MONTANA
ADMINISTRATIVE
REGISTER

**DEPARTMENT OF LABOR AND INDUSTRY**

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**NOTICE OF ADOPTION**

**MAR NOTICE NO. 2026-95.2**

**Summary**

2026 Updates to the State Building Code

**Previous Notice(s) and Hearing Information**

On August 7, 2026, the Department of Labor and Industry (agency) published MAR Notice No. 2026-95.1 regarding the public hearing on the proposed changes to the agency's rules, in the 2026 Montana Administrative Register, Issue No. 15.

On August 28, 2026, a public hearing was held on the proposed changes to the rules via the videoconference and telephonic platform. Comments were received by the comment deadline.

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**Final Rulemaking Action – Effective September 26, 2026**

**AMEND AS PROPOSED**

The agency has amended the following rules as proposed:

**24.301.109 DEFINITIONS**

**24.301.131 INCORPORATION BY REFERENCE OF INTERNATIONAL BUILDING CODE**

**24.301.138 CALCULATION OF FEES**

**24.301.146 MODIFICATIONS TO THE INTERNATIONAL BUILDING CODE APPLICABLE TO BOTH THE DEPARTMENT'S AND LOCAL GOVERNMENT CODE ENFORCEMENT PROGRAMS**

**24.301.161 INCORPORATION BY REFERENCE OF INTERNATIONAL ENERGY CONSERVATION CODE**

**24.301.171 INCORPORATION BY REFERENCE OF INTERNATIONAL EXISTING BUILDING CODE**

**24.301.172 INCORPORATION BY REFERENCE OF INTERNATIONAL MECHANICAL CODE**

**24.301.173 INCORPORATION BY REFERENCE OF INTERNATIONAL FUEL GAS CODE**

**24.301.175 INCORPORATION BY REFERENCE OF INTERNATIONAL SWIMMING POOL AND SPA CODE (ISPSC)**

**24.301.181 INCORPORATION BY REFERENCE OF INTERNATIONAL WILDLAND-URBAN INTERFACE CODE (IWUIC)**

**24.301.213 CODE TECHNICAL ADVISORIES**

**24.301.301 INCORPORATION BY REFERENCE OF UNIFORM PLUMBING CODE**

**24.301.351 MINIMUM REQUIRED PLUMBING FIXTURES**

**24.301.401 INCORPORATION BY REFERENCE OF NATIONAL ELECTRICAL CODE**

**24.301.603 DEFINITIONS**

**24.301.713 OPERATING CERTIFICATE**

**24.301.714 FEES**

**24.301.723 BOILER ALTERATIONS**

**AMEND WITH CHANGES**

The agency has amended the following rule with the following changes from the original proposal, stricken matter interlined, new matter underlined:

**24.301.154 INCORPORATION BY REFERENCE OF INTERNATIONAL RESIDENTIAL CODE**

(1) The International Residential Code (IRC) is a nationally recognized model code setting forth minimum standards and requirements for detached one- or two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade in height, and their accessory structures. The IRC also provides a framework for program administration.

(2) The department adopts and incorporates by reference the International Residential Code, 2024 Edition, referred to as the International Residential Code or IRC, together with:

(a) Appendix BB, Tiny Houses. Appendix BB may be adopted by a certified city, county, or town building code jurisdiction. The department will apply Appendix BB to factory-built buildings which meet the definition of a tiny house as having 400 square feet or less in floor area excluding lofts, and which are intended to be mounted on a permanent foundation and used as a single-family dwelling.

(b) Appendix BC, Accessory Dwelling Units. Appendix BC may be adopted by a certified city, county, or town building code jurisdiction. The department shall not apply or enforce Appendix BC.

(c) Appendix BE, Radon Resistant New Construction. Appendix BE may be adopted by a certified city, county, or town building code jurisdiction. The department shall not apply or enforce Appendix BE.

(d) Appendix BJ, Strawbale Construction. Appendix BJ may be adopted by a certified city, county, or town building code jurisdiction. The department shall not apply or enforce Appendix BJ.

(3) Chapters 11 through 14, inclusive, are deleted in their entirety and chapters 16 through 43, inclusive, are deleted in their entirety. Chapter 15, Exhaust Systems, is adopted as an alternative to the International Mechanical Code for exhaust systems only. All other requirements for mechanical systems in detached one- or two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade in height, and their accessory structures, shall be found in the latest adopted edition of the International Mechanical Code.

(4) Subsection R102.6, Existing Structures, is deleted and replaced with the following: "The legal occupancy of any structure existing on the date of this code shall be permitted to continue without change, except as is specifically covered in this code or the legally adopted fire code as administered by the fire authority having jurisdiction."

(5) Subsection ~~R137.5~~ R317.5, Fire Sprinklers, is deleted in its entirety.

(6) 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 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."

(7) Subsection 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."

(8) Subsection 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."

(9) Subsection R302.3.5, Vertically stacked dwelling units, number two is deleted in its entirety.

(10) Subsection R302.13, Fire Protection of Floors, is deleted in its entirety.

(11) Section R309, Automatic Fire Sprinkler Systems, is deleted in its entirety.

(12) Subsection R318.3.1, Floor elevations at the required egress doors, Exception, is amended to state the following: “The landing or floor on the exterior side shall be not more than 8 1/4 inches below the top of the threshold provided that the door does not swing over the landing or floor.”

(13) Subsection R318.3.2, Floor elevations at the other exterior doors, is amended to state the following: “Exterior doors other than the required egress door shall be provided with landings or floors not more than 8 1/4 inches below the top of the threshold.”

(14) Subsection R318.7.5.1, Risers, is amended to allow a maximum riser height of 8 1/4 inches.

(15) Subsection R318.7.5.2, Treads, is amended to allow a minimum tread depth of nine inches.

(16) Subsection R321.1.1, 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."

(17) Subsection R403.1.1, Minimum size, is modified to add the following: "Exception: The building official may allow footings to be designed in accordance with Section R403 of the 2012 IRC or may allow footings engineered by a design professional."

(18) Subsection 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 R304 and R305.

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)."

(19) Subsection R405.1 is amended by adding the following: "A drainage system is not required when continuous rain gutters are installed incorporating drain extensions which divert storm water a minimum of six feet (1.83 m) away from the foundation and grading is done in accordance with R401.3. A drainage system may be required where high water tables are known to exist or geological conditions which require a soils engineering report, performed in accordance with R401.4, specify the need for foundation drainage."

(20) Subsection 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.

(21) Subsection R602.10.10, Cripple Wall Bracing, add the following sentence: "The distance between adjacent edges of braced wall panels shall be 20 feet."

(22) Subsection R609.4.1, Garage door labeling, delete first sentence in its entirety.

(23) Subsection R703.4, Flashing, delete the first paragraph in its entirety and replace with the following: "Flashing shall be provided in accordance with this section to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Flashing shall extend to the surface of the exterior wall finish or to the water-resistive barrier for drainage and shall be installed at all of the following locations:"

Further, delete Number "1", number "1.1", number "1.2", and number "1.3" in their entirety and replace with the following: "1. Exterior window and door openings."

Number "2" through "7" remain unchanged in Subsection R703.4.

(24) 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.

(25) Add new subsection as follows: "R703.4.2, Pan Flashing. Pan Flashing installed at the sill of exterior window and door openings shall comply with this section. Pan Flashing shall be corrosion-resistant and shall be permitted to be pre-manufactured, fabricated, formed, or applied at the job site. Self-adhered membranes complying with AAMA 711 shall be permitted to be used as Pan Flashing. Pan Flashing shall be sealed or sloped in such a manner as to direct water to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage."

(26) Add new subsection as follows: "R703.4.3, Flashing Installation. Installation of flashing materials shall be in accordance with one or more of the following methods:

1. The fenestration manufacturer's installation and flashing instructions.

2. The flashing manufacturer's installation instructions.

3. Flashing details approved by the Building Official.

4. As detailed by a Registered Design Professional."

(27) 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."

(28) Appendices do not apply to a certified city, county, or town building code jurisdiction unless specifically authorized or adopted by the department and adopted by the certified city, county, or town building code jurisdiction.

(29) A copy of the International Residential Code may be obtained from the International Code Council at www.ICCsafe.org.

**Authorizing statute(s):** 50-60-203, MCA

**Implementing statute(s):** 50-60-102, 50-60-201, 50-60-203, MCA

**REPEAL**

The agency has repealed the following rule as proposed:

**24.301.411 WIRING STANDARDS**

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**Statement of Reasons**

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment 1: A commenter opposed the deletion of the 2024 International Building Code (IBC), Subsection 101.4.4, Property Maintenance, in ARM 24.301.146(4), arguing that local fire authorities having jurisdiction would have a greater ability to enforce safety, sanitation, structural, and weather-resistance standards in buildings.

Response 1: The purpose of the state building code includes a statutory mandate to "provide reasonably uniform standards and requirements for construction and construction materials[,]" 50-60-201(1), MCA, and not standards for maintenance of existing buildings such as the Subsection 101.4.4, Property Maintenance, of IBC 2024. A person must apply for a building permit from the department or the appropriate certified local jurisdiction to be subject to inspections for compliance with the state building code. 50-60-106, 50-60-108, MCA; ARM Title 24, chapter 301, subchapter 2; ARM 24.301.1403. The state building code applies to new construction until the state or a certified local jurisdiction issues a certificate of occupancy. 50-60-106 and 50-60-107, MCA. After a certificate of occupancy is issued, the responsibility for maintenance of existing buildings falls mainly to other government entities, including local fire jurisdictions and local health department authorities.

Comment 2: A commenter questioned whether local fire authorities having jurisdiction are permitted to adopt a fire code that is not the International Fire Code (IFC), noting that the IFC and the IBC are companion codes that are meant to be implemented and enforced together to ensure consistency in life safety.

Response 2: Because the state adopts a fire code in ARM 23.12.601, a local government cannot adopt a code or regulation that is inconsistent with state law or state regulations, 7-1-1113, MCA; therefore, a local fire code cannot conflict with the state fire code or the state or a local building code. The Department of Justice, State Fire Prevention and Investigation Program, (DOJ) "may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state if the rules do not conflict with building regulations adopted by the department of labor and industry." 50-3-102(2), MCA. DOJ adopts the IFC in ARM 23.12.601. Both governmental fire agencies and municipalities also have

the authority to adopt a fire code for their jurisdiction. 7-33-2001(2) and 7-33-4208, MCA. State law also provides DOJ with authority to review and approve local fire codes and plans for enforcement to ensure that local regulations comply with state law and regulations. 50-61-102(2), MCA.

Comment 3: A commenter provided comment on several rule sections in ARM 24.301.146 for which the department did not propose any substantive amendments, including (11) modifications to riding arena regulations; (20) modifications to Subsection 903.3.5, Inadequate Water Supply; (22) modifications to IBC Group A-3 occupancies and IBC Group A-4 occupancies; (27) modifications to Subsection 903.3.1.2, NFPA [National Fire Protection Association] 13R sprinkler systems; (31) modifications to Subsection 1020.2, Construction; and (57) modifications to regulations for adult group residential facilities.

Response 3: The rule sections of ARM 24.301.146 listed in the comment above cannot be modified at this time and are beyond the scope of this rules project. The department may not adopt, amend, or repeal a rule without publishing the proposed change to the rule in the Montana Administrative Register and allowing for adequate public comment on the proposed change. 2-4-302, MCA. As stated, the department did not propose any substantive changes to the sections of ARM 24.301.146 listed above; therefore, the department will not respond to comments on these rule sections.

Comment 4: A commenter opposed the proposed changes to Section 508.5.1, Limitations, regarding the size of live/work units in ARM 24.301.146(13), and the proposed changes to Section 508.5.7, Fire Protection, regarding fire protection requirements for live/work areas in ARM 24.301.146(14).

Response 4: The proposed amendments to the live/work units are intended to reduce construction costs in rural areas with limited access to water, while including additional requirements for safety. The department proposed increasing the size limit for these mixed-use occupancies to offer more useable space. The department has retained all other fire resistive construction methods in the 2024 IBC for live/work areas. The state building code is intended to create regulations that "reduce the cost of construction consistent with reasonable requirements for the health and safety of the occupants or users of buildings," 50-60-201(2), MCA, and this proposed amendment accomplishes that goal.

Comment 5: A commenter opposed changes to Section 903.2.9, Group S-1, number five in ARM 24.301.146(15) and Section 903.2.9.1, Group S-1, number five in ARM 24.301.146(16), which increase the amount of space allowed in areas used for storage of lithium-ion or lithium metal powered vehicles. The commenter argues that an increase of space in such areas without an increase in fire protection measures presents a greater risk to public health and safety.

Response 5: The proposed changes to the size of a storage area for lithium-ion or lithium metal powered vehicles were determined in coordination with the Office of the State Fire Marshal,

Montana Department of Justice. The department acknowledges the danger of fires caused by lithium-ion or lithium metal powered vehicles; however, the Deputy State Fire Marshal agrees that the fire risk caused by these vehicles is not mitigated by limiting the size of the storage area. The Deputy State Fire Marshal even acknowledged that in some cases, a smaller area can create greater risks to health and safety. Furthermore, an increased size of the storage area creates more usable space for building occupants.

Comment 6: A commenter questioned the authority of a building code official over a fire code official referenced in the 2024 IBC, adopted by reference in ARM 24.301.146, specifically (17) Section 904.14.1, Manual system operation, Exception 2., giving the building code official, and not the fire code official, the authority to apply a fire suppression system exception; (19) allowing building officials to approve installation of fire protection equipment that is beyond the requirements of the building code; and (23) adopting NFPA Standards for fire-extinguishing systems and standpipe systems into Chapter 9 of the 2024 IBC, and expressly stating in (c) that "the authority having jurisdiction over any fire protection system required by the International Building Code shall be the building official." The commenter notes that the IBC and the IFC are meant to be read and applied together. The commenter questioned whether a local fire jurisdiction can "serve as the authority for fire protection systems from project inception through the life of the structure[.]"

Response 6: Because state law requires the building code to take precedence over the fire code in Montana, the building code official has the exclusive authority to adopt and enforce building regulations for new construction, including regulations related to fire suppression and life safety systems.

Section 50-60-202, MCA, "designates the Department of Labor and Industry as 'the only state agency that may promulgate building regulations[.]'" City of Helena v. Svee, 2014 MT 311, ¶ 9, 377 Mont. 158, 162, 339 P.3d 32, 35. The department does not have authority to delegate this duty to any other agency. The state building code expressly applies to new construction by requiring "[a]ny person who desires to construct a building" to apply for a building permit from either the department or the appropriate certified local jurisdiction. Sections 50-60-106, 50-60-108, MCA; ARM Title 24, chapter 301, subchapter 2; ARM 24.301.1403. The statutory authority of a fire chief for a governmental fire agency expressly recognizes the authority of the building official over new construction as the inspection of commercial buildings for fire safety purposes can only occur "after the property has been approved for occupancy by a certified city, county, or town building code jurisdiction or the department of labor and industry's bureau of building and measurement standards," 7-33-2001(9)(a)(ii), MCA.

Furthermore, a fire code official, or any local fire authority having jurisdiction, does not have authority to adopt or enforce regulations that conflict with the state building code as adopted by the department under 50-3-102(2), MCA. The Department of Justice (DOJ) "may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state if the rules do not conflict with building regulations adopted by the department of labor and industry." 50-3-102(2), MCA. Additionally, if DOJ's fire

prevention rules address building or equipment standards covered by the state building code or a certified local building code, those rules become effective only upon the department's approval of the rules and filing with the Secretary of State. 50-3-103(2), MCA. In contrast, the department is not required to seek approval of building code regulations by DOJ. The state building code acknowledges that DOJ "may promulgate regulations relating to use of buildings and installation of equipment." 50-60-202, MCA. However, this statutory mandate requires DOJ to "review building plans and regulations for conformity with rules promulgated by the department[,]" meaning DOJ's review of building plans and regulations must conform with rules promulgated by the department and not vice versa. Section 50-60-202, MCA.

State law also ensures that a local fire code cannot conflict with a state or local building code. As noted in the response to Comment 2, because the state adopts a fire code, a local government cannot adopt a code or regulation that is inconsistent with state law or state regulations. 7-1-1113, MCA. Additionally, DOJ has statutory authority to review and approve each local jurisdiction's fire code and plan for enforcement of that code. 50-61-102(2), MCA. DOJ's review of a local fire code includes ensuring that a local jurisdiction's fire code complies with the provisions of 50-3-102 and 50-3-103, MCA; therefore, a local fire code cannot conflict with the state or local building code. 50-61-102(1), MCA.

Comment 7: A commenter questioned why the department did not update NFPA 72, National Fire Alarm Code, from the 2019 edition to the 2022 edition, as referenced in ARM 24.301.146(20), modifying IBC Subsection 903.3.5, Inadequate Water Supply.

Response 7: The department will review the 2022 edition of NFPA 72, National Fire Alarm Code, and consider the update in a future rulemaking. At this time, the 2019 edition of NFPA 72 is required for monitoring, as stated in ARM 24.301.146(2); however, a building official may approve alternative means and methods under the building code, including references to updated code standards.

Comment 8: A commenter questioned the proposed requirements for rural event venues, specifically the lack of access to a municipal water supply in ARM 24.301.146(21)(a), and the practical implications of suppressing a fire in a building of 5,000 square feet that does not have adequate access to water. The commenter recommended that the rule should reference lack of access to "an adequate water supply" rather than lack of access to a municipal water supply. The commenter further questioned why the standards of Subsection 903.3.5, Inadequate Water Supply, adopted in ARM 24.301.146(20), are not applied here.

Response 8: The department developed the requirements for rural event venues proposed in ARM 24.301.146(21) in coordination with the Office of the State Fire Marshal, Montana Department of Justice. The State Fire Marshal provided invaluable feedback and information about fire safety and the unique safety challenges presented by rural buildings in Montana. The department and the State Fire Marshal determined that lack of access to a municipal water supply provides a more definitive measure of the fire suppression challenges to a rural building. In contrast, a term such as an "adequate water supply" is vague, subjective, and many rural

areas of Montana experience dramatic seasonal changes to the available water supply. Furthermore, department and the State Fire Marshal considered several fire-protection factors for these venues beyond the available water supply, including a building fire area of 5,000 or less square feet and the fire separation distance of at least 60 feet between the rural event venue and other buildings. The department and the State Fire Marshal agree that this proposed rule provides a clear and practical approach to protect health and safety, while allowing for increased economic development in rural areas.

Comment 9: A commenter questioned the proposed requirements for rural event venues, specifically the allowance for one fewer internal fire safety measure in exchange for a noncombustible exterior in ARM 24.301.146(21)(c).

Response 9: The department developed the requirements for rural event venues proposed in ARM 24.301.146(21) in coordination with the Office of the State Fire Marshal, Montana Department of Justice. The State Fire Marshal provided invaluable feedback and information about fire safety and the unique safety challenges presented by rural buildings in Montana.

The waiver of one internal fire safety measure in exchange for a noncombustible exterior is solely at the discretion of the building official, and the building official is in the best position to determine if the waiver of any one of the internal fire protection measures listed in ARM 24.301.146(21)(c)(ii) through (ix) is a reasonable option. The department and the State Fire Marshal carefully considered each requirement in the proposed rule, while allowing the building official the flexibility to consider each unique rural event venue. The department and the State Fire Marshal agree that this proposed rule provides a clear and practical approach to protect health and safety, while allowing for increased economic development in rural areas.

Comment 10: Several commenters noted that the 2024 IBC and 2024 International Residential Code (IRC) changed the methodology for calculating minimum snow loads from “allowable stress design level” to a “strength level.” The commenters argue that the current language in ARM 24.301.146(35) regarding ground snow loads and in ARM 24.301.154(6) regarding residential roof loads is now unclear, and the rules should be clarified to address the current methodologies referenced in the 2024 IBC and 2024 IRC. Commenters suggest that specific clarifications to the rule should include whether the load is based on the stress design level (ASD) or the strength level load (LFRD).

Response 10: The department did not propose any changes to ARM 24.301.146(35) regarding ground snow loads or to ARM 24.301.154(6) regarding residential roof loads; therefore, the rules cannot be changed at adoption of this rules project. The department may not adopt, amend, or repeal a rule without publishing the specific proposed change and allowing for public comment. 2-4-302, MCA. However, the department will consider these comments for a future rulemaking project, and the department may solicit additional information from interested persons to develop proposed rule language addressing this issue.

Comment 11: A commenter noted that the 2024 IRC does not contain a Subsection R137.5, as referenced in the proposed amendments to ARM 24.301.154(5).

Response 11: The department acknowledges the typo, and ARM 24.301.154 is amended in this adoption notice to cite to the correct subsection of the 2024 IRC, R317.5, Fire Sprinklers.

Comment 12: Regarding the department's proposed deletion of Section R309, Automatic Fire Sprinkler Systems, of the 2024 IRC in ARM 24.301.154(11), a commenter questioned the feasibility of requiring NFPA-compliant automatic sprinkler systems in residential structures of 3,600 square feet or greater, noting that a significant number of these structures operate as short-term rentals and essentially qualify as IBC Group R-1 structures (sleeping units with more than two dwelling units and transient occupants, such as boarding houses and hotels).

Response 12: The department is prohibited by state law from requiring sprinkler systems in single-family residential structures according to 50-60-203(5)(a), MCA: "[t]he department may not include in the state building code . . . a requirement for the installation of a fire sprinkler system in a single-family dwelling or a residential building that contains no more than two dwelling units[.]" While the size, location, and use of residential structures over 3,600 square feet present challenges for fire suppression, the department is statutorily prohibited from requiring sprinkler systems in these structures.

Comment 13: A commenter recommended against the deletion of Section C406, ADDITIONAL EFFICIENCY, RENEWABLE AND LOAD MANAGEMENT REQUIREMENTS, as part of the adoption of the 2024 International Energy Conservation Code (IECC) in ARM 24.301.161(20). The commenter argues that Section C406 has been adopted in prior versions of the IECC, including the 2021 IECC, and the elimination of the section represents a reduction in energy efficiency standards. The commenter states that Section C406 includes flexible and cost-effective options for energy savings, and the section helps to clarify other code sections. The commenter suggested several alternatives for adopting Section C406 with amendments that maintain energy savings, while addressing the department's stated concerns of high upfront implementation costs compared to energy savings.

Response 13: The department proposed the deletion of Section C406 of the 2024 IECC because Section C406 contains several sections that conflict with the state building code under 50-60-201, MCA; and Section C406 is available to local jurisdictions to adopt as voluntary, incentive-based energy conservation standards according to 50-60-106(3)(b), MCA. The purpose of the state building code includes energy efficiency, 50-60-102, MCA; however, the state building requires consideration of cost, health, and safety above energy efficiency and conservation. Furthermore, the state building code cannot require buildings "to have solar panels or wiring, batteries, or other equipment for solar panels or electric vehicles[,]" and the building code cannot prohibit or limit "the use of electric, natural gas, propane, or other energy source." 50-60-203(5)(b) and (6), MCA. The department is also prohibited from limiting or prohibiting "listed as acceptable for use by the United States environmental protection agency pursuant to 42 U.S.C. 7671k as safe alternatives to class I and class II ozone-depleting substances." 50-60-

203(8), MCA. With these statutory limits in mind, the department determined that the additional energy efficiency requirements in Section C406 of the 2024 IECC are not appropriate for the state building code, but the section is available for local jurisdictions to adopt as voluntary incentive-based standards.

Comment 14: A commenter stated that the department's adoption of the 2024 IECC, specifically ARM 24.301.161(23), Table R402.1.2, MAXIMUM ASSEMBLY U-FACTORS AND FENESTRATION REQUIREMENTS, contains errors and does not contain all of the updates and categories of building components in the 2024 IECC. The commenter also stated that Table R402.1.2 as proposed is inconsistent with another code section proposed for adoption in ARM 24.301.161(24), Table R402.1.3, INSULATION MINIMUM R-VALUES AND FENESTRATION REQUIREMENTS BY COMPONENT.

Response 14: Subsection R402.1.3: R-value alternative., of the 2024 IECC, which is adopted by reference without modification, states that Table R402.1.2 and Table R402.1.3 are intended to be alternative methods for calculating energy efficiency. The department is aware that adopting the tables as amended results in calculations from each table that are not exactly equivalent; however, the department adopts both tables to allow the public the option of two different methods for calculating energy savings. The purpose of the state building code includes a mandate to adopt regulations that result in "the efficient use of energy" and "encourage efficiencies;" the department is not required to mandate the most efficient means of energy savings in the state building code. 50-60-201, MCA.

Comment 15: A commenter recommended that the department eliminate the R-21 cavity-only alternative for both the residential and commercial prescriptive tables for walls in the department's adoption of the 2024 IECC in ARM 24.301.161. The commenter asserted that the R-values and U-factors for all other insulation requirements are consistent with Montana's climate zone, and the R-21 cavity-only value is a weaker alternative.

Response 15: The department maintains the R-21 cavity-only value because this form of insulation remains the most affordable and widely available option in Montana. The department has a statutory mandate to "reduce the cost of construction consistent with reasonable requirements for the health and safety" and implementing regulations that "will result in the efficient use of energy." 50-60-201(2), MCA. The R-21 insulation is a relatively efficient method of insulation that keeps down the cost of construction.

Comment 16: A commenter spoke in favor of amendment of a building or dwelling unit as having an air leakage rate from four air change per hour to three air changes per hour. The commenter stated that many builders are already building homes in compliance with the stricter air leakage rate, and the commenter emphasized the importance of Heat Recovery Ventilators (HRVs) and Energy Recovery Ventilators (HRVs) to maintain indoor air quality in homes. (The air leakage rate is part of the adoption of the 2024 IECC in ARM 24.301.161(27).)

Response 16: The department acknowledges the comment.

Comment 17: A commenter spoke in favor of the adoption of the 2024 International Swimming Pool and Spa Code in ARM 24.301.175. The commenter recommended the department also adopt the updated American National Standard for Public Pool and Spa Operations and Maintenance, a publication of the American Pool & Hot Tub Alliance and the International Code Council (ANSI/PHTA/ICC-2 2026) into ARM 37.115.106. The commenter notes that the prior publication, ANSI/PHTA/ICC 7 – 2020, is already adopted by reference in ARM 37.115.106(2).

Response 17: The Department of Labor and Industry does not have authority to amend the referenced rule, ARM 37.115.106, because the rules for operation of public swimming pools and public bathing places are under the jurisdiction of the Department of Public Health and Human Services. 50-53-103, MCA. The statute granting the Department of Public Health and Human Services authority over the operation of public swimming pools and public bathing places acknowledges that the Department of Labor and Industry is required to adopt the appropriate regulations related to "the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings or installation of equipment" for public swimming pools and public bathing places. 50-53-103(2), MCA. However, the operation of public swimming pools and public bathing places is governed by the Department of Public Health and Human Services under Title 50, chapter 53, MCA, and their implementing regulations in ARM Title 37, chapter 115.

Comment 18: A commenter recommended the department add an additional amendment to Chapter 7 of the 2023 National Electrical Code (NEC), adopted by reference in ARM 24.301.401. The commenter asks the department to adopt Section 702.4(A)(3) of the 2026 NEC because Section 702.4 of the 2023 NEC does not account for multimode inverter-based systems evaluated for PCS overload control. The commenter also recommended the department replace "Article 130, Part II" of the 2026 NEC with Section 750.30 of the 2023 NEC.

Response 18: The department is proposing to adopt the 2023 NEC in ARM 24.301.401, not the 2026 NEC as referenced in this comment; however, the 2023 NEC Article 90.4 allows a building code official to approve alternate methods and new products where assured equivalencies establishing and maintaining safety are met. Building code officials regularly consider references to newer codes, such as the 2026 NEC, as reasonable alternative means and methods that comply with the state building code. The department continually monitors new developments in technology, while also considering the benefits, cost, and availability of such technology before requiring any new technology in the state building code.

Comment 19: A commenter asked the department to change the deadline for outdoor outlets to have ground-fault circuit-interrupter (GFCI) protection in ARM 24.301.401(8) to the deadline of September 1, 2028, citing the NFPA's proposed amendments to the 2020, 2023, and 2026 NEC. The commenter also asked the department to expressly exempt HVAC (heating, ventilation, and air conditioning) equipment from the September 1, 2026 deadline for GFCI requirements in the 2020 NEC.

Response 19: The department acknowledges the comment. The department proposed the following language: "GFCI protection shall not be required for listed HVAC equipment. The department shall determine the expiration date of this exception[,]" amending 2023 NEC, Subsection 210.8(F), Outdoor Outlets, Exception No. 2, in ARM 24.301.401(8). The proposed language expressly exempts listed HVAC equipment from this requirement, and the department has not yet determined an appropriate deadline for requiring outdoor outlets to have GFCI protection based on Montana's unique social, geographic, and economic climates. When the department has gained sufficient information to determine an appropriate deadline in Montana, that deadline will be subject to the state's rulemaking process. Under the rulemaking process, regulators, stakeholders, industry professionals, and the public will have ample time to provide feedback on the proposed deadline before it becomes effective.

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**Rule Reviewer**

Jennifer Stallkamp

**Approval**

Sarah Swanson, Commissioner