



**MONTANA
ADMINISTRATIVE
REGISTER**



DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-172.1

Summary

These proposed new rules create procedures to address camping and removal and storage of personal property in the right-of-way of state highways.

Hearing Date and Time

Friday, October 31, 2025, at 10:00 a.m.

Virtual Hearing Information

A public hearing will be held via remote conferencing to consider the proposed rulemaking. There will be no in-person hearing. Interested persons may access the remote conferencing platform in the following ways:

Join Zoom Meeting

<https://mt-gov.zoom.us/j/81881517732?pwd=WzQ2Ue1E8mXGaauctCZ3EZhbIOIGMg.1>

Meeting ID: 818 8151 7732

Password: 800026

Dial by Telephone

+1 646 558 8656

Meeting ID: 818 8151 7732

Password: 800026

Find your local number: <https://mt-gov.zoom.us/j/keixz2IRfF>

Comments

Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted to the contact person below. Comments must be received by Friday, November 7, 2025, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, October 24, 2025, at 5:00 p.m.

Contact

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astrong@mt.gov

General Reasonable Necessity Statement

These proposed new rules are needed to give clear instructions to local law enforcement officers and Montana Department of Transportation workers on how to remove things that are located in the state highway right-of-way, while making sure people affected by these actions have fair legal protections.

Rulemaking Actions

ADOPT

The rules proposed to be adopted are as follows:

NEW RULE 1 (18.7.401) DEFINITIONS

- (1) "Apparent utility" means items used to meet basic human needs or something that could be useful to a person, like a tent, blanket, or jacket, as long as it still works for its intended use.

- (2) “Enforcement action” means the authorized cleanup of a campsite or property stored in the state highway right-of-way, pursuant to [HB 940].
- (3) “Enforcement site” means the location where the cleanup happens.
- (4) “Overnight camping” does not include commercial truck drivers who must stop for required breaks or because their official permit allows it.

Authorizing statute(s): House Bill 940, 69th Legislative Session (2025)

Implementing statute(s): House Bill 940, 69th Legislative Session (2025)

NEW RULE 2 (18.7.402) CLEANUP NOTICES

- (1) Before removing campsites or people’s items, the department must post notice(s).
- (2) The notice(s) shall be posted:
 - (a) at the camp or storage site in an easily seen location;
 - (b) at other nearby public places like the courthouse, local shelter, food bank, or other areas where unhoused people may gather.
- (3) If the site has overnight camping, the notice shall be posted at least three days (72 hours) before cleanup. If only property is located there, the notice shall be posted at least five days (120 hours) before cleanup.
- (4) The notice shall be protected from weather damage by a plastic sleeve or other covering.
- (5) The notice will include:
 - (a) the scheduled cleanup date;
 - (b) the location;
 - (c) what happens if the notice is not followed; and
 - (d) where people’s items will be after cleanup.
- (6) The department will document the date and location of posted notices.
- (7) Notices will stay up for at least 30 days after the cleanup.

Authorizing statute(s): House Bill 940, 69th Legislative Session (2025)

Implementing statute(s): House Bill 940, 69th Legislative Session (2025)

NEW RULE 3 (18.7.403) CLEANUP PROCESS

- (1) The department will record the cleanup by photos or video before, during, and after it happens.
- (2) If someone returns to the site during the cleanup, they can take their things as long as it is safe to themselves and other people.

Authorizing statute(s): House Bill 940, 69th Legislative Session (2025)

Implementing statute(s): House Bill 940, 69th Legislative Session (2025)

NEW RULE 4 (18.7.404) STORAGE AND DISPOSAL OF PERSONAL PROPERTY

- (1) After cleanup, the department will make a reasonable effort to find items such as those listed below and give them to local police:
 - (a) ID cards and legal and medical papers;
 - (b) prescription medicine and medical devices;
 - (c) weapons;
 - (d) stolen or illegal items.
- (2) After cleanup, the department will make a reasonable effort to keep some types of items safe at a local storage yard for 30 days before throwing them away, such as:
 - (a) useful items, like tents, blankets, clothes, or working tools;
 - (b) items that appear to have personal value, such as photographs, letters, or cards.
- (3) After cleanup, items that the department may throw away include:
 - (a) unsafe items, including those with human or animal waste, pests or mold, explosives, or drug paraphernalia;
 - (b) items likely to become unsafe while in storage, such as food or things that may mold;
 - (c) items that are hard to remove or store, due to large size or weight; or
 - (d) garbage or trash.

- (4) While storing items, the department shall provide reasonable protection from theft and the weather.
- (5) Neither the department nor law enforcement is responsible for lost or stolen items during this process unless the loss is a result of their failure to follow these rules.

Authorizing statute(s): House Bill 940, 69th Legislative Session (2025)

Implementing statute(s): House Bill 940, 69th Legislative Session (2025)

Small Business Impact

HB 940 explains how the department will handle activities on state highways and does not add new rules, costs, or restrictions for small businesses. The proposed new rules only address how the department will remove unauthorized overnight camping items from state highway areas. Because of this, small businesses are not affected by new requirements, fees, or limits. If asked, records from the department's small business impact analysis can be provided.

Tribal Impact

With regard to the requirements of 2-15-142, MCA, the department has determined that HB 940 solely addresses overnight camping on state highway rights-of-way and does not impose new regulations, costs, or restrictions on tribal governments or their entities. As such, the adoption of the above-referenced rules will not have direct tribal implications.

Bill Sponsor Notification

The bill sponsor was contacted by email on May 23, 2025. The bill sponsor had no comments.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person above or may be made by completing a request form at any rules hearing held by the department.

Rule Reviewer

Valerie A. Balukas

Approval

Christopher Dorrington