed basins
Coal bed methane water use
Controlled ground water areas
Water rights*

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Director, Charlie Brereton
111 N. Sanders St.
P.O. Box 4210
Helena, MT 59604
(406) 444-5623
<http://dphhs.mt.gov>

Public Health and Safety Division

Administrator, Stacy Campbell
Cogswell Building, 1400 Broadway
P.O. Box 202951
(406) 444-0303
stcampbell@mt.gov

Communicable Disease Control and Training Bureau

Chief, Bekki Krisch Wehner
(406) 444-0065
bkirschwehner@mt.gov

Communicable Disease Epidemiology Section
Supervisor, Magdalena Scott
(406) 444-3049
magdalena.scott@mt.gov

Possession of wild animals

Environmental Health and Food Safety Section
Supervisor, Staci Evangeline
(406) 444-2837
staci.evangelina@mt.gov

Trailer courts, camp grounds, work, and youth camps

Office of Inspector General (Quality Assurance Division)

Inspector General, Michelle Truax
1100 North Last Chance Gulch
(406) 444-4120
mtruax@mt.gov

Licensure Bureau
Chief, Tara Wooten
(406) 444-7770
tara.wooten@mt.gov

Radiation control
Radioactive waste disposal

PUBLIC SERVICE COMMISSION
1701 Prospect Ave., Vista Square Building
P.O. Box 202601
Helena, MT 59620
Ph: (406) 444-6199
<http://psc.mt.gov>

Regulatory Division
Administrator, Will Rosquist
(406) 444-6359
wrosquist@mt.gov

Motor carrier regulation
Natural gas suppliers
Pipelines
Utilities

SECRETARY OF STATE
Christi Jacobsen
1301 E. 6th Ave.
State Capitol, Room 260
P.O. Box 202801
Helena, MT 59620
Ph: (406) 444-2034
<http://sosmt.gov>

Business Services Division
Director, Kellee English
(406) 444-0489
<https://sosmt.gov/business/>

Certificate of authority (oil and gas)
Surety bonds

DEPARTMENT OF TRANSPORTATION
Director, Chris Dorrington
2701 Prospect Ave.
P.O. Box 201001

Helena, MT 59620-1001
(406) 444-6201
<http://mdt.mt.gov>

Aeronautics Division

Administrator, Tim Conway
2630 Airport Rd.
P.O. Box 200507
(406) 444-9547
tconway@mt.gov

Aerial pesticide application

Engineering Division

Chief Engineer, Dustin Rouse
2701 Prospect Ave.
(406) 444-6005
drouse@mt.gov

Right-of-Way Bureau

Chief, Jason Gilliams
(406) 444-6063
jgilliam@mt.gov

*Easements, encroachments
Highway advertising
Roadside junkyards*

Maintenance Division

Administrator, Jon Swartz
2701 Prospect Ave.
(406) 444-6158
joswartz@mt.gov

Area Maintenance Bureaus

(see APPENDIX 2)

*Approach permits
Utility permits*

Motor Carrier Services Division

Administrator, Eric Belford
2701 Prospect Ave.
(406) 444-7312
ebelford@mt.gov

*Motor carrier regulation, interstate
Over size and weight permits*

APPENDIX 2: STATE AGENCY REGIONAL OFFICES

DEPARTMENT OF AGRICULTURE

Billings: 315 S. 24th St. West, Suite #3
Billings, MT 59102
(406) 652-1917

Bozeman: MDA Analytical Lab
McCall Hall, MSU
P.O. Box 173620
Bozeman, MT 59717-3620
(406) 577-7918

2273 Boothill Court, Suite 120
Bozeman, MT 59715
(406) 587-9067

Glasgow: 605 2nd Ave. South, Room 203
Glasgow, MT 59230
(406) 228-9590

Great Falls: 201 1st Street South, Suite 4
Great Falls, MT 59401
(406) 761-0655

Helena: 302 N. Roberts
Helena, MT 59601
(406) 444-9493

Kalispell 275 Corporate Dr., Suite 800
Kalispell, MT 59901
(406) 257-9019

Lewistown: 625 NE Main Street, Suite 3
Lewistown, MT 59457
(406) 538-3004

Missoula: 2681 Palmer St., Suite G
Missoula, MT 59808
(406) 329-1346

DEPARTMENT OF ENVIRONMENTAL QUALITY

HELENA:

Headquarters	Waste Management & Remediation Division (Except Waste & Underground Tank Bureau), Petroleum Tank Release Compensation Board	Coal & Opencut Mining Bureau, Air, Energy & Mining Division	Air Monitoring - Air, Energy & Mining Division
1520 E. 6th Avenue P.O. Box 200901 Helena, MT 59620-0901	1225 Cedar Street P.O. Box 200901 Helena, MT 59620-0901	1218 East 6th Avenue P.O. Box 200901 Helena, MT 59620-0901	2800 Airport Road P.O. Box 200901 Helena, MT 59620-0901
(406) 444-2544 TTY (409) 444-9526	(406) 444-6444 TTY (409) 444-6783	(406) 444-4970 TTY (409) 444-4988	(406) 444-3490 TTY (409) 444-1499

BILLINGS:

Airport Business Park IP-9 1371 Rimtop Drive Billings, MT 59105-9702	Airport Business Park IP-9 1371 Rimtop Drive Billings, MT 59105-9702	Airport Business Park IP-9 1371 Rimtop Drive Billings, MT 59105-9702
Water, Air, LUST, Enforcement	Air, Energy & Mining Bureau	Water Protection Bureau
(406) 247-4445	(406) 247-4430	Dan Freeland (406) 256-7655

BOZEMAN:

Martel Building, Suite 3B 220 West Lamme Bozeman, MT 59715	Martel Building, Suite 3B 220 West Lamme Bozeman, MT 59715	Martel Building, Suite 3B 220 West Lamme Bozeman, MT 59715
Water Protection Bureau	Water Quality Engineering	Mining
Chris Romankiewicz: (406) 475-2138	Angela Paugh (406) 595-0491 Jenny Warren (406) 579-0976	Julian Calabrese (406) 566-4513

BOZEMAN:

Martel Building, Suite 3B 220 West Lamme Bozeman, MT 59715		655 Timberwood, Suite 3 Kalispell, MT 59901
Contaminated Site Cleanup		
Latysha Pankratz (406) 556-4512 Eric Krueger (406) 406 556-6280		(406) 755-8985

KALISPELL:

MISSOULA:

Deschamps Building 2801 Connery Way, Suite A Missoula MT 59808	Deschamps Building 2801 Connery Way, Suite A Missoula MT 59808	Deschamps Building 2801 Connery Way, Suite A Missoula MT 59808
Water Protection Bureau	Public Water Supply Bureau	Contaminated Site Cleanup
John O'Bannon (406) 218-7412	Sandy Arnold (406) 541-9015 Jo May Adler (406) 541-9016	Katie Morris (406) 541-9017

DEPARTMENT OF FISH, WILDLIFE AND PARKS

Billings: Region 5
2300 Lake Elmo Dr.
Billings, MT 59105
(406) 247-2940
fwprg52@mt.gov

Bozeman: Region 3
1400 S. 19th
Bozeman, MT 59718
(406) 577-7900
fwprg3@mt.gov

Glasgow: Region 6
1 Airport Road
Glasgow, MT 59230
(406) 228-3700
fwprg62@mt.gov

Great Falls: Region 4
4600 Giant Springs Rd.
Great Falls, MT 59405
(406) 454-5840
fwprg42@mt.gov

Kalispell: Region 1
490 N. Meridian Rd.
Kalispell, MT 59901
(406) 752-5501
fwprg12@mt.gov

Miles City: Region 7
352 I-94 Business Loop
Miles City, MT 59301
(406) 234-0900
fwprg72@mt.gov

Missoula: Region 2
3201 Spurgin Rd.
Missoula, MT 59804
(406) 542-5500
fwprg22@mt.gov

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

OIL AND GAS CONSERVATION DIVISION FIELD OFFICES

Billings: Division Headquarters Office
2535 St. Johns Ave.
Billings, MT 59102
(406) 656-0040

Shelby: 201 Main St.
P.O. Box 690
Shelby, MT 59474-0690
(406) 434-2422

FORESTRY AND TRUST LAND MANAGEMENT FIELD OFFICES

Billings: Southern Land Office
Airport Industrial Park
1371 Rimtop Dr.
Billings, MT 59105
(406) 247-4409

Helena: Central Land Office
8001 N. Montana Ave.
Helena, MT 59602
(406) 458-3500

Kalispell: Northwestern Land Office
655 Timberwolf Parkway, Suite 1
Kalispell, MT 59901-1225
(406) 751-2240

Lewistown: Northeastern Land Office
613 N. E. Main St.
P.O. Box 1021
Lewistown, MT 59457-1021
(406) 538-7789

Miles City: Eastern Land Office
85 Garryowen Road
Miles City, MT 59301
(406) 232-2034

Missoula: Southwestern Land Office
1401 27th Ave.
Missoula, MT 59804
(406) 542-4200

WATER RESOURCES DIVISION REGIONAL OFFICES

Billings: Airport Industrial Park
1371 Rimtop Dr.
Billings, MT 59105-1978
(406) 247-4415

Bozeman: 2273 Boothill Ct., Suite 110
Bozeman, MT 59715
(406) 586-3136

Glasgow: 222 Sixth St. South
P.O. Box 1269
Glasgow, MT 59230-1269
(406) 228-2561

Havre: 210 Sixth Ave.
P.O. Box 1828
Havre, MT 59501-1828
(406) 265-5516

Helena: 1424 Ninth Ave.
P.O. Box 201601
Helena, MT 59620-1601
(406) 444-6999

Kalispell: 655 Timberwolf Parkway, Suite 4
Kalispell, MT 59901-1215
(406) 752-2288

Lewistown: 613 NE Main St., Suite E
Lewistown, MT 59457-2020
(406) 538-7459

Missoula: 2705 Spurgin Rd., Building C
P.O. Box 5004
Missoula, MT 59806-5004
(406) 721-4284

DEPARTMENT OF TRANSPORTATION - DISTRICT OFFICES

Billings: District 5
424 Morey Street
P.O. Box 20437
Billings, Mt 59104-0437
(406) 252-4138

Butte: District 2
3751 Wynne
P.O. Box 3068
Butte, MT 59702-3068
(406) 494-9600

Glendive: District 4
503 N. River Ave.
P.O. Box 890
Glendive, MT 59330-0890
(406) 345-8200

Great Falls: District 3
200 Smelter Ave. NE
P.O. Box 1359
Great Falls, MT 59403-1359
(406) 454-5880

Missoula: District 1
2100 W. Broadway
P.O. Box 7039
Missoula, MT 59807-7039
(406) 523-5800

APPENDIX 3: LOCAL PERMITTING AUTHORITIES

CONSERVATION and GRAZING DISTRICT SUPERVISORS

For forms and a statewide list of conservation or grazing districts:

Montana Department of Natural Resources and Conservation
Conservation and Resource Development Division
Administrator, Mark Bostrom
(406) 444-9708
<https://dnrc.mt.gov/Conservation/>

*Activities that affect stream banks or beds on private 26nd (310 permit)
Grazing*

DISTRICT COURT

<https://courts.mt.gov/courts/dcourt/>

*Mining right-of-way
Relocation of overhead lines for the purposes of installing an agricultural improvement*

LOCAL GOVERNING BODIES: CITY OR TOWN COUNCILS OR BOARD OF COUNTY COMMISSIONERS

For general city or county information:

Montana League of Cities and Towns

700 W. Custer Ave.
P.O. Box 7388
Helena, Montana 59604-7388
(406) 442-8768
<http://www.mtleague.org/>

Montana Association of Counties

2715 Skyway Dr. Suite A
Helena, MT 59602
(406) 449-4360
<https://www.mtcounties.org/>

*Air quality permits for cities that administer their own programs
Building codes
Burning permits
Encroachments on county roads
Floodway regulation
Geophysical exploration
Improvement districts
Lakeshore protection
Large scale mining developments
Licensing boats, off-highway vehicles or snowmobiles
Mains, water, and sewer
Overhead lines
Pipelines in public streets and alleys
Recording mining claims
Stream preservation
Subdivision plat approval
Timber removal on county property
Underground excavations
Utility extensions
Zoning*

LOCAL HEALTH OFFICIALS

Campgrounds

Dairies

Food service establishments

Gray water permits

Septic tanks, cesspools, and privies

Solid waste disposal facilities

Subdivisions, sanitary restrictions

Tourist campgrounds

Trailer courts

APPENDIX 4: FEDERAL AGENCIES

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

Northern Region

<https://www.fs.usda.gov/r1>
26 Fort Missoula Road
Missoula, MT 59807
(406) 329-3511

*Activities on Forest Service land
burning permits, grazing leases, mining*

U.S. DEPARTMENT OF THE ARMY CORPS OF ENGINEERS

<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/Montana.aspx>

Helena: Montana Regulatory Program
100 Neill Ave.
Helena, MT 59601
(406) 441-1375 Fax: (406) 441-1380
Montana.Reg@usace.army.mil

Billings: 490 North 31st St. Suite 112
P.O. Box 7032
Billings, MT 59103
(406) 657-5910 Fax: (406) 657-5911

Missoula: 1600 North Ave. West, Suite 105
Missoula, MT 59801
(406) 541-4845 x323 Fax: (406) 5414849

*Dams and reservoirs
Stream preservation, wetlands*

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

<http://www.blm.gov/mt/st/en.html>

Billings: 5001 Southgate Dr.
Billings, MT 59101
(406) 896-5013

Butte: 106 N. Parkmont Ave.
Butte, MT 59702
(406) 533-7600

Dillon: 1005 Selway Dr.
Dillon, MT 59725
(406) 683-8000

Glasgow: 5 Lasar Dr.
Glasgow, MT 59230
(406) 228-3750

Great Falls: 1220 38th St. North
Great Falls, MT 59405
(406) 791-7000

Havre: 3990 Highway 2 West
Havre, MT 59501
(406) 262-2820

Lewistown: 920 N. NE Main St.
Lewistown, MT 59457
(406) 538-1900

Malta: 501 South 2nd Ave. East
Malta, MT 59538
(406) 654-5100

Miles City: 111 Garryowen Rd.
Miles City, MT 59301
(406) 233-2800

Missoula: 3255 Fort Missoula Rd.
Missoula, MT 59804
(406) 329-3914

Grazing leases
Mine claim recording

U.S. FISH AND WILDLIFE SERVICE

<http://www.fws.gov/mountain-prairie/>

Bozeman: Montana Fish and Wildlife Conservation Office
4052 Bridger Canyon Road
Bozeman, MT 59715
(406) 585-9010

Helena: Montana Field Office
585 Shepard Way, Suite 1
Helena, MT 59601
(406) 449-5225

Kalispell: 780 Creston Hatchery Rd.
Kalispell, MT 59901
(406) 758-6868

Migratory birds
Threatened and endangered species
Wind energy

U.S. DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

<http://www.osha.gov>

2900 4th Ave. N., Suite 303
Billings, MT 59101
(406) 247-7494

Indoor emissions
Occupational noise

**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

https://www.faa.gov/airports/northwest_mountain
Northwest Mountain Region
Helena Airports District Office
FAA Building
2725 Skyway Dr., Suite 2
Helena, MT 59602-1205
(406) 449-5271

airport areas

U.S. ENVIRONMENTAL PROTECTION AGENCY

<https://www.epa.gov/aboutepa/epa-region-8-mountains-and-plains>

Helena: Region 8, Montana Office
 10 West 15th St., Suite 3200
 Helena, MT 59626
 (406) 457-5000
 (866) 457-2690

Activities on tribal lands
NPDES Permits
Pesticide registration

Denver: U.S. EPA Region 8
 80C-EISC
 1595 Wynkoop St.
 Denver, CO 80202
 (303) 312-6312
 (800) 227-8917
 r8eisc@epa.gov

Radon information
Underground injection wells

U.S. FEDERAL ENERGY REGULATORY COMMISSION

<https://www.ferc.gov/how-contact-ferc>
Email: douglas.johnson@ferc.gov

Portland Regional Office
1201 NE Lloyd Blvd. Suite 750
Portland, OR 97232
(503) 552-2715

Hydroelectric sites

APPENDIX 5: TRIBAL GOVERNMENTS

BLACKFEET TRIBE

www.blackfeetnation.com
Blackfeet Nation
640 All Chiefs Road
P.O. Box 850
Browning, MT 59417
(406) 338-7521

CHIPPEWA CREE TRIBE

31 Agency Square
Box 544
Box Elder, MT 59521
(406) 395-5705

LITTLE SHELL CHIPPEWA TRIBE

www.montanalittleshelltribe.org
625 Central Avenue West
Great Falls, MT 59401
(406) 315-2400

CONFEDERATED SALISH AND KOOTENAI TRIBES

www.cskt.org
42487 Complex Blvd.
P.O. Box 278
Pablo, MT 59855
(406) 675-2700

CROW TRIBE

<http://www.crow-nsn.gov/>
Crow Nation
43 Heritage Lane
P.O. Box 159
Crow Agency, Montana 59022
(406) 638-3708

FORT BELKNAP TRIBE

www.ftbelknap.org/
Fort Belknap Indian Community
656 Agency Main Street
Harlem, MT 59526
(406) 353-2205

FORT PECK TRIBES

www.fortpecktribes.org
Fort Peck Assiniboine & Sioux Tribes
501 Medicine Bear Rd.
P.O. Box 1027
Poplar, MT 59255
(406) 768-2300

NORTHERN CHEYENNE TRIBE

www.cheyennenation.com
600 Cheyenne Avenue
P.O. Box 128
Lame Deer, MT 59043-0128
(406) 477-6284

INDEX

INDEX

124 permit	12
310 permit	10
318 authorization	14
401 certification	14
404 permit	13, 44

A

Aboveground storage tanks	163
Administrative Procedures Act	124
Aerial herding	90
Aerial hunting	68, 69
Agriculture	15-33
Air quality	36-41
Airport Compatibility Act	35
Airports	35
Alfalfa leaf-cutting bee	17
Ambient air quality	39, 40
Anhydrous ammonia	19
Animal confinement facilities	197
Animal feeding operations	197
Antiquities permits	3
Apiaries	16, 17
Approach permits	65, 66
Aquatic invasive species	76, 85, 89, 93, 140, 141
Asbestos	47-49,
Asphalt plants	37
Avicultural permit	79, 98

B

Bait fish	84, 85
Beaverhead River	144
Bee keeping	16, 17
Beneficial use	188-195
Best Management Practices	61
Big Hole River	144
Blackfoot River	144-145
Bird dog training	74, 75, 86-88
Boating	140, 144
Boilers and industrial furnaces	151
Building codes	34
Burning permits	59
Business improvement district	173

C

Cabin sites	10
CAFO	16, 195, 196
Campgrounds	142
Capital improvements	173
Certificate of Clearance	61

Certificate of Compliance	42, 50, 177
Cesspools	159, 184
Clark Fork (Alberston Gorge) River	138
Class I injection well	138
Class II injection well	138
Class III injection well	138
Class IV injection well	138
Class V injection well	138
Class VI injection well	138
Clean Air Act	36
Clean Water Act	13, 14, 44, 56, 163-162, 202
Closed basin	194
CO2 pipeline	138
Coal bed methane	133, 141, 191
Coal gasification	105
Coal leases	119 26
Commercial fishing	70, 71
Commercial pond	75, 76
Commercial use	7, 71, 72, 73, 82, 144, 145
Community Right to Know	43
Conservation districts	1
Conservation easements	1, 2
Conservation license in Montana (recreational use)	9, 81, 89
Controlled exotic species permit	92
Controlled ground water area	190
Cropland leases	18
Cyanide	107, 1090

D

Dairies	58
Dam safety	180
Dams	44, 46, 180
Dikes	10
Discharge permits	16, 28, 196-200
Ditches	5, 10, 113
Dust abatement	189

E

Eagles	99
Easements	1, 2, 7-9, 55-57, 171, 172
Encroachment	66
Endangered species	ii, 96-97
Environmental assessment	125
Environmental impact statements	125
Evasion criteria	168
Exchange of land	8
Exotic wildlife	92, 93

F

Facility siting	50, 51
Falconry permit	93, 96, 99
Federal Clean Water Act	13, 44, 56, 163, 202, 203
Federal Insecticide, Fungicide, and Rodenticide Act	28-30
Federal Land Policy and Management Act	22
Federal Power Act	44, 45
Feedlots	195, 196

Fertilizers	18-20
Field trial permit	73, 74
Fire districts	174
Fire hazard reduction	59, 60
Fish farms	74
Fish hatcheries	74
Fish ponds	75
Fishing access site permit	72, 73
Fishing derbies	76
Fishing licenses	88, 89
Floodplain and Floodway Management Act	2
Floodplains and floodways	2, 14
Forage	24, 25
Forest practices	61, 62
Fracturing, hydraulic	133
Fuel tanks	160-164
Fur dealers	77
Fur farms	78

G

Game animal licenses	87, 88
Game bird farms	79, 80
Game bird licenses	87, 88
Game farms	72, 73
Game preserves	94
Geophysical exploration	130-137
Geothermal leases	42-43
Geothermal resources	41, 43, 50
Gravel	114, 122
Gray water	200
Grazing	7, 18, 20-22
Grazing on state lands	21
Ground water	188-191, 196-198
Growth policy	171
Guides	80

H

Hazardous waste	ii, 40, 41, 50, 149-159
Hazardous waste transfer facility	151
Hemp production	22-24
Heritage sites	3
Highway advertising	64
Highway approach permits	66
Highway encroachments	68
Highway utility easements	66, 172
Hunting dog training	86, 87
Hunting licenses	88, 89
Hydraulic fracturing	138
Hydroelectric power development	44-45, 180
Hydropower	44, 45, 180

I-K

Ice fishing	77
Importation of fish	94
Improvement and utility districts	173
In situ coal gasification	105

Incinerators	38-40, 151-155
Indoor emissions	47
Infectious waste	153, 154
Injection well	137-139
Junk vehicle	155-156

L

Lakeshore protection	5-7
Lakeshores	5
Landfills	59, 67, 157-159
Landowner Notification Act	113
Land use license	12, 13
Lighting districts	174
Local water quality districts	174

M

Madison River	145
Major facility siting	50
MAPA	52, 102, 104, 111, 118, 124, 131, 158
Meatpacking plant	58
Medical waste incinerators	40, 41
Menagerie	82, 83, 96
MEPA	125-129
Meteorology	207, 208
Methamphetamine labs	154, 155
Methane wells	191
MGWPCS Permit	196-200
Migratory birds	56, 79, 95, 99
Mineral crushing	114
Mineral rights	113
Montana Administrative Procedures Act	124
Montana Antiquities Act	4
Montana Clean Air Act	36
Montana Conservation License	9, 81, 89,
Montana Dam Safety Act	180
Montana Major Facility Siting Act	50
Montana Pesticides Act	28, 31
Montana Sanitation in Subdivisions Act	165-167, 170
Montana Subdivision and Platting Act	167-171
Montana Water Quality Act	195, 196
Motor vehicle wrecking facilities	155
Motorboats	140, 141
MPDES permit	196-199
Municipal revenue bonds	174

N-O

National Register of Historic Places	4
Natural beef cattle	23
Navigable waters	7-9, 13, 134
Nondegradation	201
Nongame wildlife	96, 97
Noxious weed	7, 16, 24
Nuclear facilities	49
Nuclear materials	49
Nurseries	25

Occupational noise	49
Occupational Safety and Health Administration	49
Oil and Gas	130-139
Open burning	59, 60
Opencut Mining Act	114
Opencut sand and gravel operations	114
Organic Administration Act	22
Organic certification	26
Outdoor advertising	64
Outfitters	80
Outstanding resource waters	201, 202
Over size and weight permits	66, 67
Overhead lines	188

P

Paleontological remains	3
Pesticide general permit	32
Pesticides	27-32
Petroleum Tank Release Cleanup Fund	164
Phytosanitary requirements	32
Pipelines	138, 175
Planning	167, 168
Planning board	,5, 6, 168, 169
Plant export	32, 33
Ponds	10, 75, 195
Predators	68, 77
Preference right	18, 21
Prevention of significant deterioration	40
Privies	184, 185
Public comment	38, 77, 104, 126, 153, 166, 169, 171, 193, 198, 202
Public notice	32, 37, 101, 102, 104, 116, 153, 189, 198, 199, 202
Public Rangelands Improvement Act	22
Public sewer systems	174
Public water supply systems	182

R

Radiation control	49
Radioactive waste disposal	157
Radon	50
Raptors	91-92
Reclaimed wastewater	187
Recreational use license	9, 10, 74, 87, 88
Refineries	34
Right to Know	43
River recreation	144, 141
Rivers and Harbors Act	13
Roadside junkyards	67
Roadside zoos	82, 83
Rural fire districts	174
Rural improvement districts	183

S

Sailboats	140, 149
SARA Title III	43
Seed	15-17, 23-25
Seining	84

Seismic exploration	131
Septage	184
Septic tanks	184
Sewer systems	174, 186
Shooting preserves	85
Slaughterhouse-Meatpacking plants	58
Small miner	107-109, 123
Small miner exclusion	107-109
Smith River	145
Snowmobiles	146-147
Soil amendments	18-20
Solar energy	55
Source water assessment	184
Source water protection	184
Special improvement districts	174
State parks	147-148
State-owned land	7, 42, 133, 135, 136, 137, 139
Storage tanks	159-164
Stream banks	10-14
Stream beds	10-14
Streamside management zones	61
Strip and Underground Mine Reclamation Act	103
Subdivisions	165-171
Surface owner	130-133, 135, 137, 138, 197

T-U

Taxidermy	86
Taylor Grazing Act	22
Temporary crushers	36
Timber cutting	60, 61
Timber harvests	61
Timber sales	7, 62, 63
Timber stand improvements	60
Trailer courts	142, 143
Transmission lines	13, 52-55, 178
Trapping licenses	88, 89
Underground injection well	137
Underground storage tanks	159-164
Utilities	171, 172
Utility easements	66, 172
Utility lines	177-179

V-Z

Ventilation Hotline	59
Wastewater	182-187, 195-200, 202
Water pollution discharge permits	195-201
Water quality standards	195-201
Water right ownership update	194
Water supply systems	191, 193
Water well contractors	204, 205
Water well driller	204, 205
Water wells	204
Water/sewer districts	173
Weather modification	206
Weed free forage	24

Well log	132, 204, 205
Well stimulation	133
Wellhead protection	184
Wetlands	11-14, 56
Wild animal menageries	82-83
Wildcrafting	88
Wildlife conservation license	9, 10, 81, 89
Wind energy	55-57
Work camps	142
Zoos	82-83