



ADMINISTRATIVE RULES OF MONTANA



18.7.208 UTILITY RELOCATION FOR DESIGN-BID-BUILD HIGHWAY PROJECTS

- (1) In addition to other options available to the department, all facilities located in the highway right-of-way must follow this rule when any part of them must be moved for a highway project that uses the design-bid-build delivery method.
- (2) The department will send a preliminary notice to any facility owner whose facility may need to be moved for a highway project.
 - (a) The preliminary notice will be in writing and will give enough information for the facility owner to know the project location, the possible extent of the move, and the approximate date the project will go out for bids based on the department's tentative construction plan.
 - (b) The department may send a preliminary notice anytime during project planning, but always before or at the meeting with the facility owner to discuss project details, estimated reimbursement, or a utility agreement.
- (3) Any facility owner that receives a preliminary notice under (2) will also receive a written notice to move its facilities for the highway project. The written notice will allow the facility owner a reasonable amount of time to move the facility. This timeframe will be no less than 90 days, and it is always in addition to the 90 days following the preliminary notice. A reasonable written notice is effective the date it is sent or 90 days after the preliminary notice is sent, whichever is later.
 - (a) A notice to proceed counts as reasonable written notice.
 - (b) A letter may also serve as reasonable written notice if it sets a date for removal and warns the facility owner that the department will remove the facility itself if the facility is not moved as instructed.
- (4) A facility owner shall submit a written notice of completion to the department upon finishing the relocation work.
 - (a) The department shall give the facility owner a written acknowledgment stating the date the notice was received, which will be the completion date.
 - (b) If a facility owner entitled to reimbursement fails to move the facility as required under a reasonable written notice, the department will reduce department participation in relocation costs on a daily basis in an amount equal to 2.5% of the total reimbursement amount set forth in the utility agreement. The reduction begins on the date listed in the utility agreement (at least 90 days after the reasonable written notice was sent) and continues until the completion date established in (4)(a) or until the reimbursement amount is reduced to zero, whichever occurs first.

- (5) If a facility owner submits a written request claiming an excusable delay, the department may extend the reasonable amount of time for removal as defined in this rule, counted to the nearest full day.
 - (a) The request must be submitted within 21 days of the event that caused the delay. The facility owner must provide documentation proving the delay was excusable and specific to the project and location.
 - (b) The request will be reviewed by the district agent, right-of-way utilities manager, or another designated staff member, and the decision will be provided in writing.
 - (c) An excusable delay is caused by something beyond the facility owner's control that could not have been predicted. Examples include, but are not limited to, severe winter weather, environmental conditions preventing removal, delays caused by the department that influence the timeline as established in the utility agreement, or material delays caused by an industry-wide strike, national disaster, or major shortage.
 - (d) Delays caused by things the facility owner could have prevented or anticipated, such as traffic control device needs, late supply orders, and financial problems are not excusable.
- (6) Facility owners must ensure removals are accurate and comply with permits and agreements. Final acceptance by the department does not guarantee the installation is accurate; it only finalizes the penalty deducted from reimbursement and establishes the total reimbursement reduction.
- (7) If a facility owner does not remove the facility in compliance with this rule, the department has the right to hire qualified contractors to remove the facility. Removal of a facility may begin no sooner than 130 days following the reasonable written notice provided under (3).
- (8) If a department notice under this rule contains an error, it can be corrected with another notice. Minimum time periods set in this rule or in 60-4-403, MCA, will not automatically change because of the error, unless the error misled the facility owner or made the notice invalid. A corrective notice may also clarify how or if a timeline is affected.
- (9) Any notice to a facility owner under this rule may be delivered using the contact information on record for the permit, if one exists. If no permit exists, the department may use any commercially reasonable method to contact the facility owner.

Authorizing statute(s): 60-4-403, MCA

Implementing statute(s): 60-4-402, 60-4-403, MCA

History: NEW, 2026 MAR, Notice No. 2025-171, Eff. 4/11/26.