



ADMINISTRATIVE RULES OF MONTANA



10.121.905 IDENTIFICATION OF HERITAGE PROPERTIES AND PALEONTOLOGICAL REMAINS

- (1) The agency shall identify all known heritage properties and paleontological remains that are located on state lands within the area of effect. The agency shall use the following heritage value criteria in identifying heritage property, whether or not it meets the criteria for listing on the register. Heritage property values are the qualities of significance in American history, architecture, archaeology, engineering, and culture present in districts, sites, buildings, structures, and objects achieving significance prior to the last 50 years and that possess integrity of location, design, setting, materials, workmanship, feeling, and association and which:
 - (a) are associated with events that have made a significant contribution to the broad patterns of Montana's or the nation's history;
 - (b) that are associated with the lives of persons significant in our past;
 - (c) that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
 - (d) that have yielded, or may be likely to yield, information important in prehistory or history; or
 - (e) are verified by a professional paleontologist advising the SHPO through formal agreement to be paleontological remains.
- (2) The agency shall use the following procedure to identify what known historic, architectural, or prehistoric properties or paleontological remains exist within an action area and how unknown or unevaluated resources should be discovered:
 - (a) The agency shall provide the SHPO with:
 - (i) the legal description of the property on which the action is proposed;
 - (ii) a description of the current condition and use of the area of effect;
 - (iii) a brief summary of the nature and scope of the proposed action; and
 - (iv) information the agency has on heritage property or paleontological remains in the area of effect.
 - (b) If an action would change or remove a building, including cases where new buildings are to be built adjacent to old buildings, the agency shall provide the SHPO with:
 - (i) information on the legal description of the property on which the building(s) is located;
 - (ii) a photograph of the building(s) ;

- (iii) a brief description of the proposed action; and
 - (iv) when available, dates of building construction, information on building use, and changes to the building over time. If applicable and available, the design of new building(s) shall be provided.
- (3) The SHPO shall provide the agency with information on:
 - (a) known heritage property or paleontological remains in the area;
 - (b) the likelihood of unknown heritage property or paleontological remains in the area; and
 - (c) whether a previous cultural resource survey has occurred in the area of effect.
- (4) If the SHPO has information that heritage resources or paleontological remains exist or may exist in the area of effect, the SHPO shall recommend inventory, recordation, and data collection methods. If an action involves a building, the SHPO shall inform the agency about whether any building has been recorded previously or if its historic and architectural value has been assessed. If recordation and evaluation of heritage properties has not occurred, the SHPO shall recommend documentation and evaluation methods. All SHPO recommendations for methods to be applied shall follow standards, procedures, and guidelines provided for in 22-3-428, MCA. The SHPO shall provide its recommendation to the agency within 30 days of the SHPO's receipt of an agency's request.
- (5) Upon receipt of the information and recommendations from the SHPO, the agency shall determine what additional action is necessary to fulfill its responsibility to identify Montana heritage properties in the area of effect.
- (6) If the agency does not follow the SHPO's recommendation, it shall document its decision and justification in the action file. A copy of the documentation must be forwarded to the SHPO.

Authorizing statute(s): Sec. 22-3-423(9) MCA

Implementing statute(s): Sec. 22-3-424 MCA

History: NEW, 1998 MAR p. 2022, Eff. 7/31/98.