



Resolution 26-09

Resolution type: Legislative Directive

Updating Financial Penalties and Establishing Measurable Criteria for Penalties for the Montana Natural Streambed and Land Preservation Act

Submitted by: Gallatin CD

BACKGROUND DESCRIBING ISSUE

The Montana Legislature enacted the Natural Streambed and Land Preservation Act of 1975, commonly known as the 310 Law, consistent with its constitutional obligations under Article II, section 3, and Article IX of the Montana Constitution, including the right of all Montanans to a clean and healthful environment. The 310 Law establishes the policy that Montana's natural rivers and streams, and the lands immediately adjacent to them, are to be protected and preserved in their natural or existing state. The law prohibits unauthorized projects affecting these resources while recognizing irrigation, agriculture, and the beneficial use of Montana's waters. The 310 Law created a locally administered, cooperative approach under which locally elected Conservation District supervisors work directly with landowners and project proponents.

For nearly 50 years, Conservation Districts have successfully administered the law through education, communication, voluntary compliance, corrective action, and restoration, using enforcement when necessary. Montana's streams and rivers support agriculture, irrigation, fish and wildlife habitat, water quality, flood and erosion protection, recreation, tourism, and the health and safety of Montana communities. However, the 310 Law has not been comprehensively modernized to reflect current economic conditions, restoration costs, development pressures, or the increasing scale and complexity of projects affecting streams.

Certain provisions would benefit from clarification to improve consistency, transparency, predictability, and ease of administration for Conservation Districts, landowners, project proponents, and other stakeholders. Definitions, jurisdiction, applicability, procedural requirements, and enforcement provisions have sometimes resulted in confusion or inconsistent interpretation.

The civil-penalty provisions have not been meaningfully updated since 1975 and may not provide an adequate remedy when voluntary compliance cannot be achieved or when unauthorized activities degrade streambeds, streambanks, water quality, aquatic habitat, or other protected resources. Civil penalties should encourage compliance, corrective action, and restoration while providing an effective remedy when necessary. A modernized framework should establish clear and transparent standards based on the extent, severity, and duration of a violation while preserving the authority and discretion of locally elected Conservation District supervisors. Modernization should preserve the 310 Law's longstanding cooperative approach while giving Conservation Districts the clarity, guidance, and effective remedies necessary to carry out the Legislature's original intent.

LANGUAGE TO BE INCLUDED IN LEGISLATION DRAFTED BY MACD

Develop and propose legislation for the 2027 Montana legislative session that modernizes, clarifies, and strengthens the Natural Streambed and Land Preservation Act of 1975.

The legislation should:

1. Modernize the civil-penalty provisions to provide adequate and effective remedies when violations occur and voluntary compliance cannot be achieved.
2. Establish a clear, transparent, and proportionate civil-penalty framework that considers the extent, severity, and duration of a violation and its resulting impacts.
3. Preserve local Conservation District authority and decision-making, including the authority of locally elected supervisors to determine whether a civil penalty is warranted based on the facts and circumstances of each violation.
4. Preserve Montana's cooperative approach to conservation by emphasizing education, communication, voluntary compliance, corrective action, and restoration whenever appropriate.
5. Provide meaningful incentives for cooperation and restoration, including the ability to reduce or waive penalties when a violator promptly cooperates with the Conservation District and completes appropriate corrective action or restoration.
6. Clarify definitions, jurisdiction, applicability, procedural requirements, and other provisions that have caused confusion or inconsistent interpretation.
7. Improve consistency and transparency in administration while retaining sufficient local flexibility to address individual circumstances.
8. Provide clear statewide guidance, definitions, and training to help Conservation Districts administer the Act fairly and consistently.

9. Continue to balance Montana’s constitutional and statutory commitment to a clean and healthful environment with the needs of agriculture, irrigation, private property, infrastructure, and Montana communities.

MACD should engage Conservation Districts, state agencies, legislators, landowners, agricultural interests, and other stakeholders in identifying the specific statutory provisions to be amended and developing the legislation.

SPONSOR(S) ACTIONS TO DATE

MACD Resolution 25-07, “Process to Develop Legislation to Reform the Civil Penalty Provisions of the Natural Streambed and Land Preservation Act of 1975,” was discussed in 2025. That resolution worked to establish a process for developing legislation to reform the 310 Law’s civil-penalty provisions. MACD has subsequently formed the Civil Penalty Working Group, as requested by our Montana Governor, a stakeholder group of Conservation District Supervisors and Staff, working with DNRC and MACD. This group gained partner input through a statewide civil-penalty survey and related outreach, including direct meetings. This work has identified several common concerns, including outdated penalty limits, increased restoration costs, inconsistent implementation, the importance of local discretion, and the need to continue emphasizing education and voluntary compliance.

The Civil Penalty Working Group has developed a penalty framework based on the extent, severity, and duration of a violation, together with incentives for prompt corrective action and completed restoration. This framework addresses partner discussions concerning civil penalty consistency, enforcement, local authority, voluntary compliance, and restoration.

HOW WILL YOUR DISTRICT CONTINUE TO SUPPORT, BE INVOLVED WITH, AND TRACK THIS RESOLUTION BEFORE AND DURING THE UPCOMING LEGISLATIVE SESSION?

Gallatin Conservation District will:

- Participate in MACD committees, work groups, surveys, and stakeholder discussions concerning modernization of the 310 Law.
- Provide examples and practical information derived from local administration of the 310 Law.
- Review and comment on proposed statutory language, administrative procedures, penalty standards, and restoration incentives.
- Help identify provisions that create uncertainty or inconsistent interpretation for Conservation Districts, landowners, and project proponents.
- Communicate with legislators, state agencies, agricultural interests, landowners, conservation organizations, and other stakeholders.

- Keep the District's Board of Supervisors informed of the legislation's development and progress.
- Review proposed amendments throughout the 2027 legislative session and provide testimony, comments, or other support based on experience implementing the 310 Law.

ARE THERE ANY EXISTING MACD POLICIES THAT THIS WOULD IMPACT OR INTERACT WITH?

Yes. This directive directly works to strengthen MACD Resolution 25-07, considered in 2025, which established a process for developing legislation to reform the civil-penalty provisions of the Natural Streambed and Land Preservation Act. It also interacts with MACD Resolution 06-01, "Administrative Penalties for 310 Violations," which supports clarifying Conservation District authority to assess administrative penalties. The proposal may also interact with other MACD policies concerning consistent administration of the 310 Law, Conservation District authority, stream protection, landowner education, and statewide training and guidance. This directive is intended to advance and clarify those policies rather than conflict with them.

HOW WOULD THIS POLICY IMPACT MACD?

This directive would require a significant but time-limited commitment of MACD staff and committee capacity before and during the 2027 legislative session.

Potential impacts include:

- Coordinating Conservation District and stakeholder participation.
- Working with legislative staff and a legislative sponsor to develop bill language.
- Reviewing existing statutes, prior resolutions, survey results, and stakeholder recommendations.
- Preparing educational materials.
- Tracking the bill and proposed amendments during the legislative session.
- Providing testimony and coordinating Conservation District participation.
- Working with DNRC, FWP, landowners, agricultural organizations, conservation interests, and other affected partners.

This work is already supported by MACD's support of Resolution 25-07 and MACD's ongoing civil-penalty review process. A collaborative process would strengthen MACD's partnerships and help avoid misunderstandings or opposition during the legislative session.

WOULD THIS POLICY STATEMENT IMPACT THE STATE BUDGET? IF SO, HOW?

The proposed legislation is not expected to have a significant impact on the State of Montana's budget. Conservation Districts administer the 310 Law locally, and the legislation would primarily modernize the existing civil-penalty provisions rather than create a new state program. Any civil penalties collected would be incidental to the legislation's primary purposes of encouraging compliance, corrective action, and restoration. The final bill should specify how collected penalties are deposited and used and identify whether implementation would require an appropriation or additional state resources.

MEETING AND DATE ADOPTED BY SPONSORING ENTITY

August 20, 2026

AUTHORIZED SIGNATURE(S) AND TITLE(S)

Briana Schultz, Gallatin CD Chair