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BEFORE THE GOVERNOR'S OFFICE  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM ) NOTICE OF PUBLIC HEARINGS ON  
[14.6.101](#) and [14.6.102](#) and adoption of New ) PROPOSED AMENDMENT AND ADOPTION  
Rules I, II, III, and IV, pertaining to )  
implementation of the Sage-Grouse )  
Stewardship Act )

TO: All Concerned Persons

1. The Sage Grouse Habitat Conservation Program will hold three public hearings at the following dates and times to consider the proposed amendment and adoption of the above-stated rules:

2:00 p.m. on January 12, 2017, Beaverhead-Deerlodge National Forest Office, 420 Barrett St., Dillon, MT 59725;

2:00 p.m. on January 16, 2017, Musselshell County Ambulance Barn, 704 1st St. E, Roundup, MT 59072;

2:00 p.m. on January 17, 2017, First State Bank of Malta, 1 S. 1st St E, Malta, MT 59538.

2. The Governor's Office will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Governor's Office no later than 5:00 p.m. on January 6, 2017, to advise us of the nature of the accommodation that you need. Please contact Carolyn Sime, Sage Grouse Habitat Conservation Program Manager, Montana Sage Grouse Oversight Team, c/o Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-0554; fax (406) 444-6721.

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

[14.6.101](#) DEFINITIONS Unless the context clearly requires otherwise, to aid in the implementation of the Montana Greater Sage-Grouse Stewardship Act and as used in these rules:

(1) "Additionality" means conservation benefits of a compensatory mitigation measure that improve upon the baseline conditions of the impacted resources and their values, services, and functions in a manner that is demonstrably new, or avoids losses, and would not have occurred

without the compensatory mitigation measure.

(1) remains the same but is renumbered (2).

(3) "Baseline" means the starting point for calculating the difference between baseline and post-project habitat function and functional acres. Baseline does not necessarily mean pre-project condition.

(4) "Compensatory Mitigation" means the preservation, enhancement, restoration and/or establishment of a resource to compensate for, or offset, unavoidable adverse impacts to the resource.

(2) remains the same but is renumbered (5).

(6) "Direct impacts" means impacts caused by an action that occur at the same time and place which affect and diminish the ability for sage grouse to shelter, feed, or breed.

(7) "Durability" means mitigation measures will be effective at least as long as the impacts those measures are designed to offset, using legal and financial assurances to ensure the mitigation offsets will be in place for the entire duration of the impact. Considerations include the ecological, administrative, and financial assurances that secure the biological benefits of a compensatory mitigation project; and that protect the conservation status of a compensatory mitigation site.

(8) "Effectiveness" means the proposed compensatory mitigation plan demonstrates timeliness, ecological durability and is accompanied by a durable site protections and financial assurances that secure and protect the conservation status of the mitigation site and credits for at least as long as associated impacts persist.

(9) "Enhancement" means manipulation of existing habitat to heighten, intensify, or improve a specific resource function that results in a gain of selected resource functions.

(10) "Indirect impacts" means impacts caused by or the result of an action, which occur later in time or farther removed in distance from the action, but are still reasonably foreseeable, and which affect and diminish the ability for sage grouse to shelter, feed, or breed.

(11) "In-kind" means a resource of a similar structural and functional type as the impacted resource. When used in reference to a species, in-kind means the same species.

(3) remains the same but is renumbered (12).

(13) "Landscape" means the geographic extent that encompasses an interacting mosaic of ecosystems and human systems that is characterized by a set of common management concerns.

(14) "Lek" means an activity area where sage grouse congregate to breed.

(15) "Material change" means a change that is substantive and likely affects the outcomes of the crediting or debiting project.

(16) "Mitigation sequence" means taking steps to:

(a) avoid impacts by not taking a certain action or parts of an action;

(b) minimize impacts by limiting the degree or magnitude of the action and its implementation;

(c) rectify impact by repairing, rehabilitating, or restoring the affected environment;

(d) reduce or eliminate impact over time by preservation and maintenance operations during the life of the action; and

(e) compensate for impact by replacing or providing substitute resources or environments.

(4) remains the same but is renumbered (17).

(18) "Net conservation gain" means the actual benefit or gain above baseline conditions, when the baseline is re-measured at a later time, after deductions for impacts, in habitat function or value to species covered by a mitigation program.

(5) remains the same but is renumbered (19).

(20) "Out-of-kind" means a resource of different structural and functional type to the impacted resource, which still addresses impacts to the same species.

(21) "Performance standards" means observable or measureable administrative or

ecological attributes, whether physical, chemical, or biological, that are used to determine if a compensatory mitigation project meets the agreed upon objectives.

(22) "Preservation" means maintenance or retention of existing habitat with specific resource functions for sage grouse through legal protection of existing and functioning habitat through a deed restriction or conservation easement that is permanent or in place for a long period of time.

(23) "Program" means the Montana Sage Grouse Habitat Conservation Program.

(24) "Restoration" means returning a site to its natural and/or historic habitat type and condition with the same or similar ecological functions after the original natural and/or historic site has been degraded, damaged, or lost.

(25) "Service area" means the geographic area within which impacts to a species' habitat can be offset at a particular habitat offset site as designated; the geographic area within which habitat credit trading occurs if a habitat exchange is operational in Montana.

(26) "Sufficiency review" means review of the underlying scientific methodology and data sources to ensure that the habitat quantification tool is based on reliable and repeatable quantitative science-based methods and is consistent with applicable U.S. Fish and Wildlife Service policies.

(27) "Tool" means Habitat Quantification Tool.

(28) "Verification" means a standardized process for monitoring and reporting to ensure that mitigation program rules have been followed.

AUTH: [76-22-104](#), MCA

IMP: [76-22-105](#), [76-22-109](#), [76-22-110](#), [76-22-112](#), [76-22-118](#), MCA

REASONABLE NECCESITY: Compliance with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at [76-22-101](#), et seq. MCA) required MSGOT to adopt additional rules regarding compensatory mitigation. Additional definitions are needed to clarify terms in these additional rules.

[14.6.102 GRANTS](#) (1) through (8) remain the same.

(9) MSGOT will give greater priority to applications for conservation activities eligible for funding under [76-22-110](#), MCA, which would be implemented in core areas. MSGOT may still consider funding conservation activities in general habitat and connectivity areas where high resource values for sage grouse exist and credits could be generated consistent with [76-22-109](#), MCA.

AUTH: [76-22-104](#), MCA

IMP: [76-22-105](#), [76-22-109](#), [76-22-110](#), [76-22-112](#), [76-22-118](#), MCA

REASONABLE NECCESITY: Compliance with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at [76-22-101](#), et seq. MCA) required MSGOT to adopt rules to "administer . . . the eligibility and evaluation criteria for grants distributed pursuant to [76-22-110](#) MCA." This amendment also provides flexibility for MSGOT by allowing MSGOT to consider funding projects in areas outside of core if high resource values for sage grouse can be protected.

4. The rules proposed to be adopted provide as follows:

NEW RULE I HABITAT QUANTIFICATION TOOL (1) MSGOT will designate a habitat quantification tool (Tool) to assess the quality and quantity of sage grouse habitat and to calculate the value of credits and debits by June 1, 2017. After designating a Tool, MSGOT will

amend this rule to incorporate it by reference.

(2) Prior to the time MSGOT designates a Tool and the U.S. Fish and Wildlife Service completes its sufficiency review, MSGOT may adopt and apply an interim process for calculating the value of credits and debits consistent with the provisions of this rule to assess the quality and quantity of sage grouse habitat, and to calculate the value of credits and debits.

(3) MSGOT will apply the interim process or the Tool MSGOT designates in the following circumstances:

(a) when evaluating applications for funding from the Sage Grouse Stewardship special revenue account consistent with the statutory requirements of the Greater Sage Grouse Stewardship Act expressed in [76-22-101](#), MCA et seq. and ARM [14.6.101](#) and [14.6.102](#); and

(b) when calculating credits or debits for sage grouse compensatory mitigation.

(4) Any other entities engaged in sage grouse compensatory mitigation in Montana, including a U.S. Fish and Wildlife Service-approved habitat exchange that receives credits transferred by MSGOT, or funding from the Sage Grouse Stewardship special revenue account, must apply the Tool or interim process designated by MSGOT.

(5) MSGOT will designate a Tool that:

(a) is based on the best available science;

(b) takes a landscape-scale approach, incorporating at least two spatial scales relevant to sage grouse ecology, and considers any of the threats identified by the U.S. Fish and Wildlife Service;

(c) incorporates environmental data gathered and analyzed at an appropriate, meaningful scale and resolution, such as a combination of remote sensing data and on-site visits;

(d) incorporates a clearly defined unit of measurement for habitat assessment that includes both habitat quantity and quality;

(e) uses the same methods to calculate both credits and debits;

(f) provides a reliable and repeatable quantitative method; and

(g) is consistent with applicable U.S. Fish and Wildlife Service policy and the Greater Sage Grouse Range-Wide Mitigation Framework (2014).

(6) Data included in the Tool may consist of, but is not limited to:

(a) habitat classification as core area, general habitat, or connectivity area;

(b) anthropogenic disturbance including cultivation, wildfire, and other threats identified by the U.S. Fish and Wildlife Service;

(c) land use conditions;

(d) sage grouse occupancy, lek locations, lek densities, trends in the number of males on leks;

(e) habitat and vegetation characteristics;

- (f) non-native or invasive species;
- (g) sage grouse seasonal habitats;
- (h) proposed disturbance type and spatial influence of the disturbance; and
- (i) landscape setting and landscape attribute information; or

(j) any other factors necessary to quantify habitat quality and quantity for a given area of impact or area of conservation.

(7) MSGOT and the Sage Grouse Habitat Conservation Program will solicit and consider independent peer reviews of the Tool it is considering for designation prior to designating a Tool and amending this rule to incorporate it by reference. MSGOT and the Program may make non-material revisions to the Tool without soliciting independent peer reviews, such as updating a remote sensing GIS data layer to the most recent available, or to correct typographical or technical errors.

(8) MSGOT and the Program must submit a designated Tool to the U.S. Fish and Wildlife Service for sufficiency review. If the U.S. Fish and Wildlife Service's review determines that the Tool is not sufficient, MSGOT will designate a new version of the Tool and submit the new version for U.S. Fish and Wildlife Service sufficiency review.

(9) MSGOT and the Program will review the designated Tool's methodology and underlying data sources every five years to ensure they are consistent with the best available science.

(a) The first review will take place within five years after the date of its approval by MSGOT.

(b) MSGOT and the Program may review and adjust the designated Tool's methodology and underlying data sources sooner than five years after the sufficiency review by the U.S. Fish and Wildlife Service, and more frequently than once every five years if MSGOT and the Program believe the Tool's methodology requires revision so as to be consistent with the best available science, or MSGOT and the Program believe improved methodologies or new data are available for incorporation into the Tool.

(c) MSGOT may only adjust the designated Tool's methodology or underlying data sources after a publicly announced MSGOT meeting and after accepting written and oral public comment.

(10) If MSGOT makes material changes to the Tool, those changes will be submitted to the U. S. Fish and Wildlife Service for sufficiency review. MSGOT will continue to apply a designated and sufficiency-reviewed Tool during the period of time required for U.S. Fish and Wildlife Service to provide a sufficiency review for any material changes to the Tool's methodology and underlying data sources.

(11) Any material change to the Tool's methodology and underlying data sources adopted by MSGOT after public comment and sufficiency review by the U.S. Fish and Wildlife Service will be incorporated by reference through amending this rule.

(12) Once a designated Tool has been applied to calculate the credits of a proposed mitigation site, or the debits of a proposed development site; the Program has completed its review; and the Project developer obtains the necessary state or federal permits, any

subsequent Tool designated by MSGOT will not apply.

(a) Once the Tool has been applied to calculate credits or debits, the number of calculated credits or debits will not be changed without written approval from all affected parties, including, but not limited to:

- (i) MSGOT;
- (ii) the project developer;
- (iii) the credit provider; and
- (iv) any affected third parties.

(b) Permit amendments will be subject to the Tool applied to calculate debits at the development site at the time of the original permit.

(13) The Tool that MSGOT designates will be made available to the public on the Sage Grouse Habitat Conservation Program's web site upon completion and approval by MSGOT and the U.S. Fish and Wildlife Service.

AUTH: [76-22-104](#), MCA

IMP: [76-22-105](#), [76-22-109](#), [76-22-110](#), [76-22-111](#), [76-22-112](#), [76-22-113](#), [76-22-114](#), [76-22-118](#), MCA

REASONABLE NECESSITY: This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at [76-22-101](#), et seq. MCA) which requires MSGOT to: "adopt rules to administer...the designation of a habitat quantification Tool, subject to the approval of the United States fish and wildlife service." This rule partially implements the requirements of that bill.

**NEW RULE II MITIGATION** (1) Implementation of the mitigation sequence is required for all activities subject to agency review, approval, or authorization for which direct, indirect, temporary, or permanent adverse impacts to sage grouse would remain following application of the mitigation sequence, including temporal impacts that are later rectified through reclamation and restoration activities. Mitigation will be required even if the remaining adverse impacts to sage grouse are indirect or temporary.

(2) The mitigation sequence is applicable to development in sage grouse habitats designated as core areas and is also applicable in habitats designated as general habitat and connectivity areas under less rigorous standards.

(3) MSGOT will designate a compensatory mitigation guidance and procedures document to implement the Tool MSGOT designates and other aspects of compensatory mitigation by June 1, 2017. After designating a compensatory mitigation guidance and procedures document, MSGOT will amend this rule to incorporate it by reference.

(4) Prior to the time MSGOT designates a Tool and U.S. Fish and Wildlife Service

completes its sufficiency review, MSGOT may designate and apply an interim compensatory mitigation guidance and procedures document to implement an interim process and other aspects of compensatory mitigation for up to one year from the effective date of this rule. The compensatory mitigation guidance and procedures document will direct how MSGOT and the Program or another party approved by MSGOT administer one or more of the following:

- (a) a conservation bank;
  - (b) participation in a habitat credit exchange;
  - (c) making a financial contribution to the sage grouse stewardship account if sufficient credits are not available; or
  - (d) funding stand-alone mitigation actions to offset impacts to sage grouse habitat.
- (5) The compensatory mitigation guidance and procedures document that MSGOT designates will be made available to the public on the Program's web site upon completion and approval by MSGOT.
- (6) MSGOT and the Program will review the compensatory mitigation guidance and procedures document every five years, concurrent with the five-year review of the Tool. The first review will take place within five years after the date of the U.S. Fish and Wildlife Service approval of the Tool.
- (7) MSGOT and the Program may review and adjust the compensatory mitigation guidance and procedures document sooner than five years after the U.S. Fish and Wildlife Service's initial sufficiency review of the Tool and more frequently than once every five years if MSGOT and the Program believe the compensatory mitigation guidance and procedures document requires revision to be consistent with any changes in the Tool.
- (a) MSGOT may only adjust the designated Tool's methodology or underlying data sources after a publicly announced MSGOT meeting and accepting written and oral public comment.
  - (8) MSGOT and the Program may make non-material revisions to the designated compensatory mitigation guidance and procedures document such as to incorporate the most recently available GIS data layers or to correct typographical or technical errors without formal rulemaking, but may only make such changes after a publicly announced MSGOT meeting and accepting written and oral public comment.
  - (9) Any material change to the compensatory mitigation guidance and procedures document adopted by MSGOT after public comment will be incorporated by reference by amending this rule.
  - (10) Through the mitigation guidance and procedures document described in (3), MSGOT may incentivize or discourage specific practices in particular locations by adjusting the value of credits or debits generated by those practices. Some variables that may drive adjustments include, but are not limited to:
    - (a) a transparent method to adjust credits or debits to ensure net conservation gain;
    - (b) incorporating ratios or multipliers that are intended to incentivize avoidance of important areas, incentivize voluntary conservation and landowner stewardship;

- (c) duration of habitat benefits to match or exceed the duration of habitat impacts; and
- (d) ensuring additionality.

(11) MSGOT will authorize and approve compensatory mitigation plans that involve sage grouse habitat restoration, habitat enhancement, or habitat preservation through participation in one or more of the following:

- (a) a conservation bank;
- (b) participation in a habitat credit exchange;
- (c) making a financial contribution to the sage grouse stewardship account if sufficient credits are not available; or
- (d) funding stand-alone mitigation actions to offset impacts to sage grouse habitat.

(12) All compensatory mitigation plans involving habitat restoration, enhancement, or preservation, and approved by MSGOT, must:

- (a) meet the same standards provided in this rule;
- (b) be consistent with the U.S. Fish and Wildlife Service Greater Sage Grouse Range-Wide Mitigation Framework (2014) and the designated compensatory mitigation guidance and procedures document; and
- (c) apply the Tool designated by MSGOT.

(13) Project developers may not utilize research or education to provide compensatory mitigation.

(14) Compensatory mitigation plans must be approved by MSGOT, and implementation completed, before any impacts requiring compensatory mitigation occur. MSGOT may approve post-impact mitigation if the party proposing the mitigation provides adequate assurances the mitigation will occur and the credit amount compensates for the temporal impact to the species created by the delay in implementation.

(15) Compensatory mitigation plans may be prepared by a project developer with potential debits, potential credits, or both.

(16) Compensatory mitigation plans must, at a minimum, meet the following standards:

- (a) avoid or minimize impacts to all possible extent;
- (b) demonstrate that reasonable alternatives have been considered to avoid and minimize impacts that have not been avoided or minimized;
- (c) provide net conservation gain for the duration of any habitat impacts mitigation is intended to offset;
- (d) provide additionality;
- (e) mitigate actions in core areas, connectivity areas, general habitat or other priority locations identified by the Montana Sage-Grouse Oversight Team; and



(f) create a significant number of credits relative to the cost of the project.

(17) Compensatory mitigation plans must provide for in-kind replacement of habitat quality and quantity. MSGOT may, on a case-by-case basis, approve out-of-kind mitigation if greater benefits to sage grouse are clearly demonstrated.

(18) Compensatory mitigation plans submitted for debit projects must incorporate at a minimum:

(a) a participant agreement between the credit provider and the credit purchaser;

(b) the location and duration of impacts to sage grouse habitat;

(c) the location of the mitigation site;

(d) estimated debits (baseline condition and anticipated impacts);

(e) the location of the mitigation site offsetting the impacts;

(f) baseline condition;

(g) monitoring protocols;

(h) performance standards;

(i) mechanisms to address credit impairment or project failure through financial assurances; and

(j) a description of the service area.

(19) Compensatory mitigation plans submitted for credit projects must incorporate at a minimum:

(a) the location, duration, and type of conservation activities used for mitigation;

(b) estimated credits, baseline condition, and desired future conditions;

(c) management and long-term stewardship activities and costs;

(d) performance measures, monitoring protocols, and credit verification procedures to track progress toward anticipated conservation benefits;

(e) reporting requirements;

(f) assurances and contingency plans for maintaining habitat quantity and value for the duration of the project;

(g) mechanisms for adaptive management;

(h) a site protection instrument; and

(i) a description of the service area.

(20) All projects used for compensatory mitigation must submit an annual monitoring report to MSGOT and the Program describing credits generated, credits transferred, management activities taken, and project performance consistent with the compensatory

mitigation guidance and procedures document.

(21) Site protection instruments executed in compensatory mitigation plans approved by MSGOT must:

(a) designate the Program, or any other party approved by MSGOT, as a third-party beneficiary with rights of entry for monitoring, credit verification, and enforcement;

(b) permit the Program, or any other party approved by MSGOT, to calculate and verify credits on the site; and

(c) prohibit incompatible uses that would jeopardize the conservation objectives of the mitigation site.

(22) Compensatory mitigation plans approved by MSGOT must include financial assurances guaranteeing:

(a) the availability of funds for the inspection, monitoring, verification, and completion of all mitigation activities; and

(b) methods to account for mitigation project failure and credit impairment, including program-level assurances against project failure, such as a credit reserve account.

(23) Financial assurances of credit development projects may be provided through a number of methods, including but not limited to establishment of an endowment fund, insurance, or a bond.

(24) MSGOT will designate service areas that reflect the need for genetic connectivity between designated core areas, general habitat areas, and connectivity in the state of Montana.

(25) MSGOT will require compensatory mitigation to occur in the same core area, general habitat area, or connectivity area as the impacts in Montana.

(a) MSGOT may consider and approve compensatory mitigation plans in a different core area, general habitat area, or connectivity area as the impact, on a case-by-case basis when suitable compensatory mitigation sites cannot be secured within the same core area as the impact within Montana; and

(b) when a greater conservation benefit to the species or population can be provided by compensatory mitigation outside of the core area, general habitat area, or connectivity area.

(26) MSGOT may consider and approve compensatory mitigation plans in a different service area as the impact:

(a) on a case-by-case basis when suitable compensatory mitigation sites cannot be secured within the same service area as the impact within Montana; and

(b) when a greater conservation benefit to the species or population can be provided by compensatory mitigation outside of the service area.

AUTH: [76-22-104](#), MCA

IMP: [76-22-105](#), [76-22-109](#), [76-22-110](#), [76-22-111](#), [76-22-112](#), [76-22-113](#), [76-22-114](#),

[76-22-118](#), MCA

REASONABLE NECESSITY: This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at [76-22-101](#), et seq. MCA) which requires MSGOT to: "adopt rules to administer... methods of compensatory mitigation available...". This rule partially implements the requirements of that bill.

**NEW RULE III METHOD TO TRACK AND MAINTAIN THE NUMBER OF CREDITS AND DEBITS AVAILABLE AND USED**

(1) MSGOT will assign a unique identifier for each credit created through funds disbursed from the Sage Grouse Stewardship special revenue account.

(2) MSGOT will assign a unique identifier for each credit created through conservation activities funded or implemented independently from the Sage Grouse Stewardship special revenue account.

(3) MSGOT will assign a unique identifier for each debit created by a project developer.

(4) MSGOT will establish a database and tracking system that contains, but is not limited to:

(a) the number of credits generated by conservation activities funded, at least in part, by funds disbursed from the Sage Grouse Stewardship special revenue account;

(b) the number of credits generated by conservation activities not funded through the Sage Grouse Stewardship special revenue account and used as compensatory mitigation by project developers;

(c) the number of debits created by unavoidable impacts to habitat due to the activities of a project developer;

(d) the location of all credits generated and debits generated; and

(e) credit transactions between parties.

(5) The information within the tracking system will be available to the public on the Program's web site.

AUTH: [76-22-104](#), MCA

IMP: [76-22-104](#), [76-22-105](#), [76-22-109](#), [76-22-110](#), [76-22-111](#), [76-22-112](#), [76-22-118](#), MCA

REASONABLE NECESSITY: This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at [76-22-101](#), et seq. MCA) which requires MSGOT to: (1) "adopt rules to administer...a method to track and maintain the number of credits attributable to projects funded . . . that are available to a project developer to purchase for compensatory mitigation to offset debits under [67-22-111](#);" (2) "adopt rules to administer . . . review and monitoring or projects funded pursuant to [Part 1]; (3) "review compensatory mitigation plans proposed under [76-22-111](#). If the plan includes a financial contribution to the sage grouse stewardship account established in [76-22-109](#), the oversight team will, using the habitat quantification tool, determine how to secure enough credits with the financial contribution to offset the debits of a project." This rule partially implements the requirements of that bill.

**NEW RULE IV METHOD TO ADMINISTER THE REVIEW AND MONITORING OF MSGOT FUNDED PROJECTS** (1) MSGOT and the Program will establish a database and tracking system to review and monitor projects funded by MSGOT using the Sage Grouse Stewardship special revenue account.

(2) The database and tracking system will contain information including, but not limited to:

- (a) the name of the Stewardship Fund grant recipient(s);
- (b) the amount awarded;
- (c) the date the state funds were transferred to the grant recipient(s) if a one-time lump sum grant, or
- (d) the dates state funds were transferred to the grant recipient(s) if the award was a reimbursable grant;
- (e) a description of characteristics of the project including, but not limited to:
  - (i) type of project;
  - (ii) number of acres; and
  - (iii) land ownership;
- (f) the duration of the project;
- (g) any expected conservation benefits of the project;
- (h) the geospatial location where the project was implemented;
- (i) the number of credits generated, and their characteristics;
- (j) the unique identifier assigned to each of the those credits;
- (k) transactions of credits created;
- (l) progress and final reports submitted by the grant recipient(s);
- (m) annual monitoring reports in the case of conservation easements or leases;
- (n) sage grouse leks on and in the vicinity of the project area and trend data on the number of breeding males on those leks; and
- (o) the grant agreement number assigned by the Program.

AUTH: [76-22-104](#), MCA

IMP: [76-22-104](#), [76-22-105](#), [76-22-109](#), MCA

REASONABLE NECESSITY: This rule is reasonably necessary for MSGOT to comply with the requirements of SB 261 (Session Laws of Montana 2015, Chapter No. 445, Section 2, codified at [76-22-101](#), et seq. MCA) which requires MSGOT to: (1) "adopt rules to administer... the review and monitoring of projects funded." This rule partially implements the requirements of that bill.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Carolyn Sime, Sage Grouse Habitat Conservation Program Manager, Montana Sage Grouse Oversight Team, c/o Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-0554; fax (406) 444-6721; or through the public comment web application tool located on the MSGOT web page at <https://sagegrouse.mt.gov/msgot.html>. All comments must be received no later than 5:00 p.m., January 23, 2017.

6. Carolyn Sime, Sage Grouse Habitat Conservation Program Manager, Montana Sage Grouse Oversight Team, has been designated to preside over and conduct these hearings.

7. The Governor's Office maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail. Such written request may be mailed or delivered to the Natural Resource Policy Advisor, P.O. Box 200801, 1301 East Sixth Avenue, Helena, MT 59620; fax (406) 444-4151; or may be made by completing a request form at any rules hearing held by the Governor's Office.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of [2-4-302](#), MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on November 2, 2016, and again on November 30, 2016.

10. With regard to the requirements of [2-4-111](#), MCA, the Governor's Office has determined that the amendment and adoption of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Andy Huff  
Andy Huff  
Rule Reviewer

/s/ Tim Baker  
Tim Baker  
Natural Resource Policy Advisor  
Governor's Office

Certified to the Secretary of State December 12, 2016

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