

must be properly secured. Motor Carrier Services officers at the Montana Department of Transportation have the authority to enforce this regulation now.

RESPONSE: The Federal Motor Carrier Safety Administration and the Montana Department of Transportation regulate certain aspects of trucking and can enforce 49 CFR Section 393.110. The department does not have the authority to enforce 49 CFR Section 393.110. Additionally, depending on how a load is packaged, 49 CFR Section 393.110 may not apply to the types of loads targeted by ARM 17.50.523. However, 75-10-204(3), MCA, requires the department to adopt rules governing transportation of solid wastes so that the department can ensure that solid waste is transported in a manner that is protective of public health and safety.

COMMENT NO. 4: To enforce this rule, there would have to be officers or inspectors that witness noncompliance. Alternatively, compliance would need to be required by the waste facility.

RESPONSE: The department disagrees. ARM 17.50.523(2) will be enforced in the same manner as ARM 17.50.523(1) and the rest of the department's administrative rules. The department will investigate complaints when they are made. The department also anticipates that it will work with solid waste management facilities to ensure compliance.

COMMENT NO. 5: If the department is going to rely on law enforcement citations for enforcement, the likely enforcement agency is the Montana Department of Transportation. Montana Department of Transportation officers do not have the authority to enforce rules adopted pursuant to 75-10-204, MCA.

RESPONSE: The department does not intend to rely on Montana Department of Transportation officers to enforce ARM 17.50.523(2).

COMMENT NO. 6: The department could ensure that loads are properly packaged without adopting this rule if it coordinated with the Montana Department of Transportation and law enforcement.

RESPONSE: The department does work with the Montana Department of Transportation and law enforcement in its enforcement actions. However, the department has a statutory mandate to adopt rules regulating the transport of solid waste.

COMMENT NO. 7: This rule would include all construction companies, as how would roadside enforcement know what was being hauled without stopping the vehicle. The rule would become a hardship on all carriers.

RESPONSE: ARM 17.50.523(2) will be enforced in the same manner as ARM 17.50.523(1) and the rest of the department's administrative rules. The department does not intend to stop vehicles. The department will investigate complaints when they are made and work with solid waste management facilities to ensure compliance.

COMMENT NO. 8: There have been issues where loads may have been spilled, but this rule does nothing to solve the problem.

RESPONSE: ARM 17.50.523(2) adds the additional requirement for coverage when waste haulers are transporting oilfield exploration and production waste. The department believes that the rule will lead to fewer spills of oilfield exploration and production waste.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL
QUALITY

/s/ John F. North

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Rule Reviewer

BY: /s/ Tom Livers

TOM LIVERS, Director

Certified to the Secretary of State, April 11, 2016.