



ADMINISTRATIVE RULES OF MONTANA



18.7.207 ELECTRONIC UTILITY PERMIT APPLICATION PROCESS

- (1) An applicant must apply for a utility encroachment permit or utility occupancy agreement (collectively Utility Permit) through the department's Utility Permitting Administration System (UPAS), through the department's website at www.mdt.mt.gov or mdtupas.com, for the installation of any utility facility on right-of-way under the jurisdiction of the department. The Utility Permit conditions and department's Montana Right-of-Way Utilities Manual set forth the procedures and conditions for all utility installations statewide. The department may impose additional restrictions or requirements for Utility Permits. The following conditions apply to all Utility Permit applications:
 - (a) Permits are only issued in the name of the utility owner;
 - (b) A utility owner, utility company, or utility company contractor may not begin any utility work on the right-of-way until an approved Utility Permit is issued by the department and the utility owner is authorized to proceed;
 - (c) The utility owner must provide the name of any contractor or subcontractor who will be conducting the installation, including contact information and an executed construction agreement if required by the department, within 60 days after the utility owner retains the contractor or subcontractor, or prior to commencement of work whichever occurs earlier;
 - (d) If the utility owner expects work to impact travel lane capacity, the utility owner must contact the appropriate department district office to discuss traffic control concepts in advance of submitting a Utility Permit application;
 - (e) The utility owner's construction forces and the utility contractor must keep a copy of the completed Utility Permit, including all attachments, at the work site at all times. All documents and the utility work are subject to department review at all reasonable times; and
 - (f) A pending application shall, if necessary, be modified by the utility owner to improve safety or facilitate alteration or maintenance of the right-of-way as determined by the department.
- (2) Each application must:
 - (a) be complete and accompanied by all required supplemental materials. The department reserves the right to reject ineligible, incomplete, or otherwise improper applications. The department may request additional information if warranted after initial application review. Applicants have 30 days to respond to an additional information request. If no response is received, the application will automatically be denied;

- (b) be in the name of the utility owner that is responsible for the installation and maintenance of the utility facility, including name, address, e-mail address, responsible employee's title, and telephone number;
 - (c) be authenticated via the applicant's password;
 - (d) include authorization, if any, for the utility owner's contractor to obtain a Utility Permit on the utility owner's behalf. All terms and conditions set forth in the Utility Permit apply to the contractor; and
 - (e) be accompanied by a non-refundable electronic convenience fee.
- (3) Application attachments must include:
- (a) an electronic plan set in PDF depicting the proposed installation. The plans must be in a format acceptable to the department and must include utility company identification, work location, utility type and size, type of construction, vertical and horizontal location of facilities relative to the centerline of road, location of all appurtenances, trench details, and right-of-way limits;
 - (b) a traffic control plan which conforms to the Manual on Uniform Traffic Control Devices (MUTCD).
- (4) The American Society of Civil Engineers (ASCE) standard guideline for recording and exchanging utility infrastructure data is adopted by reference. The ASCE guideline is available at www.asce.org. ASCE standard survey-grade Global Positioning System (GPS) survey, or "as built survey" of the utility facility location(s), must be submitted electronically to the department within 90 days of completion of the installation or construction, or otherwise as allowed in (c). The ASCE standard as-built surveys must comply with the department's Utility Manual and the following:
- (a) A Utility owner may:
 - (i) Submit ASCE standard survey-grade Global Positioning System (GPS) as-built surveys certified by a licensed professional engineer (PE) or professional land surveyor (PLS) showing the facility type, function, size, configuration, material, location, elevation, and any special features such as encasement, manholes and valves, or as otherwise specified in the Utility Permit special conditions. The ASCE standard certified survey data will not be subject to department inspection and audit unless discrepancies are noted by the department; or
 - (ii) Submit ASCE standard survey-grade as-built surveys, certified by a duly authorized officer or employee of the utility owner instead of a licensed PE or PLS, showing the facility type, function, size, configuration, material, location, elevation, and any special features such as encasement, manholes and valves, or as otherwise specified in the Permit special conditions. The ASCE standard non-PE or PLS certified survey data may be subject to department audit and inspection.
 - (b) ASCE standard non-PE or PLS certified as-built surveys are subject to department audit, inspection, and verification of accuracy. If the department notes discrepancies between submitted as-built surveys and inspections, the department may hire an independent contractor to locate the utility facility and obtain accurate as-built survey data. All costs associated with this activity are the responsibility of the utility owner.

- (c) If ASCE standard as-built surveys are not submitted within 90 days, or another time period as determined by the department upon utility owner's request, the department may remove the utility facility, place all other submitted Utility Permit applications from the delinquent utility owner on hold, or hire a consultant to complete the survey work and charge all costs to the delinquent utility owner. A utility owner may request an extension due to weather or other conditions, which may be approved in writing by the department.
 - (d) The department may reimburse a utility owner for PE or PLS certified ASCE standard as-built surveys if the utility facility is eligible for relocation reimbursement due to a pending highway project.
 - (e) Costs incurred at any time by the department or its contractors due to significant incorrect as-built survey information supplied by the utility owner, or major deviations in actual placement from that described in the original permit, are the responsibility of the utility owner. The department will bill the utility owner for costs incurred.
- (5) Utility owners performing maintenance of permitted utility facilities occupying right-of-way under the jurisdiction of the department must apply for a utility Notification Permit (Notification Permit). A Notification Permit application must be submitted electronically through UPAS through the department's website at mdt.mt.gov or mdtupas.com. Notification permits are subject to all applicable UPAS requirements and the following conditions:
- (a) the application must provide an exact description of the maintenance work, including location, date(s) of maintenance work, traffic control plan, and any other information requested by the department;
 - (b) no fee or as-built survey data is required for a Notification Permit;
 - (c) the department will require the utility owner's construction forces or a utility contractor performing utility maintenance work in the right-of-way without a Notification Permit to vacate the right-of-way immediately until a Notification Permit has been issued by the department, including any required traffic control plan; and
 - (d) utility work performed in response to an emergency does not require a prior Notification Permit, but a Notification Permit application must be submitted as soon as practicable after the work is completed.
- (6) The department may revoke a Utility Permit or a Notification Permit for failure to comply with the terms and conditions of the permit. Upon Utility Permit or Notification Permit revocation, the department may remove the utility facility and restore the highway and right-of-way at the sole expense of the utility owner. Prior to any revocation, the department shall notify the utility owner in writing, setting forth the violations, and providing the utility owner a time period to correct the violations to the satisfaction of the department. The utility owner may request an extension due to weather or other conditions which may be approved in writing by the department. The department may decline to issue further Utility Permits or Notification Permits to a utility owner who fails to comply with this rule or permit requirements.

Authorizing statute(s): 60-4-402, MCA

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

History: NEW, 2019 MAR p. 2021, Eff. 1/1/20; AMD, 2023 MAR p. 1012, Eff. 9/9/23.