State of Montana
Department of Natural Resources and Conservation

Public Information

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Approval Signature: /s/ Mary Sexton, Director		**Last Revised: 9/10/12**

Policy Purpose: The purpose of this policy is to facilitate the dissemination of information so that the Department of Natural Resources and Conservation (DNRC) communicates openly and honestly with the public of Montana regarding DNRC purpose, principles, projects, and accomplishments. DNRC will pursue a positive public image by increasing the flow of information; taking a proactive stance with regard to dissemination of information about all aspects and activities of DNRC; and involving Montana citizens in its decision-making processes to the fullest extent possible, in accordance with applicable laws.

I. Definitions

A. "Communications Plan" means the plan that contains DNRC public information goals and objectives (G-DNRC-OP-2).

B. "Director" means the director of the DNRC.

C. "Leadership" means the director, deputy director, chief legal counsel, chief financial officer, chief information officer, human resources officer, and division administrators of the DNRC.

D. "News release" means a written message that is prepared for and distributed to the media by the following methods:

1. electronically, including social media platforms;
2. personally; or
3. regular mail.

E. "Public Information Officer (PIO)" means the person who, at the discretion of the director, is responsible for oversight of all DNRC media activities.

F. "Public information request" means a request by a member of the public to inspect and/or copy DNRC records, as allowed by state and federal law. All public information requests must be made in writing.

G. "Public notice" means notification to the public by the DNRC of its projects and efforts, in compliance with statute, polices, and administrative rules.

H. "Public service announcement (PSA)" means a written message, similar to a news release, that is prepared for and distributed to the media, specifically the radio and television media, by the following methods:

1. electronically, including social media platforms;
2. personally; or

3. regular mail.

II. Media and Public Relations: DNRC policy is to develop and implement a strong media and public relations program for the good of DNRC.

A. Oversight of DNRC Media and Public Relations

1. The PIO, under the direction of the director and deputy director, is responsible for oversight of all DNRC media activities.
2. The PIO is responsible for providing timely information to all internal and external stakeholders and the public about DNRC operations and decisions. Maximizing the flow and content of information will help ensure that DNRC is better understood and received by the public.
3. The PIO will provide assistance, guidance, and/or oversight to media activities that occur at the unit, area, or regional level.

B. Media Inquiries and Requests for Interviews

1. Under the director's approval, the deputy director, division administrators, chief legal counsel, and/or appropriate unit, area or regional level staff may give interviews to, or respond to questions from the media concerning informational matters. The PIO must be notified of all media contact using the DNRC Media Contact Sheet.
   a. Inquiries concerning policies of the current administration shall be referred to the director or director's designee.
   b. Leadership may delegate responsibility to respond to media inquiries or interviews to bureau chiefs, area managers, regional managers, and other employees on specific projects, issues, or topics as appropriate.
      i. Such delegation should, but is not required to be in writing.
      ii. Division administrators are encouraged to plan ahead for issues of public interest.
      iii. As soon as practicable, the designated employee should inform the supervisor and PIO of any media inquiry or interview and the responses and written information provided.
2. Any employee who is contacted regarding media inquiries or requests for interviews shall refer the request to his/her supervisor. The supervisor will then submit the DNRC Media Contact Sheet and:
   a. advise the employee to answer the inquiry;
   b. answer the inquiry themselves;
   c. refer the inquiry to the next level of supervision; or
   d. refer the inquiry to the director, deputy director, PIO, or other knowledgeable employee who can answer the media inquiry.
3. For wildfires being managed by the DNRC:
   a. the incident commander, fire leadership, line officers, duty officers, or their designee may provide general incident information related to fire name, fire location, responding agencies/resources, and fire size;
   b. after ensuring information is accurate and (if appropriate) vetted through supervisors, cooperating agencies, local government, dispatch, etc., then employees can further provide the following information regarding fire status:
      i. percent contained and/or controlled;

ii. cause (but only if that information has been released by the line officer); and

iii. any life safety items (evacuations in progress, road closures, etc. that are in cooperation with jurisdictional entities); and

b. any information requests which fall outside of the basic information listed in (3) should be referred to a supervisor, DNRC PIO, or DNRC Leadership.

C. News Releases, Public Service Announcements (PSA), Outreach, and Public Appearances

1. News release: DNRC regularly issues news releases announcing such things as changes in policy, public hearings and meetings, availability and awards of grant and loan funds, timber sale information, and other matters that affect or solicit input from the public.

   a. The PIO oversees all DNRC news releases and works with DNRC staff members to generate, review, or disseminate news releases about DNRC projects, events, or decisions.

   b. Drafts of all news releases pertaining to interpretation of DNRC policy or controversial situations must be sent to the PIO for review prior to release. If there is a question about the accuracy, format, or content of the news release, the PIO will notify the author and consult with the director and the responsible legal counsel. The PIO and author will determine the appropriate recipients and distribution methods.

   c. The PIO will ensure that all news releases are sent to the webmaster for posting on the website (see Section VI).

2. Public service announcements: A PSA is similar to a news release in that it is a written message that is prepared for and distributed personally, via e-mail, or mail to the media—specifically the radio and TV media. DNRC regularly issues PSAs for such activities as public hearings and meetings, availability and awards of grant and loan funds, fires, emergency exercises, and other matters that affect or require input from the public.

   a. The PIO oversees all PSAs and works with DNRC staff members to generate, review, or disseminate news releases about DNRC projects, events, or decisions.

   b. Employees who have been designated by their division administrator are authorized to prepare and distribute public service announcements pertaining to local, routine, non-policy matters (such as fire prevention messages, road closures, burning conditions, and flood preparedness announcements). A copy of each public service announcement shall be sent to the PIO for informational purposes.

   c. The PIO will ensure that all news releases are sent to the webmaster for posting on the website (see Section VI).

3. Outreach: DNRC employees are encouraged to anticipate opportunities to disseminate information about DNRC. Each division and regional/field office is encouraged to develop a positive working relationship with its local media representatives.

   a. An employee who is appearing on behalf of DNRC shall present factual information within his or her area of expertise and respond as helpfully as possible to questions and requests. The employee will report the details of the interaction to his or her immediate supervisor. <u>All information conveyed by the employee must be the official DNRC position, not a personal position.</u>

i. If an individual or member of the media has a question related to an area outside of the employee's expertise and authority to respond to media inquiries, the employee will offer to find the answer and convey that to the questioner.

ii. The employee (if able) will provide DNRC's official position if a question posed relates to DNRC budgets, policy, or positions on issues. The employee will not provide a personal opinion. If unable to accurately answer the question, the employee will then offer to find the answer and convey that to the questioner.

b. Employees who wish to make public appearances or testify as private citizens must make those appearances during off-duty hours. They must make clear that they are representing their own personal views, not those of DNRC.

4. Emergency Situations: DNRC policy is to keep the public informed to the fullest extent possible in the event of fire, flood, or other dangerous situations.

a. Employees working with local emergency and law enforcement agencies should determine in conjunction with the local officials who will release information. The DNRC representative will be responsible for keeping the director, division administrator, and DNRC PIO informed. If additional public information resources are needed during an emergency, the DNRC PIO will serve as a backup.

b. In the case of joint projects involving two or more agencies or organizations, the procedure for information dissemination will be developed by the consensus of the group. A copy of each news release shall be sent to the DNRC PIO for informational purposes. If additional public information resources are needed, the DNRC PIO will be available to assist on request

III. Public Information Requests: As a general rule, government information may be inspected and copied by the public (Title 2, Chapter 6, MCA, and Article II, Section 9, Montana Constitution).

A. Overview of Public Information Request Policy

1. DNRC policy is to provide information requested by the public within a reasonable timeframe (see Title 2, Chapter 6, Part 1, MCA).

2. If the public information request cannot be met, or cannot be met within a reasonable period, then the requestor must be notified and provided with an explanation.

a. Information shall not be furnished in cases where the demand of individual privacy clearly exceeds the merits of public disclosure (unless the individual has waived the right of privacy). In that regard, public access is not allowed in connection with certain personnel matters, certain aspects of litigation, and certain proprietary information (see Appendix A).

B. Fulfilling Public Information Requests

1. All employees who receive an information request that is outside the scope of their normal work should notify their supervisor and the Director's Office/Legal Unit of that request.

a. Maintaining an office list of requests and copies provided is recommended, even for nominal requests.

b. The Legal Unit will maintain records of all public information requests that fall outside the scope of normal work. See *Public Information Requests Procedure* (PR-DNRC-OP-1).

2. All public information requests must be received in written form. If a verbal request is made, DNRC staff must require that the request be officially submitted in writing.
3. The procedures and charges for fulfilling requests in the *Public Information Requests Procedure* (PR-DNRC-OP-1) must be followed by all DNRC employees.
4. A reasonable price may be charged by DNRC for fulfilling public information requests (2-6-110, MCA).
    a. Employees shall follow any fee schedule set forth in statute or officially adopted in the Administrative Rules of Montana (ARM).
    b. In addition to any specific fee schedule set forth in statute or ARM, the charges listed in the *Public Information Requests Procedure* (PR-DNRC-OP-1) will be assessed. Those fees include, but are not limited to:
        i. cost of materials, including postage;
        ii. copying costs;
        iii. staff time for programming, research, analysis, and/or gathering requested information;
        iv. ITSD charges for information retrieval and services; and
        v. legal review and/or redaction.

C. Public Access to DNRC Information

1. Public records must be open to inspection by any person during normal, non-holiday office hours, 8:00 a.m. to 5:00 p.m. Monday through Friday (2-6-104 and 2-16-117, MCA).
2. An employee may be present or available when a member of the public examines or copies public documents and must be present during the examination and/or copying of original documents that could be damaged, altered, or stolen (April 9, 1996, memo to state agencies from Governor Marc Racicot).

IV. Meetings and Public Participation: DNRC policy is to afford the public reasonable opportunity to participate before final decisions are made in matters that are of significant interest to the public, including but not limited to public meetings, hearings, and environmental assessments (see Title 2, chapters 3 and 4, MCA).

A. Meetings

1. Most DNRC meetings are open meetings, as per 2-3-201, MCA (see Appendix B).
2. Meetings that are closed to the public are those that deal with:
    a. litigation strategy (unless the litigating parties are all public bodies); or
    b. individual privacy (if the presiding officer determines that the demands of individual privacy exceed the merits of public disclosure, and if the right of individual privacy has not been waived by the individual about whom the discussion pertains).

B. Public Notification

1. DNRC policy, as per 2-3-103, MCA, is to provide adequate public notification of DNRC efforts and projects in compliance with the laws and the ARM in order to ensure the opportunity for adequate public participation.
    a. The federal Americans with Disabilities Act (ADA), which applies to all employers of 50 or more employees, requires that all DNRC meetings be accessible to persons with disabilities. Notice of a meeting must announce an opportunity for

disabled persons to request that special accommodations be made to allow them to attend and participate. An employee who receives such a request should consult a human resource officer for guidance in meeting the request.

2. Employees shall also follow any and all procedures for notice that are set forth in statutes governing the specific DNRC programs in which they work (see Appendix B).
3. Section 2-3-103(1), MCA, requires providing adequate notice (and assisting public participation) before a final agency action is taken that is of significant interest to the public.
4. The agenda for a meeting, as defined in 2-3-202, MCA, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the jurisdiction of DNRC.
   a. Public comment received at a meeting must be incorporated into the official minutes of the meeting as provided in 2-3-212, MCA.
5. DNRC may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter.
6. If no specific direction is provided by statute regarding notice, employees may use one or more of the methods:
   a. hold a proceeding according to the Montana Administrative Procedure Act (MAPA);
   b. hold a proceeding according to the Montana Environmental Policy Act (MEPA);
   c. hold a public hearing pursuant to a provision of state law or local ordinance or resolution;
   d. arrange for a newspaper of general circulation within the area to be affected to publish a news story or advertisement sufficiently prior to the final decision, thus allowing time for constructive public comment;
   e. provide a copy of each published notice and/or agenda to the webmaster for posting on the DNRC website; and
   f. post the meeting notice on the statewide e-calendar.

8. In situations where public notice is not required but public attendance and participation are desired (for example, workshops), employees should use the following guidelines:
   a. if assistance is required, contact the PIO as early in the process as possible;
   b. plan ahead since public notification takes time;
   c. when working with weekly newspapers, begin the information campaign a minimum of three weeks before the event;
   d. consider the following methods of notification: direct mail, newspaper advertisement, news releases, posters, and interviews with the media in the area where the event will be held;
   e. publish two notices one week apart in a newspaper of general circulation within the area to be affected. Notices can also be published in weekly and bi-weekly newspapers, if appropriate. The final notice should appear one week or less before the event takes place;
   f. provide a copy of each published notice and/or agenda to the webmaster for posting on the DNRC website; and
   g. post the meeting notice on the statewide e-calendar.

V. Social Media: Dissemination of DNRC-related information products via web-based media is subject to the same review process and protocols that guide the more traditional forms of information dissemination outlined in this policy.

1. DNRC is currently developing a specific social media plan. Until the plan is developed, the same rules outlined in this policy for more traditional forms of information dissemination apply to all forms of social media (e.g. review by supervisor, PIO, leadership, director, etc.).

VI. DNRC Website and Publications: DNRC policy is to maintain a current website and to produce accurate and informative publications.

A. Website

1. In order to aid in public access, the information required by 2-17-532, MCA, must be posted on the website.
2. In addition to the information required in (1), DNRC employees are encouraged to place additional informational materials on the website to the maximum extent practicable.
3. The website also serves as a convenient method for the public to request information. All requests received by the webmaster or PIO will be promptly answered or forwarded to the appropriate employee.
4. Statute also provides that the public is entitled to a copy of information that is in electronic format, subject to the same restrictions that are applicable to information in printed form as per 2-6-110, MCA (also, see *Public Information Requests Procedure, P-DNRC-OP-1*). Each division will furnish these items in a timely manner, and the webmaster will post them on the DNRC website.
5. Each division will designate one person as division content editor or coordinate with the DNRC webmaster. The content editor or the webmaster will be responsible for posting information in a timely manner and maintaining the division's website.
6. To facilitate posting of documents on the website, the document should be submitted in an electronic format. Acceptable formats include:
   a. PDF;
   b. Microsoft Word, or a Word document that has been saved as a pdf;
   c. Microsoft Publisher; or
   d. a program deemed acceptable by the webmaster.
      i. Electronic letterhead is available for use on the DNRC intranet. Documents needing a signature may use electronic signatures (e.g. */s/ [Name]*).
      ii. Maps or drawings may be scanned and submitted as a Word document, tif, jpeg, or image pdf.

B. Publications

1. A state publication includes any compilation, environmental assessment (EA), environmental impact statement (EIS), pamphlet, book, report, leaflet, directory, periodical, or other document published or purchased for distribution by any state department supported wholly or in part by state funds (22-1-211, MCA).
2. Editing, graphic design, and print coordination services are available from the DNRC Office of Information Technology (OIT). See Appendix B for citations of specific state and federal laws pertaining to printing.

3. Each DNRC publication is required to have the following statements printed on them:
   a. on the exterior cover of most public documents, a cost disclosure statement (18-7-306, MCA) which states:

      [number of] *copies of this document were published at an estimated cost of* [$X.XX] *per copy, for a total cost of* [$X.XX]*, which includes* [$X.XX] *for printing and* [$X.XX] *for distribution*;

   b. on the cover of the last page, as per ADA requirements:

      Persons with disabilities who need an alternative, accessible format of this document should contact [name of person and/or division, address, telephone number, fax number]; and

   c. in order that DNRC materials not be used for commercial or for-profit purposes:

      Copyright @ [date] *Montana Department of Natural Resources and Conservation. Please contact* [name of person and/or division, address, telephone number, fax number] *for permission to copy or reproduce. DNRC must be acknowledged as the source in all cases.*

4. DNRC adheres to 22-1-213, MCA regarding distribution of its publications. The webmaster may assist, as required, in overseeing printing and distribution of all publications.
   a. Each division, unit, area office, or regional office is responsible for printing enough copies of publications to meet legal distribution requirements, as per 22-1-213, MCA (see Appendix C).
   b. Each division, unit, area office, or regional office is responsible for distributing publications to any additional affected parties, constituents, or stakeholders as required by law or as necessary by the project .
   c. In addition to the copies listed in (a) and (b), the following copies must be distributed:
      i. one hard copy each to the DNRC archive collection and the Director's Office; and
      ii. one electronic copy each to the webmaster, Director's Office, and PIO.

VII. Internal Information

A. Current Events: DNRC policy is to keep employees informed about current situations and projects so that they can be more productive and effectively communicate with the public and other employees. Each employee is tasked with staying abreast of controversial issues that pertain to their area and proactively presenting DNRC's position in an appropriate manner.

1. Employees should report significant incidents of negative or inaccurate publicity to their immediate supervisor, who will determine the appropriate course of action.
   a. The PIO must be contacted as soon as there is any indication that DNRC may receive media coverage.
2. Employees should make reasonable efforts to keep their fellow DNRC employees informed of any activities that may affect their colleagues.
3. The PIO will maintain a weekly e-newsletter to disseminate information to employees. Employees are encouraged to submit information and articles.
4. Administrators will report on projects at Leadership meetings and the information will be passed on at each division's staff meeting.

5. Employees and managers are encouraged to utilize the employee portion of the DNRC website at http://www.dnrc.mine.mt.gov/.
    a. Managers are encouraged to contact the webmaster about developing specific sections of the website to meet their program needs.

B. DNRC Communications Plan (G-DNRC-OP-2): DNRC policy is to develop and implement a Communications Plan that shall be reviewed and updated as necessary.
    1. The plan will contain DNRC public information goals and objectives. Those goals and objectives will be set forth by a committee comprised of representatives from each division within DNRC.
    2. The plan is the framework within which the PIO works.
    3. The accomplishments under the Communications Plan will be reviewed by the committee and PIO at least biannually, and then a report will be made to leadership.

History: NEW: 6/3/05 (originally #3-0628); AMD: 6/17/11; AMD: 9/10/12.

Appendix A
Examples of Confidential Information

A. INFORMATION ABOUT PERSONNEL

1. Personnel records, including medical information, are confidential. The only information that can be released without a subpoena is:
   a. title of the position and gross salary;
   b. date and duration of employment; and
   c. leave record.
2. DNRC can require that requests for this information be submitted in writing, but cannot ask for justification for the request.

B. LITIGATION

1. A private person's right to confidentiality cannot be violated.
2. The strategy to be followed with respect to litigation is that information can be kept confidential if its disclosure would have a detrimental effect on the litigating position of DNRC. However, this exception does not apply if the only parties to the litigation are public bodies or associations.

C. PROPRIETARY INFORMATION

1. Public access may be restricted regarding matters of confidentiality, privacy, business secrets, and copyright, such as the following:
   a. information contained in bids or contract proposals, prior to the official bid opening;
   b. information submitted to DNRC with the expectation of privacy;
   c. information obtained in connection with mining exploration activities (including the location of deposits or seismic information paid for by a private exploration company), except the name of the applicant and the county of the operation. However, all activities conducted subsequent to exploration are public information;
   d. data related to agricultural chemicals and deemed confidential by the U.S. Environmental Protection Agency, and chemical registrant data and information protected from disclosure by federal or state law;
   e. information unique to the owner or operator of an oil or gas well that would, if disclosed, reveal methods or processes entitled to protection as trade secrets, if so determined by the Board of Oil and Gas Conservation;
   f. information unique to the applicant for a renewable resource grant or loan or a reclamation and development grant that would, if disclosed, reveal methods or processes entitled to protection as trade secrets;
   g. information pertaining to the location of significant archaeological remains or historical cultural resources on state-owned lands;
   h. copyrighted information, unless the information is being used in a purely academic context; or
   i. abstracts.

C. LISTS OF NAMES AND ADDRESSES

1. Lists of names and addresses may not be distributed or sold for use as a mailing list without the permission of everyone on the list (2-6-109(1)(a), MCA).
2. Lists of names and addresses prepared by DNRC may not be used as a mailing list without first securing the permission of everyone on the list (2-6-109(1)(b), MCA).

Appendix B

Table 1. Statutory Requirements Pertaining to Public Information

	Montana Code Annotated (MCA)	Administrative Rules of Montana (ARM)	Montana Constitution	U.S. Constitution
Open Meetings	2-3-103 Public Participation – Agenda and Public Comment 2-3-201 et seq. Open Meetings	36.2.521 et seq. Montana Environmental Policy Act rules (MEPA) 36.2.701 Policies and objectives in providing citizen participation in the operation of DNRC	Article II, Section 8 Right of Participation Article II Section 9 Right to Know	
Meeting/Hearing Notice	2-3-101 Opportunity to participate 2-4-302 et seq. Adoption and publication of rules (rulemaking) 2-4-601 et seq. Contested cases, hearings and notice of hearings 7-33-2101, 7-33-2102, and 7-33-2103, Petition for, notice of hearing and hearing to establish a rural fire district 76-5-201 et seq. Designation of floodplains and floodways 76-15-601 et seq. Notice and hearing on petition to establish conservation district project area 77-1-804 Adoption of rules governing recreational use of state land 77-2-204 Notification of proposed (land) exchange - hearing 82-11-141 Oil and gas conservation - administrative procedure 85-2-301 et seq. Action on application for water use permit 85-2-506 et seq. Designation or modification of controlled groundwater area 85-2-604 Suspension of action on water use application (Yellowstone River basin) 85-3-206 Action on application for weather modification permits 85-7-1809 et seq. Notice of hearings for addition of land to irrigation district	36.2.521 et seq. - MEPA rules 36.2.702 - Guidelines for department programs in providing citizen participation		42 USCA 12101 - ADA notice

Appendix B

	Montana Code Annotated (MCA)	Administrative Rules of Montana (ARM)	Montana Constitution	U.S. Constitution
Public Information Requests/Fees	2-6-102 Citizens entitled to inspect and copy public writings. 2-6-109 Lists of names and addresses 2-6-110 Fees for electronic information 39-71-223 Certified copies of public records – fees (worker's compensation) 50-73-205 Copies of maps for department of labor (safety in coal mines).	36.2.521 et seq. - MEPA rules	Article II Section 9 - Right to Know and Section 10 - Right of Privacy	
Publication Printing/ Distribution	1-1-201 General definitions of terms used in the Montana Code Annotated 18-7-101 Power to contract for state printing 22-1-213 Copies for State Library			42 USCA 12101 et seq. - ADA statement
Electronic Information	2-3-301 Agency to accept public comment electronically -- dissemination of electronic mail address and documents required -- prohibiting fees 2-6-102 Citizens entitled to inspect and copy public writings 2-6-110 Entitlement to electronic information			