

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.301.138, 24.301.142,)	PROPOSED AMENDMENT,
24.301.146, 24.301.154, 24.301.161,)	AMENDMENT AND TRANSFER,
24.301.172, 24.301.173, 24.301.181,)	ADOPTION, AND REPEAL
24.301.201, 24.301.202, 24.301.203,)	
24.301.206, 24.301.207, 24.301.351,)	
24.301.401, 24.301.481, 24.301.903,)	
and 24.301.904, the amendment and)	
transfer of ARM 24.301.501,)	
24.301.511, 24.301.513, 24.301.515,)	
24.301.523, 24.301.542, 24.301.565,)	
and 24.301.567, the adoption of NEW)	
RULES I through XVIII, and the repeal)	
of ARM 24.301.514, 24.301.516,)	
24.301.517, 24.301.518, 24.301.519,)	
24.301.520, 24.301.521, 24.301.522,)	
24.301.525, 24.301.535, 24.301.536,)	
24.301.537, 24.301.540, 24.301.543,)	
24.301.544, 24.301.545, 24.301.546,)	
24.301.547, 24.301.549, 24.301.550,)	
24.301.557, 24.301.558, 24.301.559,)	
24.301.560, 24.301.561, 24.301.562,)	
24.301.563, 24.301.564, 24.301.566,)	
24.301.576, and 24.301.577)	
pertaining to the state building code)	

TO: All Concerned Persons

1. On August 19, 2024, at 10:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/84321324816>
Meeting ID: 843 2132 4816, Passcode: 166993
- OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 843 2132 4816, Passcode: 166993

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on August 12, 2024, to advise us of the nature of the accommodation that you need. Please

contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The department proposes the following amendments to the Building Codes rules to update grammar and language. The amendments are intended to clarify and simplify the rules for ease of use by the department, the public, and all interested parties. Amendments are also necessary to implement and comply with legislation enacted by the 2023 Legislature. Substantive changes to each rule, including changes resulting from legislation, are explained in the reasonable necessity statements following each rule.

4. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.301.138 CALCULATION OF FEES (1) International Building Code (IBC) Section 109.2, Schedule of Permit Fees, is modified for use by the department with the following additions:

(a) through (3) remain the same.

(4) The value or valuation of a building or structure under any of the provisions of the ~~International Building Code~~ IBC will be determined using one of the following methods of determining valuation, listed in their order of priority:

(a) through (5) remain the same.

(6) Fees for wind farm turbine foundations will be calculated as \$200 for the first turbine and \$100 for each additional turbine included in the project.

(7) Fees for solar fields will be calculated at \$100/megawatt.

(6) through (8) remain the same, but are renumbered (8) through (10).

AUTH: 50-60-104, 50-60-203, MCA

IMP: 50-60-103, 50-60-104, 50-60-203, MCA

REASON: The proposed amendment is necessary to provide the public notice of the cost of permits for wind turbine foundations and solar fields. The department has issued permits for wind turbines and solar fields in previous years, and adopting the permit amounts in rule provides notice to the public. Based on the previous three years, 2020, 2021, and 2022, the department estimates that it will inspect and collect fees from approximately one wind farm's turbine foundations per year, and the fees will total approximately \$13,000 per wind farm inspection. Based on historical data from approximately the last ten years, the department estimates that approximately one or two solar field permits will be issued each year, and the fees collected will total approximately \$8,500 per year.

24.301.142 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE ONLY TO THE DEPARTMENT'S CODE ENFORCEMENT PROGRAM (1) The following modifications to the International Building Code (IBC) are applicable only to the department's building code enforcement program. The

referenced sections remain without amendment for local government building code enforcement programs.

(2) The department will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution in lieu of Section 114, Violations, of the IBC. When a person fails to submit required plans, obtain a permit, correct plans, or comply with an order of the department, the department, as authorized by 50-60-109, MCA, may bring civil action to enjoin the person from constructing or using the building.

(3) and (4) remain the same.

(5) Subsection 107.1, General, of the IBC is amended to read as follows: "Submittal documents consisting of construction documents, statement of special inspections, geotechnical report, and other data shall be submitted electronically or on paper no larger than 11 by 17 inches. The construction documents shall be prepared by a registered design professional as required by specific provisions throughout the International Building Code (IBC) as adopted by the department in ARM 24.301.131. The department is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with the IBC as adopted by the department."

(6) Subsection 111.1, Change of occupancy, of the IBC is amended with the addition of the following: "On a case-by-case basis, the building official or his agent may grant the owner permission to occupy and use a building or portions thereof prior to completion of the project when the building official or his agent finds the building or structure to be in substantial compliance with the intent of the International Building Code."

(7) Subsection 111.2, Certificate issued, of the IBC is amended to read:

(a) "111.2 Certificate issued. If the building official or the building official's agent makes all the inspections of a building or structure required by Section 110, Inspections, and finds it was constructed in accordance with the provisions of the state building code, the building official shall issue a certificate of occupancy, as referenced in 50-60-107, MCA, which shall contain the following:

(i) through (vii) remain the same.

(viii) the use and occupancy, in accordance with the provisions of Chapter 3, Occupancy Classification and Use;

(ix) the type of construction as defined in Chapter 6, Types of Construction;

(x) through (b) remain the same.

(c) "Formal Written Approval: In situations where the department was unable to perform the required inspections referenced in Section 110, Inspections, of the IBC, but no significant deficiencies from the state building code have been noted, the department may issue a letter of formal written approval in lieu of a certificate of occupancy."

(8) The department will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal in lieu of Section 113, Board of Appeals, of the IBC.

(9) Subsection 1809.5, Frost protection, of the IBC requires that footings and foundations shall extend below the frost line. In all areas of the state outside of certified local government jurisdictions, the minimum depth from finished grade to

the bottom of footings shall be three feet for single story wood or metal frame buildings, and four feet for multistory or masonry buildings. Buildings located on highly expansive or unstable soils may need engineered footings and foundation walls that extend below the minimum depths indicated above. At the discretion of the building official, the above minimum depths may not be required for properly designed so-called monolithic slabs for single story storage and similar use buildings. The building official may require monolithic slabs to be designed and stamped or certified by a Montana registered engineer who practices structural design. The design and stamp of a Montana licensed architect may be accepted in lieu of an engineer's stamp when the monolithic slab design is an incidental part of an architectural building design, as allowed by 37-67-103, MCA.

~~(10) Delete Chapter 32 in its entirety.~~

AUTH: 50-60-203, MCA

IMP: 50-60-107, 50-60-108, 50-60-109, 50-60-203, 50-60-212, MCA

REASON: The proposed amendment to (1) is necessary to clarify the acronym IBC.

The proposed amendments to (2), (5), (6), (7), (8), and (9) are necessary to include the names of each code section for convenience and ease of use.

The proposed amendment deleting (10) is necessary because IBC Chapter 32, Encroachments into the Public Right-of-Way, is not applicable to either the department's or local government's building code enforcement programs. The State Building Code does not provide authority over easements to the department or local governments for building code purposes. The section deleting IBC Chapter 32 is transferred to ARM 24.301.146 as proposed new (33).

24.301.146 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE TO BOTH THE DEPARTMENT'S AND LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAMS (1) through (5) remain the same.

(6) Subsection 101.4.7, Existing Buildings, is amended by the addition of the following sentence: "ARM 24.301.171 allows the provisions of either the International Building Code or the International Existing Building Code to be used for the remodel, repair, alteration, change of occupancy, addition, and relocation of an existing building."

(7) Subsection 105.1.1, Annual Permit, is deleted and replaced with the following: "At the discretion of the building official, a single annual permit may be issued for multiple buildings owned by a single entity, located in a single geographic location, which require similar and repetitive repair, restoration, and maintenance work."

(8) Subsection 107.2.8, Relocatable Buildings, is amended to delete "Section 3112" and replace it with "Section 3113."

(9) Subsection 107.3.1, Approval of Construction Documents, is deleted and replaced with the following sentence: "When the building official issues the permit where plans are required, the building official shall approve the construction documents, with corrections as required, or with adequate written resolution of deficiencies noted in plan review comments."

(10) remains the same.

(11) The following modifications apply to riding arenas:

(a) Subsection 312.1, General, is amended by addition of the following paragraph: "Riding arenas limited to occupant loads of 200 or less and used for boarding, breeding, and training of horses, horse shows and competitions, clinics and rider instruction, and open riding are considered agricultural buildings subject to the provisions of Appendix Chapter C, as amended. Uses such as rodeos, barn dances, craft and other nonlivestock shows, conventions, and similar events which result in large numbers of spectators or occupants are not allowed in riding arenas classified as agricultural buildings."

(b) Appendix Chapter C, Subsection C101.1, Scope, is amended by addition of: "9. Riding arenas as defined in amended Subsection 312.1, General."

(c) Appendix Chapter C, Subsection C104.1, Exit Facilities, is amended by addition of the following sentences to Exception 2: "The portion of riding arena buildings where riding will occur or where spectators may be present or seating is provided shall be provided with a minimum of four exits directly to the outside, with the exits located in a manner acceptable to the department that enhances exit from spectator areas. Exits from this portion of the building shall not be provided with a latch or lock unless it is panic hardware."

(d) Appendix Chapter C, Subsection C104.1, Exit Facilities, is amended by addition of Exception 3: "Exit doors for riding arenas shall not be less than 3 feet wide by 6 feet 8 inches high."

(12) through (15) remain the same.

(16) The standards for fire-extinguishing systems and standpipe systems referenced in Chapter 9 of the International Building Code shall be the following unamended National Fire Protection Association (NFPA) Standards:

(a) Fire-extinguishing system.

(i) remains the same.

(ii) Installation of Sprinkler Systems in Group R Occupancies Four Stories or Less: NFPA 13R Standard for the Installation of Sprinkler Systems in ~~Residential Occupancies up to and Including Four Stories in Height~~ Low-Rise Residential Occupancies, 2019 edition.

(b) remains the same.

(c) Notwithstanding any other provisions or references to the contrary within the NFPA standards or fire code as referenced in (5), the authority having jurisdiction over any fire protection system required by the International Building Code shall be the building official. ~~The building official may delegate this authority to governmental fire agencies organized under Title 7, chapter 33, MCA, that are approved by the Department of Justice, Fire Prevention and Investigation Section, to adopt and enforce a fire code in their fire service area.~~

(17) Delete Subsection 903.2.8, Group R, and replace with the following:

"1. An approved automatic sprinkler system installed in accordance with Section 903.3, Installation Requirements, shall be provided in all Group R buildings meeting any of the following criteria:

"a. 9 or more transient guests or 5 or more transient guestrooms in R-1 or R-2 occupancies;

"b. 9 or more occupants in other than dwelling units;

"c. 5 or more dwelling units; or

"d. more than 2 stories in other than dwelling units.

"2. In lieu of the above required automatic sprinkler system in buildings not more than three stories above the lowest level of exit discharge, each ~~transient guestroom~~ dwelling or sleeping unit may be provided with at least one door leading directly to an exterior exit access that leads directly to approved exits.

"3. "Transient guest" for the purpose of this subsection shall mean an occupant who is primarily transient in nature, staying at one location for 30 days or less."

"4. "The requirements for automatic sprinkler systems for R-4 occupancies are found in ARM 24.301.146."

(18) Subsection 903.2.4.2, Group F-1 Distilled Spirits, is amended to include: "Exception: An automatic sprinkler system is not required where a Group F1 fire area used for the manufacture of distilled spirits is not more than one story above grade plane, and not exceeding 2,500 square feet."

(19) Subsection 903.2.9.3, Group S-1 Distilled Spirits or Wine, is amended to include: "Exception: An automatic sprinkler system is not required where a Group S1 fire area used for the bulk storage of distilled spirits or wine is not more than one story above grade plane, and not exceeding 2,500 square feet."

(20) Subsection 903.3.1.2, NFPA 13R sprinkler systems, is amended as follows: Automatic sprinkler systems in Group R occupancies shall be permitted to be installed throughout in accordance with NFPA 13R where the Group R occupancy meets all of the following conditions:

"1. Four stories or fewer above grade plane.

"2. Building is 60ft in height or less above grade plane.

"3. The floor level of the lowest story is 30 feet (9144 mm) or less below the lowest level of fire department vehicle access.

"The number of stories of Group R occupancies constructed in accordance with Sections 510.2 and 510.4 shall be measured from grade plane."

(21) Subsection 905.3.1, Height, is amended as follows: "Class III standpipe systems shall be installed throughout buildings where any of the following conditions exist:

"1. Four or more stories are above or below grade plane.

"2. Building is 60ft in height or more above grade plane.

"3. The floor level of the lowest story is located more than 30 feet (9144 mm) below the highest level of fire department vehicle access."

(22) Table 1006.2.1, Spaces with One Exit or Exit Access Doorway, referenced in subsection 1006.2.1, Egress based on occupant load and common path of egress travel distance, shall be amended for R1, R2, R3, and R4 occupancies by deletion of NP and insertion of the number 100 for occupant loads less than 30 and 75 for occupant loads greater than 30.

(20) (23) Subsection 4020.4 1020.2, Construction, is amended by addition of the following: "Upgrading of corridors in existing E occupancies serving an occupant load of 30 or more, may have walls and ceilings of not less than one-hour fire-resistive construction as required by this code. Existing walls surfaced with wood lathe and plaster in good condition or 1/2-inch gypsum wallboard or openings with fixed wired glass set in steel frames are permitted for corridor walls and ceilings and occupancy separations when approved. Doors opening into such corridors shall be

protected by 20-minute fire assemblies or solid wood doors not less than 1 3/4 inches (45 mm) thick. Where the existing frame will not accommodate the 1 3/4-inch-thick door, a 1 3/8-inch-thick solid bonded wood-core door or equivalent insulated steel door shall be permitted. Doors shall be self-closing or automatic closing by smoke detection. Transoms and openings other than doors from corridors to rooms shall comply with this code or shall be covered with a minimum of 3/4-inch plywood or 1/2-inch gypsum wallboard or equivalent material on the room side. Exception: Existing corridor walls, ceilings, and opening protection not in compliance with the above may be continued when such buildings are protected with an approved automatic sprinkler system throughout. Such sprinkler system may be supplied from the domestic water system if it is of adequate volume and pressure."

~~(24)~~ (24) For "R" occupancies that are exempt from the requirements of a fire sprinkler system, pursuant to ARM 24.301.146(16), Table ~~4020.4~~ 1020.2, Corridor Fire-Resistance Rating, referenced in subsection ~~4020.4~~ 1020.2, Construction, shall be amended in regard to "R" occupancies by the deletion of the language "Greater than 10" and insertion of the language "Greater than 8" under the heading "Occupant Load Serviced By Corridor." The table shall also be amended by the deletion of the language "Not Permitted" and insertion of "1" under the heading "Without sprinkler system".

~~(22)~~ (25) Subsection ~~4030.4~~ 1031, Emergency Escape and Rescue, is amended as follows: "General. In addition to the means of egress required by this chapter, emergency escape and rescue openings shall be required in all sleeping rooms in Group R occupancies located in buildings that do not have an automatic sprinkler system and in the following occupancies:"

~~(23)~~ (26) Subsection ~~1608.2~~, Ground Snow Loads, is deleted and replaced with the following: "Snow loads shall be determined by the building official. In areas of the state outside of certified city, county, and town jurisdictions, the design snow load shall be ~~based on the ground snow loads developed in "Snow Loads for Structural Design in Montana", Civil Engineering Department, Montana State University, 2004 Revised Edition~~ calculated using the 2022 edition of the American Society of Civil Engineer's "Minimum Design Loads and Associated Criteria for Buildings and Other Structures, ASCE/SEI 7-22." The information is available online using the "ASCE 7 Hazard Tool" at <https://asce7hazardtool.online/>. The minimum design roof snow load after allowed reductions shall be 30 psf unless justified by a Montana licensed design professional to the satisfaction of the building official. Coefficients and factors other than those specified in the building code may be used when justified by a Montana licensed design professional to the satisfaction of the building official."

(24) remains the same but is renumbered (27).

~~(25)~~ (28) Table 2902.1, MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES, is modified by deleting and replacing with ARM 24.301.351.

(26) and (27) remain the same, but are renumbered (29) and (30)

~~(28)~~ (31) Delete Section 3107, General, in its entirety.

~~(29)~~ (32) Delete Section 3109, General, in its entirety and replace with the International Swimming Pool and Spa Code, 2021 edition as adopted in ARM 24.301.175.

(33) Delete Chapter 32, Encroachments into the Public Right-of-Way, in its entirety.

~~(30)~~ (34) Delete Chapter 33, Safeguards During Construction, in its entirety.

(31) through (41) remain the same but are renumbered (35) through (45).

~~(42)~~ (46) Notwithstanding any other provisions within the International Building Code, the following adult group residential facilities, licensed by the Department of Public Health and Human Services will be classified and treated as follows:

(a) and (b) remain the same.

(c) An assisted living facility with 20 or more ambulatory or non-ambulatory residents will be classified as an R-2 occupancy for building permit and construction standards and shall meet accessibility standards as provided in IBC section 1103, Scoping Requirements.

(i) and (ii) remain the same.

~~(43)~~ (47) Section 50-60-102, MCA, exempts certain buildings from application of the state building codes. Provisions of the ~~International Building Code~~ IBC shall not be applied in determining whether a building or structure is exempt from the state building codes. For example, fire walls as described in Section 706, Fire Walls, of the ~~International Building Code~~ IBC shall not be used to separate buildings otherwise covered by the state building codes into smaller buildings that would, if alone, be exempted by 50-60-102, MCA.

(44) through (47) remain the same but are renumbered (48) through (51).

AUTH: 50-60-203, MCA

IMP: 50-60-101, 50-60-102, 50-60-104, 50-60-201, 50-60-203, 50-60-205, MCA

REASON: The proposed amendments to (6), (7), (8), (9), (11)(a) through (d), (17), (18), (19) and renumbered (24), (25), (26), (27), (29), (32), (34), (46)(c), and (47) are necessary to include the names of each code section for convenience and ease of use.

The proposed amendment to (16)(a)(ii) is necessary to correct the title to the National Fire Protection Association's (NFPA) "NFPA 13R Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies, 2019 edition," which is adopted unamended in this rule.

The proposed repeal of the last sentence of (16)(c) is necessary because it conflicts with Title 50, chapter 60, MCA, specifically including 50-60-202, MCA, which gives the department exclusive authority to promulgate building regulations. It is necessary to repeal this portion of the rule because a building official does not have the authority to delegate the department's responsibility to administer all portions of the IBC adopted by the department.

The proposed new (20) is necessary to match the height restriction in item 2. with the 60-foot height restriction in the NFPA 13R, Section 1.1.

The proposed new (21) is necessary to match the height restriction in item 2. with the 60-foot height restriction in the NFPA 13R, Section 1.1.

The proposed new (22), and the proposed amendments to renumbered (24) and (25), are necessary because the IBC, as written, does not allow residential (R)

occupancies to be constructed without sprinkler systems. The department determined that certain R occupancies may be safely constructed without sprinkler systems if other fire protection and health and safety measures are required. The new section adopts values consistent with other occupancies under the IBC to protect health and safety.

The proposed amendment to renumbered (26) is necessary to update the tool used to calculate snow loads for residential structures to the 2022 edition of the American Society of Civil Engineer (ASCE)'s "Minimum Design Loads and Associated Criteria for Buildings and Other Structures, ASCE/SEI 7-22." The department provided information to the ASCE to ensure that the 2022 ASCE materials are accurate for snow loads in this state. The ASCE's materials are also conveniently available online using the "ASCE 7 Hazard Tool."

The proposed new (33), deleting IBC Chapter 32, Encroachments into the Public Right-of-Way, is necessary because the State Building Code does not grant the department or local governments statutory authority over easements or public rights-of-way for building code purposes. This section is transferred from ARM 24.301.142 because it applies to both the department and local government's building code enforcement programs.

24.301.154 INCORPORATION BY REFERENCE OF INTERNATIONAL RESIDENTIAL CODE (1) through (4) remain the same.

(5) Subsection R301.6, Roof Load, is deleted and replaced with the following: "Snow loads shall be determined by the building official. In areas of the state outside of certified city, county, or town jurisdictions, the design snow load shall be based on the ground snow loads developed in "Snow Loads for Structural Design in Montana", Civil Engineering Department, Montana State University, 2004 revised edition calculated using the 2022 edition of the American Society of Civil Engineer's "Minimum Design Loads and Associated Criteria for Buildings and Other Structures, ASCE/SEI 7-22." The information is available online using the "ASCE 7 Hazard Tool" at <https://asce7hazardtool.online/>. The minimum design roof snow load after allowed reductions shall be 30 psf unless justified by a Montana licensed design professional to the satisfaction of the building official. Coefficients and factors other than those specified in the building code may be used when justified by a Montana licensed design professional to the satisfaction of the building official."

(6) Subsection ~~302.2.2~~ R302.2.2, Common walls, delete "Chapters 34 through 43" and replace with "the adopted electrical code in ARM Title 24, chapter 301, subchapter 4."

(7) Subsection ~~302.2.4~~ R302.2.6, Structural Independence, delete exception number five and replace with the following: "Townhouses separated by a common two-hour fire-resistance-rated wall as provided in Section R302.2."

(8) remains the same.

(9) Subsection ~~309.5~~ R309.5, Fire Sprinklers, is deleted in its entirety.

(10) and (11) remain the same.

(12) Subsection ~~312.1.4~~ R312.1.1, Where Required, delete the first sentence and replace with the following: "Guards shall be located along open-sided walking surfaces, including stairs, ramps, and landings, that are located more than 30 inches measured vertically to the floor or grade below."

(13) and (14) remain the same.

(15) Subsection ~~403.1.6~~ R403.1.6, Foundation Anchorage, is deleted in its entirety and replaced with the following: "Where wood sill and sole plates are supported directly on continuous foundation walls or monolithic slabs with integral footings required by the provisions of this code, they shall be anchored to the foundation in accordance with this section. Cold-formed steel floor and wall framing shall be anchored to the foundation in accordance with Section R505.3.1 or R603.3.1. Wood sole plates at all exterior walls, wood sole plates of braced wall lines at building interiors on monolithic slabs with integral footings and all wood sill plates shall be anchored to the foundation with minimum one-half inch diameter anchor bolts spaced a maximum of six feet on center or approved anchors or anchor straps spaced as required to provide equivalent anchorage to the one-half inch diameter anchor bolts. Bolts shall extend a minimum of seven inches into concrete or grouted cells of concrete masonry units. A nut and washer shall be tightened on each anchor bolt. There shall be a minimum of two bolts per plate section with one bolt located not more than 12 inches or less than seven bolt diameters from each end of the plate section. Interior bearing wall sole plates on monolithic slab foundations with integral footings that are not part of a braced wall line shall be positively anchored with approved fasteners. Sill plates and sole plates shall be protected against decay and termites where required by sections R317 and R318.

Exceptions:

1. Walls 24 inches total length or shorter connecting offset braced wall panels shall be anchored to the foundation with a minimum of one anchor bolt located in the center third of the plate section and shall be attached to adjacent braced wall panels at corners as shown in item 8 of Table R602.3(1).

2. Connections of walls 12 inches total length or shorter connecting offset braced wall panels to the foundation without anchor bolts shall be permitted. The wall shall be attached to adjacent braced wall panels at corners as shown in item 8 of table R602.3(1)."

(16) remains the same.

(17) Subsection ~~602.10~~ R602.10, Wall Bracing, delete the first sentence and replace with the following: "Building shall be braced in accordance with this section or, when applicable, Section R602.12, or the most current version of APA System Report SR-102 as an alternate method.

(18) and (19) remain the same.

(20) ~~Add new~~ Replace subsection R703.4.1 as follows: "R703.4.1, Flashing Materials. Approved flashing materials shall be corrosion-resistant. Self-adhered membranes used as flashing shall comply with AAMA 711. Pan Flashing shall comply with Subsection R703.4.2. Installation of flashing materials shall be in accordance with Subsection R703.4.3.

(21) and (22) remain the same.

(23) Subsection R905.1.2 is amended by deletion of the language "areas where there has been a history of ice forming along the eaves causing a backup of water as designated in Table R301.2" and insert "the State of Montana."

(23) and (24) remain the same but are renumbered (24) and (25).

AUTH: 50-60-203, MCA

IMP: 50-60-102, 50-60-201, 50-60-203, MCA

REASON: The proposed amendments to (6), (7), (9), (15), (17), and (20) are necessary to update referenced sections of the International Residential Code (IRC).

The proposed amendment to (5) is necessary to update the tool used to calculate snow loads for residential structures to the 2022 edition of the American Society of Civil Engineer (ASCE)'s "Minimum Design Loads and Associated Criteria for Buildings and Other Structures, ASCE/SEI 7-22." The department provided information to the ASCE to ensure that the 2022 ASCE materials are accurate for snow loads in this state. The ASCE's materials are also conveniently available online using the "ASCE 7 Hazard Tool."

The proposed amendment adding new (23) is necessary because the IRC requires ice dams only in areas where there is a history of ice forming along eaves, and all areas of this state have a history of ice forming along eaves of roofs; therefore, it is necessary to require ice dams for the entire state without exception.

24.301.161 INCORPORATION BY REFERENCE OF INTERNATIONAL ENERGY CONSERVATION CODE (1) The department adopts and incorporates by reference the International Code Council's International Energy Conservation Code, 2021 edition, referred to as the International Energy Conservation Code, unless another edition is specifically stated, together with the following Appendix and amendments:

(a) and (b) remain the same.

(c) "C402.5.1.2 Air barrier compliance is deleted and replaced with the following: "A continuous barrier for the opaque building envelope shall comply with the following: Buildings or portions of buildings, including group R and I occupancies, shall meet the provisions of Section C402.5.2 or C402.5.3 or R402.4.1.2 [402.4.1.2] & R402.4.1.3 [402.4.1.3]."

(d) Subsection C405.2.4.2 Sidelit daylight zone is amended to remove requirement (3) in its entirety.

(e) Subsection C405.11 Automatic receptacle control function is deleted in its entirety.

(f) Subsection C405.12 Energy monitoring is deleted in its entirety.

(g) Table R402.1.2 R402.1.3, INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT, is amending requirements for Climate Zone 6 as WOOD FRAMED WALL R-VALUE 'R-21 or ~~R-20 + R-5ci~~ R13 + R-5ci or R-13 + R-10ci or R-15ci.'

(h) Table R402.1.4, EQUIVALENT U-FACTORS 402.1.2, MAXIMUM ASSEMBLY U-FACTORS AND FENESTRATION REQUIREMENTS, is amending requirements as shown below in the table:

	Fenes- tration	Sky- light	Ceiling	Frame Wall	Mass Wall	Floor	Base- ment Wall	Crawl Space Wall
Climate Zone	<i>U- Factor</i>	<i>U- Factor</i>	<i>U- Factor</i>	<i>U- Factor</i>	<i>U- Factor</i>	<i>U- Factor</i>	<i>U- Factor</i>	<i>U- Factor</i>

6	0.30	0.55	0.026	0.045	0.060	0.033	0.050	0.055
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(e) through (m) remain the same but are renumbered (i) through (q).

~~(n) Appendix CC, Zero Energy Commercial Building Provisions. Appendix CC may be adopted by a certified city, county, or town building code jurisdiction. The department shall not apply or enforce Appendix CC.~~

(o) remains the same but is renumbered (r).

(2) and (3) remain the same.

AUTH: 50-60-203, 50-60-803, MCA

IMP: 50-60-201, 50-60-203, 50-60-803, MCA

REASON: The proposed amendments to renumbered (1)(g) and (h) are necessary to update references to the International Energy Conservation Code (IECC). The proposed amendments adding new (1)(c) is necessary because it allows residential units inside commercial buildings to be tested in accordance with either the commercial requirements as a whole or residential requirements for individual units. This flexibility in testing will reduce costs and allow for alternatives that existed in the 2018 IECC. Subsection (1)(d) is amended to remove the requirement for a second sidelit daylight zone under C405.2.4.2(3) because one zone is adequate, and the cost to the lighting controls is high compared to the gain in energy efficiency. Subsections (1)(e) and (f) are necessary to delete subsections C405.11 and C405.12 because the requirements of those subsections significantly increase cost for while providing little improvement in energy conservation. The repeal of (1)(n), adopting Appendix CC of the IECC, is necessary to comply with the requirements of House Bill 241, 2023 Montana Laws, Chapter 578. House Bill 241 amended 50-60-203(4), MCA, to state that the state building code cannot require buildings to be "constructed to have solar panels or wiring, batteries, or other equipment for solar panels or electric vehicles." Appendix CC of the IECC, if implemented, could lead to the requirement for solar panel installation on buildings; therefore, it is necessary to repeal the department's adoption of Appendix CC.

24.301.172 INCORPORATION BY REFERENCE OF INTERNATIONAL MECHANICAL CODE (1) The department adopts and incorporates by reference the International Mechanical Code (IMC), 2021 edition, published by the International Code Council, unless another edition is specifically stated, together with the following amendments:

(a) through (c) remain the same.

(d) The fees established in Subsection ~~406-5-2~~ 109.2, Schedule of Permit Fees are as follows:

"(1) The mechanical cost shall be the cost to the owner of all labor charges and all mechanical materials and equipment installed as part of the mechanical system. The cost of the plumbing system, which is covered by the Uniform Plumbing Code, is not to be included.

"(2) The mechanical permit fees are calculated as follows:

Cost of Mechanical System	Mechanical Permit Fee
\$0 - \$10,000	\$48 for first \$1000 plus \$14 for each additional \$1000 or fraction thereof, to and including \$10,000
\$10,001 - \$50,000	\$166 for first \$10,000 plus \$9 for each additional \$1000 or fraction thereof, to and including \$50,000
\$50,001	\$514 for first \$50,000 plus \$6 for each additional \$1000 or fraction thereof.

(e) Section ~~408~~ 115 of the International Mechanical Code will be left as is for use by certified cities, counties, and towns. The department will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution, in lieu of Section ~~408~~ 115. When a person fails to submit required plans, obtain a permit, correct plans or comply with an order of the department, the department will, as authorized by 50-60-109, MCA, seek injunctive relief.

(f) Section ~~409~~ 113 of the IMC will be left as is for use by certified cities, counties, or towns, which by 50-60-303, MCA, must provide an appeal procedure. Cities, counties, and towns may use a board of appeals created in accordance with Section 113 of the IBC to serve as their boards of appeal. The department and state of Montana, however, will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal, in lieu of Section ~~409~~ 113.

(g) through (j) remain the same.

(k) Subsection ~~1101.10~~ 1101.9, Locking access port caps, is modified by adding the following: "This subsection shall not apply to single-family dwellings."

(2) through (6) remain the same.

AUTH: 50-60-203, MCA

IMP: 50-60-102, 50-60-103, 50-60-109, 50-60-201, 50-60-203, 50-60-303, MCA

REASON: The proposed amendments to (1)(d), (e), (f), and (k) are necessary to update references to the International Mechanical Code.

24.301.173 INCORPORATION BY REFERENCE OF INTERNATIONAL FUEL GAS CODE (1) The department adopts and incorporates by reference the International Fuel Gas Code, 2021 edition, published by the International Code Council, IFGC, unless another edition is specifically stated, together with the following amendments:

(a) and (b) remain the same.

(c) Section ~~408 of the International Fuel Gas Code~~ 115, Violations, will be left as is for use by certified cities, counties, and towns. The department will use 50-60-109 and 50-60-110, MCA, in cases requiring prosecution, in lieu of Section ~~408~~ 115. When a person fails to submit required plans, obtain a permit, correct plans, or comply with an order of the department, the department will, as authorized by 50-60-109, MCA, seek injunctive relief.

(d) Section ~~409 of the IFGC~~ 113, Means of Appeal, will be left as is for use by certified cities, counties, or towns, who by 50-60-303, MCA, must provide an appeal procedure. Cities, counties, and towns may use the board of appeals created in accordance with Section 113 of the International Building Code to serve as the board of appeals. The department and state of Montana, however, will use the applicable provisions of the Montana Administrative Procedure Act in all cases of appeal, in lieu of Section ~~409~~ 113.

(e) through (6) remain the same.

AUTH: 50-60-203, MCA

IMP: 50-60-102, 50-60-103, 50-60-109, 50-60-201, 50-60-203, 50-60-303,
MCA

REASON: The proposed amendments to (1)(c) and (d) are necessary to update references to the International Fuel Gas Code.

24.301.181 INCORPORATION BY REFERENCE OF INTERNATIONAL WILDLAND-URBAN INTERFACE CODE (IWUIC) (1) through (8) remain the same.

(9) Section 103, ~~Enforcement~~ Code Compliance Agency, is deleted in its entirety.

(10) Subsection ~~407.2~~ 106.2, Permits Required, retain the first sentence and delete the remainder of the subsection.

(11) through (24) remain the same.

AUTH: 50-60-203, MCA

IMP: 50-60-201, 50-60-202, 50-60-203, MCA

REASON: The proposed amendments to (9) and (10) are necessary to update references to the International Wildland-Urban Interface Code.

24.301.201 EXTENT OF LOCAL PROGRAMS (1) A city, county, or town, as provided by 50-60-102, MCA, may adopt codes that may not be more stringent than the codes that have been adopted by the department to cover buildings within their respective jurisdiction. However, as provided by 50-60-102, MCA, a city, county, or town may not cover residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building and any private garage or private storage structure used only for the owner's own use unless the local legislative body or board of county commissioners by ordinance or resolution makes the building code specifically applicable to those structures. A city, county, or town may accomplish this by making its building codes applicable to nonexempt building construction within the respective jurisdiction.

(2) through (4) remain the same.

AUTH: 50-60-203, 50-60-302, 50-60-504, 50-60-603, MCA

IMP: 50-60-202, 50-60-203, 50-60-301, 50-60-302, 50-60-504, 50-60-603,
MCA

REASON: The proposed amendment is necessary to comply with Senate Bill 406, 2023 Montana Laws, Chapter 411, which amended 50-60-301(2)(a), MCA, to state, "[e]xcept as provided in subsection (2)(b) a county, city, or town may not adopt or enforce a building code that is more stringent than the building code adopted by the department or as required by state law."

24.301.202 ADOPTION OF CODES (1) The codes adopted by cities, counties, and towns ~~must be the same as~~ may not be more stringent than those adopted by the department. However, cities, counties, or towns shall only adopt those codes that they are certified to enforce, which include plumbing, electrical, building, mechanical, medical gas, or the International Wildland-Urban Interface Code. ~~The codes adopted by cities, counties, and towns must be the same edition with the same amendments as those adopted by the department.~~ Each time the department modifies the codes, cities, counties, and towns must modify their codes to conform to the department's codes. The department will notify cities, counties, and towns of these code modifications, at which time they will have 90 days from receipt of the notice to conform their codes. Cities, counties, and towns shall notify the department in writing when the updated codes have been adopted and are being enforced. Such notification shall include a copy of the appropriate code adoption ordinance(s) or administrative action.

(2) through (4) remain the same.

AUTH: 50-60-302, MCA

IMP: 50-60-301, 50-60-302, MCA

REASON: The proposed amendment is necessary to comply with Senate Bill 406, 2023 Montana Laws, Chapter 411, which amended 50-60-301(2)(a), MCA, to state, "[e]xcept as provided in (2)(b) a county, city, or town may not adopt or enforce a building code that is more stringent than the building code adopted by the department or as required by state law."

24.301.203 FUNDING OF CODE ENFORCEMENT PROGRAM (1) remains the same.

(2) Permit fees must ~~only be used for those costs related to~~ only for activities in support of reviewing and issuing a building permit and for building code enforcement activities, except for the building codes education fund as provided in 50-60-116, MCA, with building codes being only those codes adopted by the department in ARM Title 24, chapter 301, subchapters 1, 3, 4, and 15. It is not intended that permit fees be used to support fire departments, planning, zoning, or other activities, except to the extent that employees in those programs provide direct plan review, inspection, or other building code enforcement services for the city, county, or town's building code enforcement programs. Permit fees shall not be used to support the inspection of existing buildings for maintenance or for abatement of dangerous buildings.

(3) and (4) remain the same.

(5) Permit fees collected ~~in a given~~ each year in excess of the costs of administering city, county, or town building code enforcement programs shall be

placed in reserve to be used in subsequent years, provided that the reserve amount does not exceed the amount needed to support the building code enforcement programs for ~~42~~ 36 months. Fees must be reduced if necessary to avoid creation of excess reserve.

AUTH: 50-60-203, 50-60-302, MCA

IMP: 50-60-106, 50-60-302, MCA

REASON: The proposed amendment is necessary to implement House Bill 465, 2023 Montana Laws, Chapter 269, which amends 50-60-106, MCA, to clarify local governments' acceptable uses of building permit fees and increases the amount of local governments' reserve funds allowed for building code enforcement.

24.301.206 STAFF QUALIFICATION (1) and (2) remain the same.

(3) City, county, or town building ~~and mechanical~~ inspectors must be either inspector certified or have a construction related engineering or architecture degree or license. ~~A mechanical inspector may also be qualified by having a Montana plumbing license.~~

(4) City, county, or town mechanical inspectors must be either inspector certified, have a construction related engineering or architecture degree or license, or hold an active plumbing license.

(4) and (5) remain the same but are renumbered (5) and (6).

~~(6) (7)~~ Plumbing, electrical, mechanical, or building inspector certification may be obtained as part of a combination inspector certification to the extent the individual inspector certifications meet the requirements of (5) (6). In lieu of combination inspection certification, inspectors must hold commercial certification in a discipline to inspect commercial projects and must hold residential certification in a discipline if inspecting residential projects. Equivalent certifications may be approved by the department upon review and determination that the certification is substantially equivalent or exceeds the required certifications.

(7) through (9) remain the same but are renumbered (8) through (10).

AUTH: 50-60-203, 50-60-302, MCA

IMP: 50-60-302, MCA

REASON: The proposed amendment to (3) and adoption of new (4) are necessary to clarify the rules and prevent confusion in certification requirements for city, county, or town inspectors. Section (3) is amended to only address certification requirements for building inspectors. New (4) is necessary to clarify the requirements for mechanical inspectors. The proposed amendments to (6) are necessary to clarify residential and commercial inspector certification requirements and to allow for review and approval of substantially equivalent certification.

24.301.207 REPORTING REQUIREMENTS (1) remains the same.

(2) All certified jurisdictions, whether or not the program has changes to report, must file a report with the department on or before September at least every three years for the immediately preceding fiscal year. Information provided in the

report should correspond directly to each item listed in ~~(3)~~ (2)(a), and each item should be answered and presented separately from all other report information. An example report format is available to all Montana cities, counties, and towns upon request.

- (a) The report must contain ~~all~~ of the following information:
 - (i) through (4) remain the same.

AUTH: 50-60-203, 50-60-302, MCA
IMP: 50-60-302, MCA

REASON: The proposed amendment to (2) and (2)(a) are necessary to correct an internal cross-reference within the rule and to clarify language.

24.301.351 MINIMUM REQUIRED PLUMBING FIXTURES (1) The following table will be used. The department adopts Table 2902.1 of the 2021 version of the International Building Code to determine the minimum number of required plumbing fixtures to be installed in new buildings. Table 2902.1 is available on the department's website, or by contacting the bureau to request a copy. The department explains and amends Table 2902.1 as follows:

[TABLE 2902.1 REMOVED]

a. The fixtures shown in Table 2902.1 are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the building code.

(1)b. through (1)d. remain the same.

e. For ~~day nurseries, a maximum of one bathtub~~ child day care one bathtub or shower shall be required.

(1)f. remains the same.

~~g. Single-user unisex facilities shall include a urinal in food service establishments or any establishment that sells alcoholic beverages for on-site consumption.~~

(1)h. through (1)q. remain the same, but are renumbered (1)g. through (1)p.

~~r. g.~~ On an individual case-by-case basis the building official may approve an alternative source of potable drinking water, such as, but not limited to, a bottled water cooler, in lieu of a drinking fountain. Drinking fountains shall not be required in buildings with an occupant load of 30 or less.

r. Beauty salons must have a sink in accordance with ARM 24.121.1507.

AUTH: 50-60-203, 50-60-504, MCA
IMP: 50-60-203, 50-60-504, MCA

REASON: The proposed amendment to (1) is necessary to remove the printed version of Table 2902.1 of the IBC because the table was difficult to read and understand as printed in these rules. Table 2902.1 is adopted by reference, and the rule includes where to find the table online and in print. The proposed amendment

to Footnote e. is necessary because daycare facilities can have either a bathtub or shower. The proposed repeal of Footnote g. is necessary because urinals are not required in establishments that serve food or alcohol under the IBC, the IPC, or the UPC; urinals are optional in the codes, but not required. The proposed amendment to Footnote r., renumbered as Footnotes q., is necessary because Uniform Plumbing Code 415.2 does not require drinking fountains in occupancies with an occupant load less than 30. New Footnote r. is necessary because salons are required to have sinks under ARM 24.121.1507.

24.301.401 INCORPORATION BY REFERENCE OF NATIONAL ELECTRICAL CODE (1) remains the same.

(2) Subsection 210.8 (A), Dwelling Units, is amended to delete 250-volt receptacles.

(3) Subsection 210.8 (B), Other than Dwelling Units, is amended to delete 250-volt receptacles.

(2) and (3) remain the same, but are renumbered (4) and (5).

AUTH: 50-60-203, 50-60-603, MCA

IMP: 50-60-201, 50-60-203, 50-60-601, 50-60-603, MCA

REASON: The proposed amendment is necessary to remove references to 250-volt receptacles because this technology is not readily available in this state, and the technology adds a significant increase in cost that is not commensurate with the increase in safety. The bureau shall monitor and address requirements for this new technology as it becomes more readily available in this state.

24.301.481 CARNIVALS, FAIRS, OUTDOOR CONCERTS, AND SIMILAR AMUSEMENT ESTABLISHMENTS AND OTHER PUBLIC ASSEMBLIES OF A TEMPORARY NATURE (1) ~~Temporary electrical~~ Electrical power and lighting installations for amusement or public assembly may be permitted for a period not to exceed 30 days. The installation must comply with Article 525 of the National Electrical Code.

(2) and (3) remain the same.

AUTH: 50-60-203, 50-60-603, MCA

IMP: 50-60-201, 50-60-203, 50-60-603, 50-60-604, MCA

REASON: The proposed amendment is necessary to remove the term "temporary power" which has a separate and distinct meaning in building code laws and regulations.

24.301.903 BUILDING ACCESSIBILITY (1) Section 1109, Special Occupancies, IBC, is amended to clarify that not every restroom installed in a building or structure is required to be accessible as long as the required facilities are accessible and reasonably available from all areas of the primary function areas of the building. Primary function area means an area of a building or facility in which a major activity for which the building or facility is designed is carried out.

(a) Subsection ~~1109.1~~ 1110.1, General, is amended by adding the following: "When buildings or portions of buildings are required to be accessible, required building facilities shall be accessible as provided in this section. A person or entity may not be required to meet fully the accessibility requirements for buildings, in those rare circumstances where the person or entity can demonstrate that it is structurally impracticable, due to unique characteristics of terrain and/or not practicable in relation to the proposed usage of the building, as determined on a case-by-case basis, at the discretion of the building official."

(b) Subsection ~~1109.2~~ 1110.2, Toilet and Bathing Facilities, is amended to read as follows: "Required toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type of fixture, element, control, or dispenser in each accessible toilet room and bathing facility shall be accessible."

(i) through (f) remain the same.

AUTH: 50-60-203, MCA

IMP: 50-60-201, 50-60-214, MCA

REASON: The proposed amendment is necessary to update references to the IBC.

24.301.904 SITE ACCESSIBILITY (1) Section 50-60-213, MCA, requires that construction of a public building or alteration of primary function areas of a public building, which have not been issued a legal building permit prior to October 1, 1997, include compliance with the requirements of the IBC and the requirements established by 2017 ICC/ANSI A117.1, Accessible and Usable Buildings and Facilities, which include the building site, parking areas, passenger loading zones, private sidewalks and the accessibility from adjacent sidewalks, public streets and public transportation stops. Existing public buildings that are not undergoing an alteration to a primary function area are not subject to the accessibility requirements. Primary function area means an area of building or facility in which a major activity for which the building or facility is designed is carried out.

(2) remains the same.

(3) Sections 1104, Accessible Route, and 1106, Parking and Passenger Loading Facilities, of the IBC are each amended by addition of the following: "A person or entity may not be required to meet fully the accessible exterior route requirements for new buildings or alterations to existing buildings, where the person or entity can demonstrate that due to unique characteristics of the terrain, it is structurally impractical to fully comply, as determined on a case-by-case basis, at the discretion of the building official. Full compliance may be considered structurally impractical only in those rare circumstances when the unique characteristics of the terrain prevent the incorporation of accessibility features. The person or entity shall comply with the accessible facilities requirements to the extent that compliance is not structurally impractical."

(4) and (5) remain the same.

(6) Each new building or alteration to an existing building which provides off street parking shall provide at least one accessible parking space with required

additional parking spaces as established in Table 4406.4 1106.2, Accessible Parking Spaces, and Section 1106, Parking and Passenger Loading Facilities. One van accessible parking space shall be provided for every eight accessible parking spaces, or fraction thereof. If only one accessible parking space is required, the space shall be a van accessible parking space.

AUTH: 50-60-203, MCA
IMP: 50-60-201, 50-60-213, MCA

REASON: The proposed amendment is necessary to update references to the IBC.

5. The rules to be amended and transferred are as follows, new matter underlined, deleted matter interlined:

24.301.501 (24.301.1201) APPLICABILITY OF STATE STATUTES AND ADOPTED ADMINISTRATIVE RULES (1) These rules and standards are based on the provisions of Title 50, Chapter 60, MCA, ~~in order to implement, interpret and make specific and otherwise~~ to carry out the statutory provisions relating to the manufacture and sale of factory-built buildings and components thereof.

(2) Factory-built buildings shall meet the requirements of the following nationally recognized construction standards:

(a) the International Building Code as adopted and amended by ARM 24.301.131 or, as applicable, the International Residential Code as adopted and amended by ARM 24.301.154;

(b) the National Electrical Code as adopted and amended by ARM 24.301.401;

(c) the International Mechanical Code as adopted and amended by ARM 24.301.172;

(d) the Uniform Plumbing Code as adopted and amended by ARM 24.301.301;

(e) the International Energy Conservation Code as adopted and amended by ARM 24.301.161;

~~(f) the International Swimming Pool and Spa Code as adopted by ARM 24.301.175; and~~

~~(g)~~ (f) the International Wildland-Urban Interface Code as adopted and amended by ARM 24.301.181; ;

(g) the International Code Council and Modular Building Institute 1200 Standard for Off-Site Construction: Planning, Design, Fabrication and Assembly as adopted and amended by [NEW RULE I (24.301.1203)]; and

(h) the International Code Council and Modular Building Institute 1205 Standard for Off-Site Construction: Inspection and Regulatory Compliance as adopted and amended by [NEW RULE I (24.301.1203)].

(3) The requirement listed in 50-60-402~~(4)~~, MCA, for new factory-built buildings applies to all new units, whether offered for sale, lease or rent, which are first utilized in the state of Montana, regardless of the unit's point of origin or route of delivery. A person cannot arrange to accept delivery of a new unit ~~in~~ at an out-of-

state location in order to avoid the need for a state of Montana insignia of approval on the unit.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed amendments are necessary to clarify that the department has adopted and amended the requirements for factory-built buildings in these rules. Subsection (2)(f) is removed because the International Swimming Pool and Spa Code does not apply to factory-built buildings. The department proposes the adoption of additional standard codes for factor-built buildings in NEW RULE I: the International Code Council and Modular Building Institute (ICC/MBI) 1200 Standard for Off-Site Construction: Planning, Design, Fabrication and Assembly; and the ICC/MBI 1205 Standard for Off-Site Construction: Inspection and Regulatory Compliance. There is a reasonable necessity to amend the implementing statutes to include 50-60-402, MCA, because it states that factory-built buildings must comply with rules set by the department.

24.301.511 (24.301.1205) DEFINITIONS (1) "Bureau" means the Building and Commercial Measurements Bureau of the Department of Labor and Industry.

~~(2) "Components" means the prefabricated wall, floor, ceiling, or roof panels or pre-cut building kits or similar units of construction or any combination of such units.~~

~~(3) "Engineer" means a professional engineer who, by reason of special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired the right to practice engineering as attested by his registration as a professional engineer.~~

~~(4) (2) "Factory-built building" means a factory assembled structure or structures equipped with the necessary service connections, but not made so as to be readily movable as a unit or units and designed to be used with a permanent foundation~~ has the meaning provided in 50-60-101, MCA, and includes "Industrialized Building" and "Industrialized Housing" as defined in chapter two of the ICC/MBI 1205 Standard.

~~(5) "Insignia" means a seal or label issued by the bureau to indicate compliance on the date of issuance with these rules and Title 50, chapter 60, MCA.~~

~~(6) "Listing agency" means an agency approved by the bureau which is in the business of listing or labeling, and which maintains a periodic inspection program on current production of listed models, and which makes available at least an annual published report of such listing in which specific information is included and that the product has been tested to approved standards and found safe for use in the specified manner.~~

~~(7) "Local enforcement agency" means the zoning or building department of a city, town, or county.~~

~~(8) "Alteration or conversion" means the replacement, addition, modification, or removal of any equipment or installations which may affect construction, fire safety, occupancy, plumbing, heat-producing, or electrical systems or the functions thereof, of units subject to these rules.~~

~~(9) "Model" means a specific design width of factory-built building or components thereof as designed by the manufacturer.~~

~~(10) "Model group" means two or more manufacturer designed factory built buildings or components thereof, which constitute one model.~~

~~(3) "Manufactured home" has the meaning provided in the state's property tax code, 15-24-201, MCA.~~

~~(4) "Mobile home" has the meaning provided in the state's property tax code, 15-24-201, MCA.~~

~~(11) remains the same but is renumbered (5).~~

~~(12) "Recreational vehicles" has the same meaning as in 50-60-101, MCA.~~

~~(13) "System" means an arrangement or method based on maximum capacity for structural, plumbing, heating, or electrical installations.~~

~~(14) "Testing agency" means an organization, which is:~~

~~(a) in the business of testing equipment and installations;~~

~~(b) qualified and equipped for such experimental testing;~~

~~(c) not under the jurisdiction or control of any manufacturer or supplier for any affected industry;~~

~~(d) making available a published report in which specific information is included stating that the equipment and installations tested were found to meet the applicable standards in the specified manner;~~

~~(e) conducting tests computed under the control of a licensed professional engineer;~~

~~(f) approved by the bureau.~~

~~(15) "Third party certification and inspection agency" means an agency which:~~

~~(a) inspects and certifies, in lieu of state inspectors, that any unit conforms to the requirements and standards set forth herein; and~~

~~(b) is not under the control or jurisdiction of any supplier, manufacturer, or dealer, except by a contract for quality control and/or inspections of units for conforming to the requirements and standards set forth herein.~~

~~(16) (6) "Unit" means a factory-built building and components thereof has the same meaning as "module" as defined in chapter two of the ICC/MBI 1200 Standard and the ICC/MBI 1205 Standard.~~

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed amendments repealing the definitions for (2), (5), (6), (7), (8), (9), (10), (13), (14) and (15) are necessary because the terms are defined in the ICC/MBI codes proposed for adoption in NEW RULE I. The proposed amendment repealing (3) is necessary because "professional engineer" is defined by the Board of Professional Engineers and Professional Land Surveyors in 37-61-101, MCA, and this definition does not amplify or clarify the existing statutory definition. The proposed amendment repealing (12) is necessary because the definition is duplicative of 50-60-191, MCA. The proposed amendments to renumbered (2) and (6) are necessary to incorporate definitions found in the ICC/MBI codes proposed for adoption in NEW RULE I. Finally, the proposed amendments to renumbered (3) and

(4) adopting the property tax definitions for "mobile home" and "manufactured home" found in Title 15, chapter 24, MCA, are necessary to simplify and standardize definitions of common terms across code sections and administrative rules.

24.301.513 (24.301.1207) USE OF MOBILE HOMES AND RECREATIONAL VEHICLES FOR COMMERCIAL OR BUSINESS OCCUPANCY PROHIBITED—EXCEPTION (1) remains the same.

(2) These units do not meet code requirements for commercial or business occupancy and are therefore prohibited for these types of uses. Except as provided in (4), manufactured (~~mobile~~) homes, mobile homes, and recreational vehicles shall not be utilized for any occupancy other than as a single-family dwelling, whether for transient stay or longer periods. "Transient stay" means a guest staying at one location for 30 days or less.

(3) remains the same.

(4) Units used as temporary offices by manufactured (~~mobile~~) or mobile home dealers retailers, on the premises (lot) where ~~said the~~ units are sold, would not fall into this category provided the unit utilized as an office:

(a) through (f) remain the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed amendments to (2) and (4) are necessary because the terms "manufactured home" and "mobile home" have separate definitions in the proposed amendments to current ARM 24.301.511. The additional proposed amendment to (4) is necessary because the ICC/MBI codes proposed for adoption in NEW RULE I refer to "retailer" rather than "dealer." There is a reasonable necessity to amend the implementing statutes to include the authorizing statutes 50-60-203 and 50-60-401, MCA, to maintain consistency within the rules.

24.301.515 (24.301.1211) BUREAU INSPECTORS (1) All ~~inspectors of the bureau~~ inspectors, meaning those employed or contracted by the bureau, shall have a working knowledge of the specified editions of the adopted model codes and shall not be under the control of any listing agency, testing agency, third-party inspection agency, ~~dealer~~ retailer, or manufacturer.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed amendments are necessary to clarify the term "bureau inspectors," and to correct punctuation. The additional proposed amendment is necessary because the ICC/MBI codes proposed for adoption in NEW RULE I refer to "retailer" rather than "dealer."

24.301.523 (24.301.1235) RECIPROCITY (1) Any unit manufactured in a reciprocal state which has been reviewed as meeting the standards of that state shall be deemed to meet the standards of the state of Montana. Reciprocal status

shall be granted to other states at the discretion of the bureau. In addition to the insignia of the reciprocal state, a Montana insignia of approval is necessary on all units manufactured or offered for sale within the state of Montana.

(2) and (3) remain the same.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-403, MCA

REASON: The proposed amendments are necessary because the rules refer to "insignia of approval" to indicate the significance of the insignia. It is reasonably necessary to amend the referenced implementing statutes because 50-60-403, MCA, allows the department to recognize another state's approval agency "to determine if approved models of factory-built buildings are being constructed in accordance with the approved plans and specifications for those models."

24.301.542 (24.301.1233) PLAN REVIEW TERMINATION REVOCATION

(1) A plan review issued by the bureau shall remain in effect through December 31 of the year following the original year of approval and through December 31 of each subsequent year of renewal as established in ~~ARM 24.301.550~~ [NEW RULE IX (24.301.1231)] or until withdrawn or revised by the manufacturer or until revoked by the bureau.

(2) A plan review will be revoked by the bureau upon:

(a) the department's adoption of a different version of codes applicable to that ~~particular~~ review;

(b) and (c) remain the same.

(3) Manufacturers will be allowed 90 days from the effective date of a new code to purchase insignias of approval for models approved under previous codes.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed amendment is necessary to update and clarify language and specify the deadline for manufacturers to purchase insignia of approval for model approved under previous codes. The implementation statutes are proposed to be updated to include all applicable statutes.

24.301.565 (24.301.1261) IN-STATE PLAN AND SYSTEM REVIEW FEES FOR FACTORY-BUILT BUILDINGS (1) The following are the plan and system review fees to be charged by the department:

(a) Quality control manual review: \$20

(b) Third-party inspection agency application review: \$20

(b) through (f) remain the same but are renumbered (c) through (g).

~~(g)~~ (h) Plan renewal: \$100

~~(i) \$100 for each set of documents describing a unit which is to be utilized during the next approved plan period. Obsolete plans or specifications are to be removed at the time of plan renewal by written notification at no additional cost. Any~~

approved units that will be used during the next approved plan period must be renewed.

(ii) Units that are not renewed by the December 31 deadline shall expire, and a new application must be submitted to the bureau for review.

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA

IMP: 50-60-104, 50-60-203, 50-60-401, 50-60-403, MCA

REASON: The proposed amendment is necessary to update language. It is reasonably necessary to amend the referenced implementing statutes because 50-60-403, MCA, allows the department to recognize a third-party inspection agency "to determine if approved models of factory-built buildings are being constructed in accordance with the approved plans and specifications for those models." Pursuant to 2-4-302, MCA, the department estimates that the new third-party inspection agency application review fee of \$20 will affect approximately zero or one new applicant(s) per year, resulting in an increase in fee income of between zero and \$20 per year for the department. There are currently 14 approved third-party inspection agencies listed with the department, the list has remained consistent for several years, and the department does not anticipate a rapid change in the inspection agencies in the near future. Furthermore, the department does not anticipate a change in the plan renewal fee income because the fee language is merely reworded, and not a change in fees.

24.301.567 (24.301.1265) MISCELLANEOUS FEES (1) Field technical service fees are as follows:

(a) \$45, provided that such service is not in excess of Forty-five dollars for services up to one hour in duration; and

(b) Twenty-five dollars for every additional 30 minutes, or fractional part amount thereof, in excess of one hour after the first hour of service.

(2) Out-of-state manufacturers may be subject to at least one on-site review per year. They shall pay the following on-site review fee which shall be the same as those to be paid by manufacturers who request inspections:

(a) Requested out-of-state inspection or field technical service fee— total travel cost based on published air fare, or equivalent rate, between Helena, Montana, and the point of inspection, plus necessary supplemental surface transportation, reimbursement for food and lodging consistent with state of Montana out-of-state travel per diem and mileage rates under 2-18-501, MCA; and

(b) inspection fees of \$45 per hour, not to exceed eight hours in any one day.

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA

IMP: 50-60-104, 50-60-203, 50-60-401, MCA

REASON: The proposed amendments are necessary to clarify and simplify language, and to clarify that the state of Montana out-of-state travel per diem and mileage rates apply.

6. The new rules proposed to be adopted are as follows:

NEW RULE I (24.301.1203) INCORPORATION BY REFERENCE OF INTERNATIONAL CODE COUNCIL AND MODULAR BUILDING INSTITUTE STANDARDS

(1) The department adopts and incorporates by reference the International Code Council and Modular Building Institute 1200 Standard for Off-site Construction: Planning, Design, Fabrication and Assembly, 2021 edition (ICC/MBI 1200 Standard).

(2) The department adopts and incorporates by reference the International Code Council and Modular Building Institute 1205 Standard for Off-site Construction: Inspection and Regulatory Compliance, 2021 edition, (ICC/MBI 1205 Standard).

(3) A copy of the off-site standards may be obtained from the International Code Council at www.ICCsafe.org.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because the department is proposing the adoption of the national standards for regulation of factory-built buildings to provide clear guidance of requirements for manufacturers and inspectors of factory-built structures. The adoption of ICC/MBI codes for factory-built buildings updates, clarifies, and simplifies the department's inspection and approval processes for factory-built buildings. The adoption of ICC/MBI codes also helps to standardize factory-built building regulations across jurisdictions. Furthermore, adoption of the ICC/MBI code in these rules allows the department to amend the regulations as necessary to best serve the state of Montana.

NEW RULE II (24.301.1213) APPROVAL OF THIRD-PARTY INSPECTION

AGENCY (1) Third-party inspection agencies shall meet the requirements of Section 401 of the ICC/MBI 1205 Standard as adopted by the department.

(2) Third-party inspection agencies shall apply on an application form supplied by the department and include the third-party inspection agency fee required by [ARM 24.301.565 (24.301.1261)].

(3) Once approved by the department, the third-party inspection agency will be listed as an approved third-party agency in the state of Montana.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-403, MCA

REASON: The proposed new rule is necessary to clarify how third-party inspection agencies gain approval by the department under the ICC/MBI code standards proposed for adoption in NEW RULE I.

NEW RULE III (24.301.1215) INSPECTION OF RETAILER (1) Bureau inspectors are authorized to enter any premises in Montana where units are sold or offered for sale with or without prior announcement. The bureau inspector may make visual inspections as necessary to determine whether units are being sold or offered for sale with the required insignia of approval.

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.518, proposed for repeal. The new rule is necessary to update and clarify language, and the ICC/MBI codes proposed for adoption in NEW RULE I refer to "retailer" rather than "dealer."

NEW RULE IV (24.301.1217) MANUFACTURER REGISTRATION (1) Each manufacturer shall obtain approval from the department and be subject to Section 601 of the ICC/MBI 1205 Standard as adopted by the department.

(2) Manufacturers applying for model plan review per [NEW RULE V (24.301.1221)], once approved, will be listed as an approved manufacturer in the state of Montana.

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it clarifies the requirements for manufacturer approval, and specifies the applicable ICC/MBI code standards proposed for adoption in NEW RULE I.

NEW RULE V (24.301.1221) APPLICATION FOR MODEL PLAN REVIEW

(1) Any manufacturer of modular buildings or modular building components shall apply to the bureau for plan review of a model or model group before construction.

(2) The application for model plan review shall include the following:

(a) the applicable plan, quality assurance manual, and system inspection fees required by [ARM 24.301.565 (24.301.1261)];

(b) the quality assurance manual as defined in [NEW RULE VI (24.301.1223)];

(c) the approved third-party inspection agency responsible for on-site inspections;

(d) all applicable plan approval items provided for in chapter 3 of the ICC/MBI 1205 Standard; and

(e) the first page of the construction document shall include the wind load (Vult), construction type, seismic design category, and ground snow load.

(3) If the permanent site location of the building is unknown (nonsite-specific), the building must meet the following structural design loads:

(a) Wind load of 115 MPH.

(b) Seismic design category of D.

(c) Snow load of 30 psf.

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.535, proposed for repeal. The new rule references the new code proposed for adoption in NEW RULE I, including the list of items required for plan review found in chapter 3, section 303 of the ICC/MBI 1205 Standard. "Nonsite-Specific" is a term defined in chapter 2, section 202, of the ICC/MBI Standards 1200 and 1205 as "[a] building for which the permanent site location is unknown at the time of construction[;]" in this case, the proposed loads would be required to ensure that the building could withstand loads commonly experienced in the state of Montana.

NEW RULE VI (24.301.1223) IN-PLANT QUALITY ASSURANCE MANUAL

(1) The manufacturer shall submit a quality assurance manual outlining a program of quality assurance prior to or with the manufacturer's first request for plan review, including the quality assurance manual review fee required by [ARM 24.301.565 (24.301.1261)].

(2) The quality assurance manual must include all applicable items as listed in chapter 5 of the ICC/MBI 1205 Standard and be reviewed and approved by the bureau prior to the approval of plan review.

(3) When the quality assurance manual is revised, one copy of the revised manual shall be submitted to the bureau for review, and the manufacturer shall include the quality assurance manual review fee required by [ARM 24.301.565 (24.301.1261)].

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.543, proposed for repeal. The proposed new rule reflects the language contained in the applicable ICC/MBI code standards proposed for adoption in NEW RULE I, which refers to "quality assurance manual" rather than "quality control manual." Requirements for the quality assurance manual are now found in chapter 5 of the ICC/MBI 1205 Standard. The new rule adds the requirement that manufacturers must submit a revised manual to the bureau for review with the applicable fee. Section (3) regarding the revised quality assurance manual is transferred from ARM 24.301.545(3), proposed for repeal in this notice.

NEW RULE VII (24.301.1225) NONCONFORMING APPLICATION AND PLANS (1) If the submitted applications or plans do not conform with these rules, the bureau shall send the applicant a written plan correction notice within 30 business days of the bureau's receipt of the application or plans. The plan correction notice shall contain the specific corrections required for approval of the application or plans.

(2) An applicant shall have 60 days from the date of service of the bureau's plan correction notice to submit corrections to the bureau.

(3) Corrected plans received more than 60 days after the date of service of the bureau's plan correction notice shall be processed as a new application and shall include the fees for a new application required by [ARM 24.301.565 (24.301.1261)].

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.540, proposed for repeal. The proposed new rule provides a clear process for applications or plans that require additional information for approval. The proposed amendment provides notice of the process and timelines for the public, manufacturers, and department staff.

NEW RULE VIII (24.301.1227) CHANGES TO REVIEWED PLANS

(1) Where the manufacturer proposes changes in the construction, plumbing, mechanical, or electrical equipment or installations, or where these rules are amended to necessitate such change, an application for revision and one set of supplemental detailed plans and specifications of such changes shall be submitted to the bureau for plan review and comparison. Plans shall include the plan resubmission or revision fee(s) required by [ARM 24.301.565 (24.301.1261)].

(a) When the supplemental details do not constitute a new model, the supplemental details will be filed with and become part of the existing plan review.

(b) Where the supplemental details constitute a model change, application for plan review will be required as for a new model.

(2) A model designation may be changed or added by filing an amended application and including plan and system review fee(s) required by [ARM 24.301.565 (24.301.1261)].

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces (1) and (2) of ARM 24.301.545, proposed for repeal. The new rule is necessary to simplify and clarify language to explain the process when a change to reviewed plans constitutes a new model, and when the change does not.

NEW RULE IX (24.301.1231) PLAN RENEWAL (1) Except as established in [ARM 24.301.542 (24.301.1233)] for original plan approvals, the manufacturer shall apply for plan renewal for the following year prior to the December 31 expiration date of each year shown on the permit. At the time of renewal, plans which have not been changed do not require the submission of plans.

(2) If any changes have been made to the plans, the plans cannot be renewed; a new application and updated plans must be submitted to the bureau, including the applicable fees required by [ARM 24.301.565 (24.301.1261)].

(3) If the department adopts new versions of codes applicable to the plans, then renewal of existing plans reviewed under the previous codes are not allowed, and the manufacturer must send a new application and fees for plan review and approval of the model demonstrating compliance with the new codes.

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary to replace ARM 24.301.550, proposed for repeal. The new rule clarifies that a change to the adopted codes does not allow for renewal of plan approval. The new rule updates and clarifies the language explaining that a change to the adopted codes requires a manufacturer to resubmit plans and reapply for insignia of approval.

NEW RULE X (24.301.1237) TRANSMISSION OF REVIEW MATERIALS TO RECIPROCAL STATE (1) Plan review, panelized system reviews, and/or quality assurance manual reviews may be transmitted to a reciprocal state for approval in the following manner:

(a) A manufacturer shall make a written request to the bureau for transmittal of the plan reviews, panelized system reviews, and/or quality assurance manual reviews to a specific reciprocal state.

(b) The request shall designate the models and/or system review numbers to be transmitted.

(c) Once the request is complete, the bureau shall transmit the review to the reciprocal state electronically.

(2) The reciprocal state shall follow that state's procedure for processing and approving the review materials, including notifying the manufacturer of approval or rejection of the review materials.

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.544, proposed for repeal. The new rule clarifies how a manufacturer may request review of materials by a reciprocal state by contacting the bureau. The new rule clarifies that the reciprocal state shall follow that state's process for plan review and approval. The new rule is necessary to update and clarify language, and the ICC/MBI codes proposed for adoption in NEW RULE I refer to "panelized system" rather than "system."

NEW RULE XI (24.301.1241) INSIGNIA OF APPROVAL – WHEN REQUIRED (1) All units manufactured or delivered prior to sale or sold or offered for sale in Montana shall bear an insignia of approval and if applicable the insignia of a reciprocal state or the certified third-party inspection agency. Each insignia of approval shall be assigned and affixed to a specific unit. Assigned insignia of approval are not transferable. The insignia of approval shall remain the property of the bureau and may be revoked or confiscated by the bureau in the event of violation of the conditions of approval.

(2) No person or persons may remove or cause to be removed an insignia of approval without prior authorization of the bureau.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, 50-60-403, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.557 and 24.301.560(2), proposed for repeal. The new rule clarifies and simplifies language and adds the term "insignia of approval" to indicate the significance of insignia.

NEW RULE XII (24.301.1243) APPLICATION FOR INSIGNIA PURSUANT TO PLAN REVIEW (1) The unit manufacturer shall apply for an insignia of approval for each individual unit manufactured. The application shall be submitted to the bureau on the proper bureau form, including the insignia fees as required by [NEW RULE XVI (24.301.1263)]. The application shall include the approved model number and the serial number(s) for each individual unit the insignia(s) of approval will be applied to.

(2) The manufacturer producing the model shall receive the insignia of approval from the bureau and will be responsible for attaching the insignia of approval to each unit.

(3) An insignia of approval obtained pursuant to this rule shall be utilized within 12 months of the date of issuance. Any insignia of approval not utilized within 12 months of the date of issuance is deemed void. No refund or credit shall be issued for void insignia of approval.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-201, 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.558, proposed for repeal. The proposed new rule adds the term insignia "of approval" to indicate the significance of insignia. The new rule also reflects the definition of "insignia" found in Section 202 of the ICC/MBI codes proposed for adoption in NEW RULE I: "insignia" is defined as "[t]he approved form of certification issued by the authority having jurisdiction to the manufacturer to be attached to the modular building, modular component or panelized system indicating that it has been constructed to meet or exceed the applicable building code requirements." The new rule further reflects the bureau's actual process of sending insignia directly to the manufacturer, rather than sending the insignia through a third-party inspection agency.

NEW RULE XIII (24.301.1245) EFFECT OF INSIGNIA OF APPROVAL

(1) All units bearing the insignia of approval or the insignia of a reciprocal state pursuant to the provisions of [NEW RULE XI (24.301.1241)] through [NEW RULE XV (24.301.1249)] shall be acceptable as meeting the requirements of Title 50, chapter 60, MCA, throughout the state of Montana without further inspection or fees except for zoning, utility connections, and foundation permits as required by the authority having jurisdiction.

(2) Any new unit delivered to the state of Montana, either to a sales lot or placed on location, that does not bear an insignia of approval pursuant to [NEW RULE XI (24.301.1241)], is considered in violation of Title 50, chapter 60, MCA. The

unit shall be treated as an existing building and required to meet all requirements of the authority having jurisdiction.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, 50-60-403, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.564, proposed for repeal. The new rule includes updated and clarified language, including referring to insignia as "insignia of approval" to indicate the significance of the insignia.

NEW RULE XIV (24.301.1247) LOST, DAMAGED, OR VOID INSIGNIA

(1) If an insignia of approval becomes lost, damaged, or void, the manufacturer shall notify the bureau, in writing, as soon as practicable.

(2) Upon notification from the manufacturer that an insignia of approval has been damaged or lost, the bureau shall send replacement insignia of approval to the manufacturer. Void insignia of approval will not be replaced; the manufacturer must apply for new insignia of approval for the unit.

(3) No duplicate insignia of approval shall be used. All damaged or void insignia must be returned to the bureau or destroyed. If a lost insignia is later found, it must be returned to the bureau or destroyed.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.561, proposed for repeal. The bureau can now replace lost or damaged insignia at little to no cost because insignia are now electronic. The rule also clarifies the procedure for void insignia. The term "approval" is added to the term insignia to indicate significance of the insignia.

NEW RULE XV (24.301.1249) ALTERATION OR REVISION OF A UNIT BEARING INSIGNIA

(1) Any manufacturer or retailer proposing to alter or revise a unit bearing insignia of approval prior to or during the installation shall apply to the bureau. An application shall include:

(a) make and model of the unit;

(b) serial number;

(c) bureau insignia number;

(d) complete description of the work to be performed, together with plans and specifications when required;

(e) location of the unit where work is to be performed;

(f) alteration or revision fee as required by [ARM 24.301.565 (24.301.1261)];

and

(g) name and address of the manufacturer or retailer of the unit.

(2) Upon completion of the alteration or revision, the applicant shall request the bureau to perform an inspection, and include the applicable fees as required by [ARM 24.301.565 (24.301.1261)].

(3) The following changes shall not be considered alterations or revisions:

- (a) repairs with approved component parts;
- (b) conversion of listed fuel burning appliances in accordance with the terms of their listing;
- (c) adjustment and maintenance of equipment; and
- (d) replacement of equipment in kind.

(4) If alterations or revisions made do not meet the requirements of this rule, the bureau shall consider any insignia of approval and related review to be void.

AUTH: 50-60-203, 50-60-401, MCA

IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed new rule is necessary because it combines and replaces ARM 24.301.563 and 24.301.562, proposed for repeal. The new rule includes updated and clarified language, including referring to insignia as "insignia of approval" to indicate the significance of the insignia, and referring to "revision" of an approved unit rather than "conversion."

NEW RULE XVI (24.301.1263) INSIGNIA OF APPROVAL FEES (1) The fee for an insignia of approval for a factory-built building is \$40 per section. This fee covers the building construction, plumbing, electrical, and mechanical.

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA

IMP: 50-60-104, 50-60-203, 50-60-401, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.566, proposed for repeal. The new rule simplifies and clarifies language.

NEW RULE XVII (24.301.1271) NOTICE OF VIOLATIONS (1) When an inspection reveals that a unit is in violation of any provisions of Title 50, chapter 60, MCA, or the applicable rules, the bureau shall send the manufacturer a written notice of violation. Upon service of the notice of violation, the bureau shall post a prohibited sales notice on the affected unit(s). The notice of violation shall contain the following:

- (a) the specific statute, rule, or codes violated for each unit;
- (b) the corrections required for approval;
- (c) the 14-day deadline to inform the bureau of the intent to correct the violations or request for hearing; and
- (d) a deadline for informing the bureau of the completed corrections pursuant to (3)(a).

(2) A manufacturer who has received a notice of violations shall not move or cause to be moved unit(s) until the bureau is notified of its destination or disposition. If the unit is posted with a prohibited sales notice, the notice shall not be removed until authorized by the bureau.

(3) Within 14 days of the bureau's service of the notice of violation, the manufacturer may:

(a) inform the bureau in writing of the manufacturer's intent to correct the violations identified in the notice of violations. The manufacturer shall then inform the bureau in writing when the corrections have been completed and proceed with reinspection pursuant to (4); or

(b) request a hearing pursuant to [NEW RULE XVIII (24.301.1273)].

(4) Upon the bureau's receipt of the manufacturer's notice of corrections, the units shall be reinspected, and the manufacturer shall pay the appropriate fees as required by [ARM 24.301.565 (24.301.1261)] through [ARM 24.301.5695 (24.301.1265)].

(5) If a manufacturer receives a notice of violation, and the manufacturer does not request a hearing or correct the violations and inform the bureau of the corrections within the allotted time, the bureau may confiscate the insignia of approval.

AUTH: 50-60-105, 50-60-203, 50-60-401, MCA

IMP: 50-60-105, 50-60-203, 50-60-401, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.576, proposed for repeal. The new rule provides requirements for a notice of violations and clear deadlines for a manufacturer's response to a notice of violations. The new rule allows manufacturers to either correct violations identified in a notice or request a hearing. The prior rule did not distinguish how a manufacturer could exercise their right to a hearing without first correcting the violations identified in the notice.

NEW RULE XVIII (24.301.1273) VIOLATION AND HEARINGS (1) Any person aggrieved by a notice, order, or decision of the bureau under this subchapter, including a manufacturer who has received a notice of violation under [NEW RULE XVII (24.301.1271)], may request a hearing within 14 days of the bureau's service of the notice, order, or decision. The request must be in writing and shall briefly explain the basis for the request.

(2) All hearings shall be held in accordance with the provisions of the Montana Administrative Procedure Act, and the model rules adopted by the department in ARM 24.2.101. Proceedings under this rule are informal; however, the Montana Rules of Evidence and the Montana Rules of Civil Procedure may be used as guides for the hearing examiner.

(3) The appointed hearing examiner shall contact the parties in writing within 14 days of the bureau's receipt of the request for hearing to begin hearing procedures.

(4) Documents may be served electronically on any party who agrees in writing during the hearing process to electronic service.

(5) The department shall serve the final written decision on the affected parties within 30 days of the conclusion of the hearing.

AUTH: 50-60-105, 50-60-203, 50-60-401, MCA

IMP: 50-60-103, 50-60-105, 50-60-203, 50-60-401, MCA

REASON: The proposed new rule is necessary because it replaces ARM 24.301.577, proposed for repeal. The new rule clarifies when and how a party can request a hearing before the bureau. The new rule also provides deadlines for a party to request a hearing, a hearing examiner to contact the parties, and a deadline for the department to issue the decision – all of which will help with the timely processing of a request for a hearing. Furthermore, the new rule acknowledges the option of electronic service and communication that is common in legal proceedings.

7. The rules proposed to be repealed are as follows:

24.301.514 ENFORCEMENT GENERALLY

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is duplicative of 50-60-202, MCA.

24.301.516 THIRD PARTY INSPECTIONS TO BE MONITORED

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is duplicative of Section 402, Subsection 402.1 of the ICC/IMB 1205, 2021 edition.

24.301.517 INSPECTION OF MANUFACTURER

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is duplicative of Chapter 6, Section 601, Subsection 601.5 of the ICC/IMB 1205 Standard, 2021 edition.

24.301.518 INSPECTION OF DEALER

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because it is replaced by NEW RULE III (24.301.1215). The new rule reflects the language used in the ICC/IMB 1205 Standard and the ICC/IMB 1200 Standard proposed for adoption in NEW RULE I, particularly "retailer" rather than "manufacturer."

24.301.519 PRODUCT STANDARDS

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because listed and labeled components installed according to their listing and the ability of the department to allow alternatives is found in Chapter 1, Section 101, Subsection 101.4 of the ICC/MBI 1200 Standard and ICC/MBI 1205 Standard, 2021 editions.

24.301.520 ALTERNATIVES

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the allowance of alternatives is found in Chapter 1, Section 101, Subsection 101.4 of the ICC/MBI 1200 and ICC/MBI 1205, 2021 edition and requires approval of the authority having jurisdiction.

24.301.521 APPROVAL OF MANUFACTURER

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because registration and approval of manufacturers is provided for in Chapter 6, Section 601 of the ICC/MBI 1205, 2021 edition.

24.301.522 STATE BUILDING CODE INTERPRETATION

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because this rule is duplicative of 50-60-117, MCA, and ARM 24.301.577.

24.301.525 REQUIREMENTS FOR DATA PLATE

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-402, MCA

REASON: The proposed repeal is necessary because requirements for data plate are now found in section 701.4 of the ICC/MBI 1205, 2021 edition.

24.301.535 APPLICATION FOR MODEL PLAN REVIEW

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because this rule is replaced by NEW RULE V (24.301.1221). The new rule updates and simplifies language and adopts the standards found in Chapter 3, Section 303 of the ICC/MBI 1205, proposed for adoption in NEW RULE I.

24.301.536 APPLICATION FOR IN-PLANT QUALITY CONTROL MANUAL REVIEW

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because the information for submitting a quality control manual for review is condensed into ARM 24.301.543.

24.301.537 CALCULATIONS AND TEST PROCEDURES

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because required calculations and test procedures are now addressed in Chapter 3 of the ICC/MBI 1205, 2021 edition.

24.301.540 NONCONFORMING APPLICATION AND PLANS

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE VII (24.301.1225). The new rule contains a simplified and updated process for addressing incomplete applications.

24.301.543 IN-PLANT QUALITY CONTROL

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE VI (24.301.1223). The new rule updates and simplifies language.

24.301.544 TRANSMISSION OF REVIEW MATERIALS TO RECIPROCAL STATE

AUTH: 50-60-203, 50-60-401, 50-60-402, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE X (24.301.1237).

24.301.545 CHANGES TO REVIEWED PLANS

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because (1) and (2) are replaced by NEW RULE VIII (24.301.1227). Section (3) is transferred to NEW RULE VI (24.301.1223).

24.301.546 CHANGE OF OWNERSHIP

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because this information is addressed in Chapter 6, Section 601, Subsection 601.2 of the ICC/MBI 1205, 2021 edition.

24.301.547 CHANGE OF NAME OR ADDRESS

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because this information is addressed in Chapter 6, Section 601, Subsection 601.2 of the ICC/MBI 1205, 2021 edition.

24.301.549 UNIT IDENTIFICATION

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because this information is addressed in Chapter 7, Section 7017 of the ICC/MBI 1205, 2021 edition.

24.301.550 PLAN RENEWAL

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE IX (24.301.1231). The new rule clarifies and simplifies the rule.

24.301.557 INSIGNIA--WHEN REQUIRED

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XI (24.301.1241). The new rule simplifies and clarifies language of the rule.

24.301.558 APPLICATION FOR INSIGNIA PURSUANT TO PLAN REVIEW

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-201, 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XII (24.301.1243). The new rule simplifies and clarifies language.

24.301.559 DENIAL OF INSIGNIA

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the denial of insignia and the right to a hearing is addressed in ARM 24.301.577.

24.301.560 INSIGNIA REMOVAL

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because (1) duplicates ARM 24.301.576 and 24.301.577. The department proposes transferring (2) to ARM 24.301.559.

24.301.561 LOST OR DAMAGED INSIGNIA

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XIV (24.301.1247).

24.301.562 ALTERATION VOIDS REVIEW--RETURN OR CONFISCATION OF INSIGNIA

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the necessary information in this rule has been transferred to NEW RULE XV (24.301.1249).

24.301.563 ALTERATION OR CONVERSION OF UNIT BEARING INSIGNIA

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XV (24.301.1249). The new rule updates and clarifies language.

24.301.564 EFFECT OF INSIGNIA

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, 50-60-402, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XIII (24.301.1245). The new rule updates and clarifies language.

24.301.566 INSIGNIA FEES

AUTH: 50-60-104, 50-60-203, 50-60-401, MCA
IMP: 50-60-104, 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XVI (24.301.1263). The new rule updates and clarifies language.

24.301.576 NOTICE OF VIOLATIONS

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XVII (24.301.1271). The new rule updates and clarifies language.

24.301.577 VIOLATION AND HEARINGS

AUTH: 50-60-203, 50-60-401, MCA
IMP: 50-60-203, 50-60-401, MCA

REASON: The proposed repeal is necessary because the rule is replaced by NEW RULE XVIII (24.301.1273). The new rule updates and clarifies language.

8. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728, Helena, Montana 59624. Comments must be received no later than 5:00 p.m., August 23, 2024.

9. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and rules.mt.gov.

10. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728, Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor for HB 465 was contacted on May 22, 2023, by electronic mail. The primary bill sponsor for SB 406 was contacted on December 19, 2023, by electronic mail. The primary bill sponsor for HB 241 was contacted on January 16, 2024, by electronic mail.

12. Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

13. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 16, 2024.