



Modernizing 310 Law Civil Penalties

A Fair, Transparent, and Impact-Based Enforcement Framework

National Association of State Conservation Agencies
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What is Montana's 310 Law

Why Penalty Modernization is Needed

310 Law is:
Legislature gave CDs authority to administer the Natural Streambed and Land Preservation Act (310 Law)
Requires private landowners to obtain a permit from the local conservation district before doing work that physically alters a natural, perennial-flowing stream or river, including its bed or immediate banks. Its purpose is to help keep streams as natural as practicable, reduce erosion and sedimentation, and protect beneficial uses of water. Only CDs in nation that have authority to implement a similar law
2025 Legislature
Bill to revise 310 civil penalties for violators of 310 Law. Bill passed legislature.
Governor Vetoed and in letter directed DNRC to work with the state assn. and CDs to work collaboratively to address situation. In response, formed MACD 310 Civil Penalties Working Group-MT CDs, MACD, DNRC



The working group surveyed districts to assess compliance issues, Researched comparable civil penalty structures in other Montana statutes Developed a proposal for reforming the civil penalty structure in the 310 law.

The Working Group Process



Collaborative Formation

MACD convened a specialized working group representing Conservation Districts, state agencies, technical consultants, and landowners.



Stakeholder Outreach

Gathered comprehensive feedback via statewide surveys, video presentations, and direct feedback from CDs and partner organizations.



Balancing Objectives

Designed a statewide formula that creates consistency while preserving crucial local board discretion and voluntary compliance incentives.





The Proposed Penalty Model

Transitioning from a fixed daily cap to a standardized, impact-driven formula.

The Proposed Penalty Formula

Calculated Penalty Base

Extent x Severity x Duration

Instead of a rigid \$500/day fine, the proposed model calculates penalties based directly on the physical scale and ecological severity of the unpermitted disturbance.



Severity and Extent Criteria



Extent of Impact: Quantified by stream disturbance volume/area (linear feet, square feet, or cubic yards).



Severity Rubric (0–2 Scale): Rated across key resource factors:

- Soil erosion & sedimentation
- Channel alteration & stability
- Water quality & turbidity
- Aquatic life & habitat impact



Duration: Days from violation confirmation to mitigation.



Statute vs. Rule Structure

MCA Statutory Changes

- **Simple Baseline in §75-7-123, MCA:**
Establishes statutory authority for formula-based penalty assessments and preserves local board authority.
- Keeps statutory language streamlined to prevent legislative obsolescence over time.

Administrative Rule

- **Detailed Guidance in ARM 36.2.4:**
Houses specific calculation matrices, impact rubrics, and procedural timelines.
- Allows periodic administrative updates and refinement based on practical district feedback.



Incentives and Local Discretion

-  **Cooperation First:** Warnings and voluntary restoration remain the primary enforcement mechanism.
-  **50% Penalty Reduction:** Automatically granted once active corrective action begins.
-  **Up to 100% Reduction:** District boards retain discretion to forgive penalties upon complete restoration.
-  **Board Discretion:** Local CD supervisors retain final decision-making authority for penalty adjustments.





RECAP



Thank You

Montana DNRC Stream Permitting | <https://dnrc.mt.gov/Licenses-and-Permits/Stream-Permitting/>

MACD 310 Law | <https://macdnet.org/310-law/>

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