



ADMINISTRATIVE RULES OF MONTANA



18.7.202 DEFINITIONS

- (1) "Clear recovery area" means that portion of the highway right-of-way as established by the department. Unless otherwise provided, the distance for this area shall be 30 feet from the outer edge of the outside travel lane on paved sections or 42 feet from the centerline of the road on unpaved sections, or "clear zone" as defined by the 2011 edition of the AASHTO publication "Roadside Design Guide," whichever is greater. Copies of AASHTO publications are available for inspection and copying at the department's offices in Helena. Copies of current AASHTO publications are available for purchase at <https://bookstore.transportation.org/>.
- (2) "Department" means the state of Montana Department of Transportation and its authorized agents and representatives.
- (3) "District" means the specific geographic area of the state designated by the Department of Transportation as a district. There are five district headquarters, which are currently located in Missoula, Butte, Great Falls, Billings, and Glendive.
- (4) "District administrator" means the administrative head of each district or the designee of the district engineer.
- (5) "Engineering costs" means costs for designing, locating, staking, inspecting, or any other incidental costs of engineering.
- (6) "Facility" means all pipes, mains, conduits, cables, wires, towers, poles, and other equipment, structures, and appliances built or installed by any utility or non-utility for the purpose of transporting, transmitting, furnishing, and/or distributing hydro-carbons and the products thereof, electric power and energy, communication signals, water, and sewage.
- (7) "Full controlled-access facility" means those portions of an interstate highway, throughway, or throughway intersection which the Highway Commission designates for through traffic or other federal-aid or state highways over, from, or to which the owners or occupants of abutting land or other persons have no easement of access, light, air, or view. It also means those portions of spurs of the interstate system which the Highway Commission designates as unsafe or impeded by unrestricted access of traffic from intersecting streets or alleys or public or private roads or ways of passage.
- (8) "Highway" means a commission-designated highway system or state highway.
- (9) "Highway right-of-way" means the land owned or controlled by the State of Montana Department of Transportation which is designated as highway right-of-way.

- (10) "Highway structure" means any structure located on a highway that is under the jurisdiction of the Department of Transportation and constructed for the purpose of carrying vehicular, rail, or pedestrian traffic over a depression, stream, obstacle, roadway, walkway, or railroad.
- (11) "Occupancy agreement," "common use agreement," "utility encroachment permit," or utility occupancy agreement permits mean the documents the owner must secure from the department, prior to occupancy, showing the conditions of occupancy of highway right-of-way, whether such occupancy is overhead, underground, or on the surface.
- (12) "Public utility" means:
 - (a) all public utilities as defined by 69â€™3â€™101, MCA, but including publicly owned water and sanitary sewer facilities;
 - (b) all common carrier pipelines as defined by 69â€™13â€™101, MCA; and
 - (c) all rural cooperative, nonâ€™profit membership corporations organized under the Rural Electric and Telephone Cooperative Act, as set forth in 35â€™18â€™101 through 35â€™18â€™503, MCA.
- (13) "Relocation" means the adjustment or replacement of an existing publicly owned utility facility with a facility of lesser or equal value to accommodate a department highway construction project.
- (14) "Retained facility" means an existing facility which occupies right-of-way required for a new highway project by virtue of a permit, right, or easement under which it was originally installed.
- (15) "State" means the State of Montana and the State of Montana Department of Transportation as a duly constituted agency thereof, and its employees.
- (16) "State highway project" means any highway construction project on a highway that is under the jurisdiction of the Department of Transportation.

Authorizing statute(s): 60-3-101, 60-4-402, MCA

Implementing statute(s): 60-3-101, 60-4-402, 60-4-403, MCA

History: Eff. 12/31/72; AMD, 1995 MAR p. 854, Eff. 5/12/95; AMD, 2018 MAR p. 1278, Eff. 7/7/18; AMD, 2021 MAR p. 1772, Eff. 12/11/21.