



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-232.1

Summary

The department proposes to amend and repeal rules in ARM Title 18, chapter 14, subchapter 2 to comply with Senate Bill 309 (2025).

No Hearing Scheduled

If the agency receives requests for a public hearing on the proposed rulemaking from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed rulemaking; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.

The estimated number of persons directly affected by the proposed rulemaking is 25. The department has determined that the members of the advisory council will not be impacted, as they have not received an application for the program in several years, and that individual Montanans will not be impacted, since only local or tribal governments may apply for the program.

Comments

Comments may be submitted to the contact person listed below. Comments must be received by Friday, October 10, 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 3, 2025, at 5:00 p.m.

Contact

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General Reasonable Necessity Statement

This proposed rulemaking is reasonably necessary to comply with Senate Bill 309 (2025) to remove references to the Scenic-Historic Byways Advisory Council.

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

18.14.201 DEFINITIONS

For the purpose of this subchapter, the following definitions apply:

- (1) ~~"Advisory council" means the technical oversight council composed of no more than 11 members who must have expertise in one or more of the subjects of tourism, visual assessment, tribal cultures and history, Montana history, resource protection, economic development, transportation, or planning.~~
- (2)(1) "Commission" means the Transportation Commission provided for in 2-15-2502, MCA.
- (3)(2) "Department" means the Department of Transportation provided for in Title 2, chapter 15, part 25, MCA.
- (4)(3) "Local government" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.

~~(5)~~(4) "Scenic-historic byway" means a public road or segment of a public road that has been designated as a scenic-historic byway by the commission, as provided in 60-2-601, MCA.

~~(6)~~(5) "Tribal government" means a federally recognized government of any Indian tribe, nation, or other organized group, which owns land and has a reservation in Montana.

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

18.14.205 REQUIREMENTS OF SCENIC-HISTORIC BYWAY DESIGNATION

- (1) The commission may designate roads to be included as part of the programs and may add or delete roads from the program.
- (2) The commission may not designate a road as a scenic-historic byway without the concurrence of the affected local governments or tribal governments and the agencies responsible for maintenance and operation of the road.
- (3) All land abutting the scenic-historic byway must be either in tribal government ownership within the boundaries of an Indian reservation or in public ownership.
- (4) The application shall contain an explanation of the manner in which the byway meets one or more of the intrinsic qualities. In addition, in the application the local government or tribal government shall set forth, to the extent possible, how the scenic-historic byway designation will:
 - (a) enhance the experience of the traveling public;
 - (b) stimulate or allow for economic development and new marketing strategies; and
 - (c) preserve intrinsic resources for the benefit of future generations.
- (5) The proposed scenic-historic byway must possess at least one of the following intrinsic qualities:
 - (a) scenic;
 - (b) natural;
 - (c) historic;
 - (d) cultural;

- (e) archeological; or
 - (f) recreational.
- (6) The proposed scenic-historic byway must be an existing road that can safely accommodate expected traffic volumes.
 - (7) The proposed designation must have concurrence and approval of the application from local governments, tribal governments and agencies with jurisdiction of the road and adjacent to the road.
 - (8) The application shall contain a conceptual plan. This conceptual plan for the corridor shall describe the process in which a corridor plan is to be developed. The components to be included in the conceptual plan are how the nominating organization proposes to:
 - (a) enhance and protect the scenic-historic byway;
 - (b) develop essential services; and
 - (c) promote and market the byway on the local and regional level. A corridor management plan may be substituted for the conceptual plan.
 - (9) A corridor management plan must be developed or in development within two years of a scenic-historic byway designation. A scenic-historic byway will not be signed or indicated on the state tourism map until the corridor management plan is complete. The corridor management plan shall:
 - (a) serve as a visioning tool to provide direction for enhancing and marketing the corridor, but not as:
 - (i) a land management document;
 - (ii) zoning tool or mandate;
 - (iii) highway improvement scoping or prioritization document; or
 - (iv) highway management document;
 - (b) accommodate commerce and commercial vehicles;
 - (c) maintain a safe and efficient level of highway services;
 - (d) preclude the local or tribal government having adopted the corridor management plan from establishing goals or commitments outside the local or tribal government's jurisdiction; and
 - (e) accommodate all jurisdictions affected or to be affected.
 - (10) A scenic-historic byway should be as continuous as possible; however, all government entities shall have the right to require that a portion of a proposed scenic-historic byway abutting in their jurisdiction be excluded from designation.

- (11) Each scenic-historic byway must have a management group to provide long-term oversight and marketing for the road.
- (12) The proposed route must be ~~recommended by the advisory council for final approval~~ approved by the commission.

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

18.14.208 REMOVAL OF MONTANA STATE BYWAY DESIGNATION

- (1) The two circumstances that allow for a scenic-historic byway to be removed from designation are:
 - (a) voluntary removal when local government or tribal government no longer wants its designation; and
 - (b) nonconformance removal when the scenic-historic byway loses the intrinsic values specified in original nomination for designation.
- (2) Removal of scenic-historic byway designation requires:
 - (a) local governments, tribal governments, and stakeholders to follow steps and procedures provided by the Montana Department of Transportation; and
 - (b) ~~a recommendation of removal by the advisory council for final approval by~~ vote of the Montana Transportation Commission.

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

REPEAL

The rule proposed to be repealed is as follows:

18.14.202 ADVISORY COUNCIL

Authorizing statute(s): 60-2-602, MCA

Implementing statute(s): 60-2-601, 60-2-602, MCA

Small Business Impact

The proposed amendments and repeal impact only the department's internal operating processes. The advisory council was established to evaluate state highways eligible for scenic-historic byway designation and recommend such designations to the Transportation Commission. The advisory council completed its work over a decade ago and has not met since, although the annual appointment of new members is still required. Therefore, the small business impact analysis required by 2-4-111, MCA indicates no small businesses are likely to be significantly and directly impacted by the proposed rule amendments. Documentation of the small business impact analysis is available upon request.

Tribal Impact

With regard to the requirements of 2-15-142, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not have direct tribal implications.

Bill Sponsor Notification

The bill sponsor, Senator Beard, was notified by email on June 25, 2025.

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

Liz Franklin, Staff Attorney

Approval

Christopher Dorrington, Director