



DNRC Emergency Firefighters (EFF's) Policy Package

As a State of Montana DNRC employee, it is your responsibility to read, understand and comply with the state employment policies provided in this package.

Policy Name	Number	Date
Drug Free Workplace Policy	P-DNRC-HR-022	06/25/02
Model Rules of Conduct Policy	P-DNRC-HR-041	11/18/07
Public Information Policy	P-DNRC-OP-004	09/10/12
Sexual Harassment Policy	P-DNRC-HR-004	09/05/95
Substance Abuse/Use Policy	P-DNRC-HR-010	11/21/95
State Vehicle Use Policy (RMTD-ARM)	P-DNRC-HR-037	03/08/13
Optional	Number	Date
Drug & Alcohol Testing (required for Empl w/CDL)	P-DNRC-HR-006	10/03/95
Drug & Alcohol Testing Addendum (required for Empl w/CDL)	P-DNRC-HR-006A	11/01/96
Employee Use of Information Technology	P-DNRC-IT-001	10/01/12
State Fuel Card Policy		10/06/15
State Employee Travel Policy		10/9/15

EFF Copy

Keep for Your Records



**State of Montana
Department of Natural Resources and Conservation**

Drug Free Workplace

Document Type: Policy	Issuing Authority: DNRC	First Issued: 6/25/02
Number: P-DNRC-HR-22	References: ARM 2.21.6605	Effective Date: 6/25/02
Approval Signature: /s/ Bud Clinch, Director		Last Revised: 6/25/02

The Department of Natural Resources and Conservation (DNRC) is committed to a drug free workplace.

It is the policy of the State of Montana and the DNRC that the **unlawful** manufacture, distribution, dispensing, possession or use of dangerous drugs as defined in Section 50-32-101 MCA, by any employee in the workplace or in a work status is prohibited.

An employee who violates this policy is subject to discipline action, up to and including discharge (termination) as provided in the State Discipline Handling Policy, ARM 2.21.6505 and DNRC 3-0130.

This policy shall apply to full-time employees, part-time employees, temporary, seasonal, short term and emergency firefighter employees. This policy shall be used unless it conflicts with negotiated labor contract provisions, which shall take precedence to the extent applicable.

This policy is adopted in compliance with the Drug-Free Workplace Act of 1988 (pub.L100-69, title v subtitle D).

Drug Free Workplace Policy

Confirmation of Receipt of Policy

In accordance with the Drug-Free Work Place Act and policy of the Department of Natural Resources and Conservation, will:

1. Abide by the terms of the Department of Natural Resources and Conservation policy requiring a drug-free work place, and
2. Notify the agency (appropriate immediate supervisor) of any conviction of a criminal drug statute which is the result of a violation which occurred in the work place. The Department of Natural Resources and Conservation must be notified no later than five (5) days after the conviction.

I understand that The Department of Natural Resources and Conservation will take the following action within thirty (30) days of receiving notice of conviction from an employee:

Take appropriate disciplinary action against the employee, up to and including discharge (termination).

I confirm that I have received a copy of the Department of Natural Resources and Conservation Drug Free Work Place Policy and this confirmation form. Your signature indicates that you have received and read: (1) a copy of the Department of Natural Resources and Conservation Drug-Free Work Place Policy and (2) a copy of this "Confirmation" of Receipt of Policy. Your signature indicates that you understand the policy and the potential ramifications for failure to abide by the policy. Please make a copy of the signed confirmation form for your files and return it to the Department within five (5) days of receipt.

Failure to sign and return this confirmation form may result in disciplinary action up to and including discharge (termination).

Headquarters address of employee: _____

Street address, city, county, state, zip code

History: NEW: 6/25/02 (originally #3-0012).



**State of Montana
Department of Natural Resources and Conservation**

Model Rules of Conduct

Document Type: Policy	Issuing Authority: DNRC	First Issued: 11/18/07
Number: P-DNRC-HR-41	References: 2-2-101, 2-2-103, MCA	Effective Date: 11/18/07
Approval Signature: /s/ Mary Sexton, Director		Last Revised: 11/18/07

I. Purpose and Scope

This policy is for use by the employees of the Department of Natural Resources and Conservation (DNRC). It describes the policy, adopted in compliance with 2-18-102, MCA, governing the Standards of Conduct required as an employee of the department. It will be distributed to all employees.

II. Overview

The Montana Constitution requires a Code of Ethics prohibiting conflict between public duty and private interest for state and local officials and employees. Standards of Conduct for state employees are set forth in part at §2-2-101 and §2-2-103, MCA. These sections provide:

§ 2-2-101. Statement of purpose.

The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

§ 2-2-103. Public trust -- public duty.

(1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state

(2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

Your position as an employee of the DNRC is a public trust, and statutes require that you perform your job for the benefit of the people of the state. It is your responsibility to make sure you understand the standards of conduct and ethical principles which apply to you in the performance of your duties.

Standards of conduct for public employees may be grouped into four major categories. The law is summarized for each category.

III. Gifts

As a state employee you may not:

Accept a gift or meal which is of substantial value greater than \$50.00 or a substantial economic benefit tantamount to a gift that:

- would tend improperly to influence you to depart from the faithful and impartial discharge of your duties, or
- that a reasonable person would know under the circumstances is a reward for official action taken.

If such gifts are received, they should be returned with the explanation that acceptance is contrary to DNRC business practices.

A DNRC employee may accept unsolicited gifts with a value of \$50.00 or less per occasion, provided that the value of the individual gifts received from any one person, vendor, customer or claimant does not exceed \$50.00 in a calendar year.

A pattern of nonsubstantial gift/meals offers/acceptance should be reported to your immediate supervisor.

The following are excluded from the definition of a gift:

Any gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the State and that is not claimed as a charitable contribution for federal income tax purposes.

Food or drink you consume while participating in a charitable, civic, or community event related to your employment or that you are attending in an official capacity.

Educational materials directly related to official government duties.

An award publicly presented in recognition of public service.

Educational activity that does not place or appear to place you under any obligation, clearly serves the public good, and is not lavish or extravagant.

An economic benefit tantamount to a gift includes:

A loan at a rate of interest substantially lower than the commercial rate currently prevalent for similar loans; or

Compensation received for private services rendered at a rate which substantially exceeds the fair market value of the services.

IV. Self-Dealing

As a state employee you may not:

Disclose or use confidential information acquired in the course of your job for personal financial gain.

Hold a substantial financial interest in a firm which provides services or supplies materials or equipment to DNRC.

Make or attempt to influence any decision relating to any business transaction by the DNRC with a relative unless you have first made full disclosure and received written approval from the DNRC Chief Legal Counsel.

Borrow from DNRC vendors, customers, or claimants except from banks or lending, institutions.

Make payments on behalf of DNRC if all or part of the payment is for any purpose other than stated by the document supporting the payment.

Serve on boards, commissions or committees without disclosing personal or private interests which give rise to an appearance of impropriety prior to participating in official action.

Enter into personal transactions using DNRC resources.

Acquire an interest in any business which may directly and substantially benefit economically by official action by the employee's agency.

Transact substantial private business with a person whom you inspect or supervise.

Assist a person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from DNRC.

V. Unwarranted Privileges

As a state employee you may not:

Engage in any activities including lobbying on behalf of an organization of which you are a member while performing your job duties.

Participate in a proceeding when an organization of which you are an officer or director is either involved in a proceeding before your agency that is within the scope of your job duties, or attempt to influence a local, state or federal proceeding in which you represent the state.

Within 12 months following voluntary termination, obtain employment taking advantage, unavailable to others, of matters with which you were directly involved while employed by DNRC. (2-2-105 Montana Codes Annotated) (Matters include rules which you helped formulate and claims or contested cases in which you were actively involved.)

Within 6 months of termination, contract or be employed by someone who contracts with the state involving matters with which you were directly involved during your employment with the state. (This does not apply to contracts awarded to the low bidder based on a competitive process or to merchandise sold to the highest bidder at public auction. It also does not apply to you if you were terminated due to a reduction in force.)

VI. Public Property for Private Business Purposes

As a state employee you may not:

Receive two salaries as a public employee for work during overlapping hours. (Except if the duplicate pay for one job consists of accrued leave and/or compensatory time during the overlapping period to work in a declared emergency incident or in fire suppression).

Use public time, facilities, equipment, supplies, personnel, or funds for private business purposes. (This includes any campaign activity persuading or affecting a political decision, unless authorized by law. You may participate in charitable fund raising activities, if approved by your supervisor or authorized by law.)

VII. Disclosure Requirements

The law requires disclosure of certain information under specific circumstances:

You may not solicit or accept employment or engage in negotiations or meetings to consider employment with a person whom you regulate in your official duties, without first giving notice to your supervisor or department director.

If you are a member of a quasi-judicial board or commission or a board, commission or committee with rulemaking authority and have a conflict created by a personal or private interest that gives rise to the appearance of impropriety, you must disclose the interest creating the conflict prior to participating in official actions.

Prior to acting in a manner that may affect your public duty, including the award of a permit, contract, lease or license, you must disclose the nature of the private interest that creates the conflict. This disclosure must be in writing to the Secretary of State and must list the amount of private compensation you have received and other relevant information. If you perform the act involved, you must include in the record the nature of the interest you disclosed.

Prior to December 15 of even-numbered years, department directors and individuals appointed to office must file a business disclosure statement with the Commissioner of Political Practices.

VIII. Other

A wide range of state and federal laws and rules concerning employee conduct have been enacted. Some activities for which there are laws or rules include use of telephones, use of state vehicles, drug/alcohol use as it affects work, use of leave, making financial claims against the state, and prohibiting discrimination in employment and the delivery of services.

IX. Enforcement

Violations of these rules and laws may subject you to disciplinary action by DNRC and also may be violations of the Standards of Conduct. Some violations may lead to criminal prosecution.

Violation of §2-2-121, MCA, "Rules of conduct for public officers and public employees" results in a misdemeanor punishable by a fine of not less than \$50 or more than a \$1,000, a jail term of up to 6 months or both, and does not preclude a civil action filed under the section of the law. The Commissioner of Political Practices is responsible for investigating and enforcing the Standards of Conduct when complaints are received by that office. There is also an administrative appeal process through the Ethics Committee and then on to the District Court.

X. Conclusion

Remember two main principles apply to your conduct in your job: public trust and public duty. Keeping these principles in mind while on the job, you should be able to carry out your duties for the benefit of the people of the state and avoid actions which would cause you to depart from your public duty and violate the public's trust.

DNRC Expectations

We expect that every business transaction conducted by our employees will meet high ethical standards. DNRC expects that each employee will:

Comply with local, state and federal laws in the conduct of Department business;

- make every effort to learn and fully understand the laws and regulations governing his or her activity;
- exercise common-sense precautions, the most important of which is to ask questions when in doubt;
- respect computer software licensing agreements and ensure that no hardware, software, or other assets belonging to DNRC are used for personal business interests.

In summary, DNRC expects that all DNRC employees will deal with customers, lessees, fellow employees, vendors, and the general public in an honest and candid manner.

Confirmation of Receipt of Policies

Model Rules of Conduct

I Have Read And Understand The Policy That Indicates The Department Of Natural Resources Conduct Of Ethics. I Intend To Comply With Local, State And Federal Laws In The Conduct Of Department Business.

SIGNATURE OF EMPLOYEE: _____

DATE : _____

PRINT OR TYPE EMPLOYEE NAME: _____

SUPERVISORS SIGNATURE: _____

DATE: _____

History: NEW: 11/18/07 (originally #3-0015).



**State of Montana
Department of Natural Resources and Conservation**

Public Information

Document Type: Policy	Issuing Authority: DNRC	First Issued: 6/3/05
Number: P-DNRC-OP-4	References: Title 2, Chapters 3, 4, and 6, MCA; Public Information Procedure (PR-DNRC-OP-1)	Effective Date: 9/10/12
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. All information conveyed by the employee must be the official DNRC position, not a personal position.

- 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			



**State of Montana
Department of Natural Resources and Conservation**

Sexual Harassment

Document Type: Policy	Issuing Authority: DNRC	First Issued: 9/5/95
Number: P-DNRC-HR-4	References: MOM 3-0620	Effective Date: 9/5/95
Approval Signature: /s/ Bud Clinch, Director		Last Revised: 9/5/95

It is the policy of the Montana Department of Natural Resources and Conservation to prohibit sexual harassment of its employees and applicants for employment in the work place by any person and in any form.

Each supervisor has an affirmative duty to maintain the work place free from sexual harassment. This duty includes discussing this policy with all employees and assuring them that they are not required to endure or be subject to insulting, degrading or offensive sexual treatment.

Specifically, sexual harassment refers to behavior which is not welcome, personally offensive, weakens morale and therefore interferes with employees' effectiveness and work environment, and is generally defined as unwelcome sexual advances, requests for favors and other verbal, physical and/or visual contact of a sexual nature when:

- Submission is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission or rejection by an employee is used as a basis for employment decisions affecting the employee.
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile or otherwise offensive work environment.

The following are examples of sexual harassment:

- Sexual advances which are unwanted (this may include situations which began as reciprocal attractions but later ceased to be reciprocal).
- Leering or sexual gestures.
- Displaying sexually suggestive objects, pictures, cartoons or posters.
- Verbal abuse of a sexual nature, sexually-oriented jokes, innuendoes or obscenities. Sexually suggestive letters, notes or invitations.
- Reprisals or threats after a negative response to sexual advances.
- Employment benefits affected in exchange for sexual favors (may include situations where a third party is treated less favorably because others have agreed to sexual advances).
- Physical conduct such as assault, attempted rape, impeding or blocking movement or touching.
- Women in nontraditional work environments may also be subject to hazing (this may include being dared or asked to perform unsafe work practices).

No supervisor shall threaten or insinuate either explicit or implied action(s) that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, classification (grade), assigned duties, or any other condition of employment or career development.

It should be understood that sexual harassment is against the law and the State of Montana is committed to the prevention of all forms of sexual harassment in the work place. If you are not personally a victim of sexual harassment, but observe actions against other employees which you believe to be harassment, you should bring it to the attention of your supervisor or to the first level supervisor not involved in the alleged harassment or the DNRC EEO Officer. If you feel you are being sexually harassed, you may wish to pursue the following:

- Inform the individual that his/her behavior is unwelcome, offensive or inappropriate. Do not assume or hope that the problem will go away.

- If you are unable to confront the harasser, or the harassment continues, do not keep it to yourself.

- If you are considering reporting a complaint, you can:

1. Report a complaint utilizing the reporting procedures contained in the DNRC Sexual Harassment Policy/Affirmative Action Plan.

2. File a grievance under the grievance policy or through a grievance procedure available through collective bargaining agreements or statute.

3. File a complaint with the Human Rights Commission. Complaints with the Human Rights Commission will be accepted within 180 days of the action or an extended 120 days if you are using an internal complaint procedure.

It is the policy of the Department of Natural Resources and Conservation to take direct and immediate action when informed of alleged violations and enforce the full range of liability and protection created by Title VII and the Montana Human Rights Act.

Sexual Harassment Training is required for all DNRC employees. This training should take place for new employees as soon as available and prior to the completion of the six month probationary period.

The immediate supervisor will notify the new employee of this requirement during the new employee orientation. Current DNRC employees are required to attend a refresher training for Sexual Harassment at least once every two years.

History: NEW: 9/5/95 (originally #3-0620).

**Department of Natural Resources & Conservation
Preventing Sexual Harassment
Supervisor/Non-Supervisor
2 Year Review
3/07**

I've reviewed the agency policy and 2007 online version on Preventing Sexual Harassment.

Employee Signature

Date

Supervisory Signature Date

Please keep a copy for your file and send a copy to: DNRC/Personnel Bureau/1625 11th Ave., Helena, Montana 59601. A copy will be placed in your personnel file.

EEO, Nondiscrimination, and Harassment Prevention Policy

Resource: Administrative Rules of the State of Montana (ARM)

Human Resources/ Employee Benefits

State Human Resources includes policies in administrative rules (ARM) when the policy may affect the public or be used by persons who are not currently employees. The policies that only affect state employees are not included in ARM. This policy is in ARM. This is a reproduction created for your convenience, but it is not the official version. Links to the ARM and Montana Code Annotated (MCA) are embedded throughout the document. You may also find the official ARM website at <http://www.mtrules.org>.

2.21.4001 SHORT TITLE

(1) This subchapter may be cited as the Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention Policy.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2000 MAR p. 3515, Eff. 12/22/00; AMD, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4002 POLICY AND OBJECTIVES

(1) These rules establish the minimum requirements for implementing and maintaining an equal opportunity program that promotes compliance with:

(a) federal laws and regulations prohibiting illegal discrimination including the Genetic Information Nondiscrimination Act of 2008 (GINA);

(b) the Montana Human Rights Act, Title 49, MCA;

(c) the Governmental Code of Fair Practices, Title 49, chapter 3, MCA; and

(d) and the Governor's Executive Order 41-2008, Equal Employment Opportunity, Nondiscrimination, and Harassment Prevention.

(2) These rules establish complaint procedures to promote prompt and equitable resolution of discrimination complaints.

(3) These rules cover all agencies in Montana's executive branch except:

(a) the Montana University System;

(b) the Montana State Fund;

(c) elected officials;

(d) personal appointed staff of elected officials; and

(e) any other position specifically excluded under 2-18-103 and 2-18-104, MCA.

History: 2-18-102, MCA; IMP, 2-18-102, MCA; NEW, 2000 MAR p. 3515, Eff. 12/22/00; AMD, 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4005 EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND NONDISCRIMINATION

(1) The executive branch is committed to equal opportunity, nondiscrimination, and harassment prevention in all aspects of employment and in programs, services, and activities offered to the public.

(2) Agency managers, as defined by the agency in policy or rule to promote consistency with internal policies and procedures, may not tolerate discrimination or harassment based on an individual's race, color, national origin, age, physical or mental disability, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, or ancestry. Likewise, agency management may not tolerate discrimination or harassment because of a person's marriage to or association with individuals in one of the previously mentioned protected classes.

(3) Agency managers may use a bona fide occupational qualification (BFOQ) where the reasonable demands of a position require a distinction based on age, physical or mental disability, marital status, sex, religion, or national origin. A BFOQ is a legal exception to an otherwise discriminatory hiring practice. Exceptions are strictly construed, as provided in [49-2-303](#), MCA, and the burden rests with the agency to demonstrate the exemption should be granted. Federal and state laws prohibit BFOQs based on race or color.

(4) To promote a work and customer service environment free from discrimination, agency managers shall:

- (a) base hiring decisions on individual competencies and qualifications;
- (b) promote an inclusive work environment where individuals are afforded every opportunity to reach their fullest potential;
- (c) recognize individual differences as a key element of organizational and team success;
- (d) treat individuals with dignity and respect; and
- (e) value the rights of all Montanans to benefit from equal access to employment and programs, services, and activities offered to the public.

(5) Agency managers who observe behaviors that may be viewed as discriminatory shall stop the behavior and notify their agency's EEO officer, Americans with Disabilities Act (ADA) coordinator, or human resources manager.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2000 MAR p. 3515, Eff. 12/22/00; [AMD](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4008 RESPONSIBILITIES

- (1) The Department of Administration shall:
 - (a) periodically review and update equal opportunity (EO) standards, guidelines, and administrative processes and procedures;
 - (b) assist agencies in maintaining an effective EO program;
 - (c) provide annual utilization analysis reports to agencies;
 - (d) provide EEO analyses, reports, and technical assistance to agencies;
 - (e) recommend strategies to promote diversity and overcome potential barriers to employment; and
 - (f) design and develop equal opportunity training.
- (2) Executive branch department heads shall:
 - (a) appoint an EEO officer responsible for:
 - (i) managing the agency's EEO program;
 - (ii) training employees on EO;

- (iii) assisting employees and managers with resolving EO issues;
- (iv) conducting internal investigations; and
- (v) developing written EEO action plans; and
- (b) appoint an ADA coordinator responsible for:
 - (i) training employees on the ADA, disability awareness, and reasonable accommodations;
 - (ii) conducting self-evaluations to assess accessibility of programs, services, and activities; and
 - (iii) assisting with reasonable accommodation requests.
- (3) Agency managers shall:
 - (a) retain electronic records for all jobs recording the sex, race, and ethnic group of employees and applicants as provided in [49-2-102](#), MCA, and the Uniform Guidelines on Employee Selection Procedures (1978); 43 FR 38295 (August 25, 1978);
 - (b) provide reasonable accommodations, upon request, for qualified individuals with disabilities and for applicants and employees based on their religious practices, unless doing so would create an undue hardship;
 - (c) post the state's EO policy poster and complaint-resolution procedures, including contact information for the agency EEO officer and ADA coordinator, in areas frequented by employees and the public;
 - (d) provide a copy of these rules to all employees;
 - (e) provide EO and harassment prevention training to all new employees within 90 days of hire or within [six months of the effective date of these rules] for current employees who have not yet received training;
 - (f) provide EO and harassment prevention refresher training for all employees every three years or more frequently as needed; and
 - (g) document all training in the employee's personnel file.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

[2.21.4009](#) COMPLIANCE WITH THE FEDERAL GENETIC INFORMATION NONDISCRIMINATION ACT OF 2008 (GINA)

- (1) To comply with GINA, which prohibits discrimination based on genetic information with respect to employment or state-sponsored group health plans, agency managers may not:
 - (a) request, require, or purchase genetic information about employees or their family members; or
 - (b) use genetic information to:
 - (i) discriminate against an individual in hiring, discharge, compensation, terms, conditions, or privileges of employment;
 - (ii) make decisions about admission to apprenticeship and training programs, including on-the-job training;
 - (iii) limit, segregate, or classify an individual;
 - (iv) fail or refuse to refer an individual for employment;
 - (v) deprive an individual of employment opportunities; or

- (vi) acquire health insurance or set premiums under the group health plan.
- (2) Requests for genetic information include, but are not limited to:
 - (a) conducting Internet searches on individuals in a way that is likely to result in obtaining genetic information;
 - (b) knowingly or purposefully listening to third-party conversations or searching an individual's personal effects for the purpose of obtaining genetic information; and
 - (c) requesting information about an individual's current health status in a way that is likely to result in obtaining genetic information.
- (3) To avoid inadvertently receiving genetic information, agency representatives who request medical information as part of an employment-related medical exam or a medical certification in response to a to a request for sick leave, leave qualifying under the Family Medical Leave Act, or a reasonable accommodation request under the Americans with Disabilities Act, shall include the following statements verbatim in their written request for medical information:
 - (a) "The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of employees or their family members. To comply with this law, we ask you not to provide any genetic information when responding to this request for medical information."
 - (b) "Genetic information, as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services."
 - (c) "Genetic test means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites that detects genotypes, mutations, or chromosomal changes."
- (4) Agency managers may not ask probing questions of an individual if they inadvertently learn of a health condition of an applicant, employee, or the health condition of a family member.
 - (a) Probing questions include, but are not limited to, asking the individual whether other family members have the condition or whether the individual has been tested for the condition. These questions are likely to result in the acquisition of genetic information.
- (5) Agency representatives possessing genetic information about an employee shall maintain the information as confidential in compliance with [ARM Title 2, chapter 21, subchapter 66](#), Employee Records Management Policy.
History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4013 HARASSMENT

- (1) Harassment, including sexual harassment, consists of, but is not limited to, oral, written, or electronic communications (for example, voice mails, e-mails, text messages, or other social networking tools) in the form of repeated and

unwelcomed jokes, slurs, comments, visual images, or innuendos based on a protected class. Even mutually agreeable behavior, or behavior accepted between two or more people, can be offensive to others; for this reason it is prohibited in the workplace.

(2) Sexual harassment is a form of discrimination that includes unwelcome verbal or physical conduct of a sexual nature when:

(a) submission to the conduct is implicitly or explicitly made a term or condition of employment;

(b) submission to or rejection of the conduct is used as the basis for an employment decision affecting the individual; or

(c) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(3) Agency managers may not tolerate any behavior that negatively focuses on a protected class. Although a behavior or pattern of behavior might not constitute illegal discrimination, it might still violate this rule.

(4) Agency managers who observe behaviors that could be viewed as discrimination or harassment shall stop the behavior and notify their agency's EEO officer, ADA coordinator, or human resources manager.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2000 MAR p. 3515, Eff. 12/22/00; [AMD](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4014 RETALIATION

(1) Agency managers may not retaliate or allow, condone, or encourage others to retaliate against any customer, applicant, or current or former employee for opposing unlawful discriminatory practices, filing a discrimination complaint or participating in a discrimination proceeding, including testifying in court.

(2) Agency managers who become aware of retaliation shall inform the agency's human resource manager, human resource staff, EEO officer, or ADA coordinator. The human resource manager, human resource staff, EEO officer, or ADA coordinator shall advise management on the appropriate course of action.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2000 MAR p. 3515, Eff. 12/22/00; [AMD](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4019 INITIATING AN INTERNAL COMPLAINT

(1) Agency managers shall encourage employees, applicants, clients, and customers who believe they have been discriminated against or harassed to contact their supervisor, another manager, or the agency's EEO officer, ADA coordinator, or human resources staff.

(2) Complaints may be oral or in writing; however, complainants are encouraged to use the Department of Administration's complaint form found at <http://hr.mt.gov/hrpp/policies.mcp>.

(3) For complaints not submitted on a complaint form, the agency representative receiving the complaint shall obtain and document the following information:

- (a) name, address, and phone number(s) of the complainant(s);
- (b) date(s), time(s), and location(s) of the alleged discriminatory behavior or conduct;
- (c) name(s), if known, of the accused(s);
- (d) description of the behavior or conduct that resulted in an alleged violation;
- (e) whether the alleged discrimination was based on a protected class; and
- (f) names of potential witnesses who may have heard or observed the alleged discriminatory conduct or behavior.

(4) Agency representatives who receive a complaint or become aware of allegations of discrimination or harassment shall promptly notify the human resource manager, EEO officer, or ADA coordinator, regardless of their perception of the validity of the complaint.

(5) The human resource manager, EEO officer or ADA coordinator, legal counsel, and appropriate manager shall meet to discuss the appropriate course of action. If the complaint is against any of these individuals, that individual is excluded from the meeting. The discussion must focus on measures to stop the alleged behavior, a review of the investigative process, and management's role in the process.

(6) If management determines an internal investigation would not be appropriate because of a potential conflict, they may request assistance from the State Human Resources Division or other outside source.

(7) The human resource manager or human resource staff, as appropriate, shall coordinate with the investigator and advise management throughout the course of the investigation.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4020 INVESTIGATING A COMPLAINT

(1) The EEO officer, ADA coordinator, or another representative chosen by management shall begin an investigation upon receiving a complaint.

(2) Before the investigation begins, the appropriate manager shall separately explain the following to the complainant and accused:

- (a) the investigation process and anticipated timelines;
- (b) what retaliation is and that it is unacceptable behavior; and
- (c) expectations and consequences of discussing the complaint with anyone other than the investigator, management, union representative, or legal counsel.

(3) Agency managers shall provide:

- (a) periodic updates to the complainant and the accused; and
- (b) documentation of their initial meeting and all subsequent follow-up action to the investigator.

(4) The investigator shall:

- (a) gather evidence to determine a "cause" or "no-cause" finding;
- (b) coordinate with the agency's legal counsel before conducting interviews and throughout the investigation; and
- (c) provide periodic updates to the agency's human resource manager.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4021 POST-INVESTIGATION ACTIONS

(1) After receiving the final report, the appropriate manager shall promptly inform the complainant and accused of the outcome of the investigation in writing.

(2) In the case of a cause finding, the appropriate agency manager shall:

(a) take appropriate disciplinary action, if necessary, according to the [ARM Title 2, chapter 21, subchapter 65](#), Discipline Policy;

(b) advise the complainant corrective action to stop the behavior has been taken, but not disclose the details or nature of disciplinary action;

(c) reemphasize that retaliation is unacceptable behavior; and

(d) contact the complainant within 30 days to ensure the behavior has stopped and no retaliation has occurred.

(3) In the case of a no-cause finding, the appropriate agency manager shall contact the complainant within 30 days to ensure the complainant has not experienced retaliation.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4022 CONFIDENTIALITY REQUIREMENTS

(1) Agency managers shall make every attempt to protect the privacy of individuals involved in the complaint process; however, individual privacy cannot be guaranteed.

(2) Agency managers may not prohibit employees from discussing a complaint or ongoing investigation with coworkers unless management conducts an individualized assessment and demonstrates that one of the following factors exists:

(a) there are witnesses in need of protection;

(b) evidence is in danger of being destroyed;

(c) testimony is in danger of being fabricated; or

(d) there is a need to prevent a cover-up.

(3) Agency managers shall document their rationale for requiring that employees refrain from discussing a complaint or ongoing investigation.

(4) The human resource staff shall maintain the investigative report and supporting documents in a secure, confidential case file separate from the regular employee file.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11; [AMD](#), MAR p. 110, Eff. 2/1/13.)

2.21.4027 TRACKING AND REPORTING INTERNAL COMPLAINTS

(1) Agency EEO officers shall track internal complaints using the Complaint Tracking Sheet located on the State Human Resources Division website: <http://hr.mt.gov/hrpp/policies.mcp>. EEO officers shall provide quarterly summaries

of internal complaints to the State Human Resources Division no later than the fifteenth day of each quarter.

- (2) The report must include:
 - (a) the total number of complaints;
 - (b) whether the complainant and accused was an employee, customer, or client;
 - (c) the protected class or basis of the complaint;
 - (d) the reason for complaint (for example, employment-related, denied access to a program or service, or inappropriate comment); and
 - (e) the outcome of the complaint.
 - (3) The report is for tracking purposes only and may not include confidential information such as names of individuals involved.
 - (4) The State Human Resources Division shall collect and analyze the data to:
 - (a) assess program effectiveness;
 - (b) develop or modify existing policies, procedures, and guides; and
 - (c) promote compliance with applicable laws, regulations, and policies.
- History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

2.21.4028 INITIATING AN EXTERNAL COMPLAINT

- (1) In addition to the internal complaint process, complaints may be filed with the following agencies:
 - (a) Montana Human Rights Bureau, 1625 11th Avenue, P.O. Box 1728, Helena, MT 59624-1728, (406) 444-2884, (800) 542-0807, TTY (406) 444-0532; or
 - (b) United States Equal Employment Opportunity Commission (EEOC) San Francisco District Office, 350 The Embarcadero, Suite 500, San Francisco, CA 94105-1260, (800) 669-4000, TTY (800)-669-6820.
 - (2) Jurisdiction may vary based on the nature of the complaint. For example, neither the Human Rights Bureau nor the EEOC considers complaints based on sexual orientation, culture, social origin or condition, or ancestry.
 - (3) The Human Rights Bureau must receive the complaint within 180 days of when the alleged discriminatory practice occurred or was discovered unless the person has filed an internal complaint. A person who files an internal complaint under these rules has 180 days from the conclusion of the internal investigation to file a complaint with the Human Rights Bureau if management completes the investigation within 120 days of when the alleged discriminatory practice occurred or was discovered. If management does not complete the investigation within 120 days, the person must file a complaint with the Human Rights Bureau within 300 days of when the alleged discriminatory practice occurred or was discovered.
 - (4) The EEOC must receive the complaint within 300 calendar days from the date the discrimination took place if the Human Rights Bureau enforces a law prohibiting employment discrimination against the same protected class. Otherwise, the complaint must be filed with the EEOC in 180 days.
- History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11; [AMD](#), MAR p. 110, Eff. 2/1/13.

2.21.4029 RULE VIOLATIONS

(1) Employees who violate these rules are subject to discipline, up to and including discharge under [ARM Title 2, chapter 21, subchapter 65](#), Discipline Policy. A rule violation includes managers who allow discrimination to occur or fail to take appropriate action to correct inappropriate behavior, including discrimination or harassment.

(2) Failure to conduct an investigation in a proper and timely manner, interference with an investigation, failure to cooperate with an investigator, or making a false statement to an investigator may result in disciplinary action, up to and including discharge.

History: [2-18-102](#), MCA; [IMP](#), [2-18-102](#), MCA; [NEW](#), 2011 MAR p. 1672, Eff. 8/26/11.

Other Resources:

- [Complaint Form](#)
- [Governor's Executive Order 41-2008 \(Equal Employment Opportunity, Non-Discrimination, and Harassment Prevention\)](#)
- [Harassment is Against the Law Brochure](#)
- [Model EEO Policy Statement Poster](#)
- [Tracking and Reporting Internal Complaints Form](#) (Excel)



**State of Montana
Department of Natural Resources and Conservation**

Substance Abuse/Use

Document Type: Policy	Issuing Authority: DNRC	First Issued: 11/21/95
Number: P-DNRC-HR-10	References: 45-9-102, 50-32-101, 61-8-401, and 67-1-211, MCA; DNRC Discipline Handling Policy and Procedure	Effective Date: 11/21/95
Approval Signature: /s/ Bud Clinch, Director		Last Revised: 11/21/95

Policy

It is the policy of the Department of Natural Resources and Conservation (DNRC) that motor vehicles and/or aircraft will not be operated "under the influence" as defined in 61- 8-401 and 67-1-211, MCA, nor will alcohol and dangerous drugs as defined in Section 50- 32-101, MCA be consumed in Department of Natural Resources and Conservation's vehicles and/or aircraft. DNRC employees, while in a work status or on DNRC property, shall not be in possession of dangerous drugs as per Section 45-9-102, MCA.

Enforcement

In addition to penalties employees may be subject to under existing statutes, violations of this policy may result in disciplinary action being taken, up to and including termination of employment.

Impaired Performance/Assistance

If the job performance of a department employee indicates impairment or unacceptable job performance by the use of alcohol or other drugs, the appropriate supervisor may suggest professional assistance for the affected employee.

The Department of Natural Resources and Conservation recognizes substance abuse "Dependency" as a disease. It is the policy of the department to assist employees who abuse alcohol and other drugs to the extent that their job performance is impaired. The department further recognizes that there is a limit to the amount of assistance that can be provided to the affected employee, unless the employee recognizes the disease and is willing to receive the appropriate treatment to correct the problem.

If the impairment results in unacceptable job performance or is threatening the safety of the employee or others, the appropriate supervisor must implement the Department of Natural Resources and Conservation Discipline Handling Policy and Procedure DNRC 3-0130. The appropriate supervisor must document the impairment and unacceptable job performance which may be attributable to the consumption of alcohol and other drugs.

Closing

This policy does not restrict the consumption of alcohol in a DNRC housing unit by department employees or their guests, who are of legal age as defined in Section 45-5- 624, MCA, and have permission of the appropriate supervisor for such housing unit. Appropriate conduct must be

maintained by all persons in DNRC housing units. DNRC policies/procedures, state and Federal laws must be adhered to.

This policy shall apply to full-time employees, part-time employees, temporary, seasonal, emergency firefighter employees and volunteers. This policy shall be used unless it conflicts with negotiated labor contract provisions, which shall take precedence to the extent applicable.

History: NEW: 11/21/95 (originally #3-0011).

State Vehicle Use Rule

March 6, 2013

2.6.201 INTRODUCTION

(1) The following rules define acceptable uses for state-owned or leased motor pool vehicles as provided in [2-17-424](#), MCA. State employees or authorized individuals may be subject to additional guidelines, policies, insurance coverage exclusions, or regulations for vehicle/equipment fleet operations, provided that they do not conflict with these rules.

(2) Drivers and passengers must use installed seat belts at all times.

History: [2-17-424](#), MCA; [IMP](#), [2-9-201](#), [2-9-305](#), and [2-17-424](#), MCA; [NEW](#), 2001 MAR p. 2013, Eff. 10/12/01.

2.6.202 DEFINITIONS

As used in this subchapter, the following definitions apply:

(1) "State" as defined in [2-9-101](#), MCA.

(2) "State employee" as defined in [2-9-101](#), MCA.

(3) "State vehicle" means a motor vehicle, trailer, snowplow, or other vehicle designed for travel on public roads that is subject to motor vehicle registration, including any machinery or apparatus attached to the vehicle. The term includes the following:

(a) a "leased vehicle" obtained by the state through an open-ended lease or lease with an option to buy contract;

(b) a "loaned vehicle" provided to the state as a gratuity;

(c) an "owned vehicle" to which the state has title; and

(d) A "rented vehicle" rented by the state for a fee, typically for short-term use in Montana or for out-of-state travel.

(4) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a state vehicle has been diminished.

History: [2-17-424](#), MCA; [IMP](#), [2-9-201](#), [2-9-305](#), [2-17-424](#), MCA; [NEW](#), 2001 MAR p. 2013, Eff. 10/12/01; [AMD](#), 2012 MAR p. 2595, Eff. 12/21/12.

2.6.203 AUTHORIZED DRIVERS AND USES

(1) Except as otherwise provided in this rule, the following individuals may operate a state vehicle if the driver possesses a valid driver's license appropriate to the type of vehicle to be driven, meets driver requirements set out in [ARM 2.6.205](#), and the uses are as provided below:

(a) a state employee to conduct business on behalf of the state;

(b) a state employee in travel status to obtain food and lodging and to respond to medical emergency situations;

(c) a state employee required to conduct state business to obtain items needed while in travel status;

(d) a state employee may park a state vehicle overnight at the employee's residence if the

- employee must begin travel the next day or if the employee is subject to emergency response, on-call, or other off-shift duty associated with state employment;
- (e) a state employee required to stay overnight at a location other than the employee's established work location during non-work time to drive to a cultural, recreational, or leisure activity or to conduct other personal business, if the activity is within 30 miles of the employee's lodging;
 - (f) a non-state employee enrolled and registered as a student at a university of the state to conduct university business;
 - (g) a non-state employee to aid or assist a disabled state employee if the aide has completed the Risk Management and Tort Defense Division's (RMTD) vehicle use agreement and obtained authorization from the agency head or designee prior to the use;
 - (h) a non-state employee to assist a state employee or other individual during a medical emergency for transportation and related purposes. Prior approval is not required;
 - (i) a non-state employee accompanying a state employee on official state business where the state employee becomes ill, fatigued, or is otherwise rendered physically or mentally incapable of driving and/or a compelling state interest is served by allowing the non-state employee to drive. Prior approval is not required; and
 - (j) an inmate of a state prison who must operate a state vehicle to fulfill job duties for a position with Montana Correctional Enterprises or a state prison, and who is approved by the appropriate division as outlined in Montana State Prison/Montana Women's Prison/Montana Correctional Enterprises Procedure. If an inmate who is allowed to drive on Department of Corrections' property under this rule does not have a valid driver's license, the inmate may drive a state vehicle if:
 - (i) the inmate has a valid facility driving permit;
 - (ii) is timely paying fines, if any, associated with the inmate's loss of a driver's license; and
 - (iii) is working toward obtaining a valid state of Montana driver's license.
- (2) Any exception to the authorized drivers and uses requires the prior written approval of the Risk Management and Tort Defense Division.
- History: [2-17-424](#), MCA; IMP, [2-9-201](#), [2-9-305](#), [2-17-424](#), MCA; NEW, 2001 MAR p. 2013, Eff. 10/12/01; AMD, 2012 MAR p. 2595, Eff. 12/21/12.

2.6.204 AUTHORIZED PASSENGERS AND USES

- (1) Except as otherwise provided in this rule, the following individuals may ride as passengers in a state vehicle:
- (a) a state employee conducting business on behalf of the state; or
 - (b) a non-state employee who is:
 - (i) an independent contractor conducting business on behalf of the state;
 - (ii) an aide rendering assistance to a disabled state employee;
 - (iii) a guest or client of the state, including a public employee, if conducting, participating in, or providing a benefit to the conduct of state business;
 - (iv) rendering assistance during an emergency situation; or
 - (v) a nursing infant if the parent is an authorized driver or passenger.
- (2) Any exception to the authorized passengers and uses requires the prior written approval of the risk management and tort defense division.

History: [2-17-424](#), MCA; IMP, [2-9-201](#), [2-9-305](#), and [2-17-424](#), MCA; NEW, 2001 MAR p. 2013, Eff. 10/12/01.

2.6.205 DRIVER REQUIREMENTS

- (1) Non probationary employees required to drive as part of their job who have accumulated 12 or more conviction points according to the schedule specified in [61-11-203](#), MCA, over the most recent 36 months may not drive a state vehicle or personal vehicle for state business until having successfully completed a certified safe driver course approved by the RMTD and received authorization to drive from their agency head and RMTD. State employee drivers who have accumulated 15 or more conviction points according to the schedule specified in [61-11-203](#), MCA, may not drive a state vehicle or a personal vehicle for state business until the accumulated point total is less than 12 within the past 36 months.
- (2) Non-probationary employees who have accumulated 18 or more points in the immediately preceding 36 months may not drive a state vehicle or a personal vehicle for state business until two years have passed during which they have not accumulated any conviction points according to the schedule specified in [61-11-203](#), MCA, have successfully completed a certified safe driver course approved by RMTD, and received authorization to drive from their agency head and RMTD.
- (3) A state employee required to drive as part of the employee's job shall report any single driving infraction of five or more conviction points according to the schedule in [61-11-203](#), MCA, accumulated while driving a state vehicle or a personal vehicle for state business to the employee's supervisor within ten days of conviction.
- (4) A state employee required to drive as part of the employee's job shall report an accumulation of conviction points of 12 or more according to the schedule in [61-11-203](#), MCA, for the past 36 months immediately preceding the infraction, whether accumulated while driving a state vehicle, a personal vehicle for state business, or accumulated while driving a motor vehicle for any purpose within ten days of the accumulation of 12 or more points to the employee's supervisor.
- (5) Authorized drivers are responsible for promptly paying all penalties following the court procedures established for contesting citations.
- (6) The above requirements also apply to those individuals authorized to drive under the conditions listed in ARM [2.6.205](#).
- (7) The requirements specified in this rule apply to conviction points received after October 12, 2001.
- (8) An agency has the authority to restrict employees otherwise authorized as drivers from using state vehicles when it knows they are unsafe drivers from means other than the accumulation of conviction points.

History: [2-17-424](#), MCA; IMP, [2-9-201](#), [2-9-305](#), [2-17-424](#), MCA; NEW, 2001 MAR p. 2013, Eff. 10/12/01; AMD, 2008 MAR p. 614, Eff. 4/11/08.

2.6.209 ALCOHOL AND DRUGS

- (1) No person may be under the influence while on state business.
- (2) No person may have an alcoholic beverage container in the passenger compartment of a

state-owned, leased, or loaned vehicle.

History: [2-17-424](#), MCA; IMP, [2-9-201](#), [2-9-305](#), [2-17-424](#), MCA; NEW, 2001 MAR p. 2013, Eff. 10/12/01; AMD, 2012 MAR p. 2595, Eff. 12/21/12.

2.6.210 CELL PHONE USE

(1) State employees shall drive in a careful and prudent manner so as not to unduly or unreasonably endanger the life, limb, property, or rights of a person entitled to use a street or highway.

(2) State employees are strongly encouraged not to use handheld cell phones or other handheld electronic communications devices or objects while operating state vehicles or personal vehicles on state business. Exceptions to this rule are law enforcement and emergency response personnel.

History: [2-17-424](#), MCA; IMP, [2-9-201](#), [2-9-305](#), and [2-17-424](#), MCA; NEW, 2001 MAR p. 2013, Eff. 10/12/01.

2.6.214 DISCIPLINE

(1) Failure to comply with the requirements of these rules may result in disciplinary action, including suspension or termination. Any supervisor who becomes aware of any violation of these rules by an employee they supervise shall take appropriate disciplinary action, according to the state discipline policy set forth in ARM [2.21.6505](#) through [2.21.6509](#) and [2.21.6515](#).

History: [2-17-424](#), MCA; IMP, [2-9-201](#), [2-9-305](#), [2-17-424](#), MCA; NEW, 2001 MAR p. 2013, Eff. 10/12/01; AMD, 2008 MAR p. 614, Eff. 4/11/08; AMD, 2008 MAR p. 614, Eff. 4/11/08.

* Upon completion of reading, you MUST log in to:

<https://www.surveymonkey.com/s/DNRC2013VehicleUseAgreement>
to complete the DNRC Vehicle Use Driver Requirement Agreement.



State of Montana
Department of Natural Resources and Conservation

Drug and Alcohol Testing

Document Type: Policy	Issuing Authority: DNRC	First Issued: 10/3/95
Number: P-DNRC-HR-6	References: 49 CFR parts 29, 40, 391, 392, 395;	Effective Date: 10/3/95
Approval Signature: /s/ Bud Clinch, Director		Last Revised: 10/3/95

1.0 Policy

Our employees are our most valuable resource, and it is our goal to prevent accidents and injuries resulting from the misuse of alcohol and prohibited substances, as well as to provide a healthy and safe working environment.

In meeting these goals, it is our policy to:

- (1) assure employees are not impaired in their ability to perform assigned duties in a safe, productive and healthy manner;
- (2) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances;
- (3) create a workplace environment free from the adverse effects of drug and alcohol abuse or misuse;
- (4) recognize drug and alcohol abuse as a treatable illness and encourage employees to seek professional assistance any time alcohol or drug dependency adversely affects their ability to perform their duties;
- (5) maintain a work environment and promote work habits that foster public confidence; and
- (6) strive to continually improve the service we provide the public and recognize the key role our agency plays in public safety.

2.0 Purpose

The purpose of this policy is to assure worker fitness for duty and to protect our employees and the public from the risks posed by the use of alcohol and prohibited substances. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs. The Federal Highway Administration (FHWA) of the U.S. Department of Transportation has enacted 49 CFR Part 382, 391, 392 and 395, as amended, that mandate urine drug testing and breath alcohol testing for persons who are subject to Commercial Drivers License (CDL) requirements and perform safety sensitive functions.

The U.S. Department of Transportation (DOT) has also enacted 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.

In addition, the Department has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FHWA.

This policy is also intended to comply with 39-2-304, MCA.

This policy incorporates the requirements under the above regulations.

Nothing in this policy is intended to preclude disciplinary action being taken under existing department policy.

A list of definitions is included for easy reference (**ATTACHMENT 1**).

3.0 Applicability

Effective January 1, 1995, this policy applies to all employees who are subject to CDL requirements and perform safety sensitive functions (hereafter referred to as covered positions). It applies to on-duty time as well as off-site breaks and lunch periods when an employee is scheduled to return to work.

A list of classes that may require a CDL is attached (**ATTACHMENT 2**).

4.0 Prohibited Substances

"Prohibited substances" addressed by this policy include the following:

4.1 Illegally Used Controlled Substances or Drugs

Illegal use of controlled substances or drugs which include marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine is prohibited. Illegal use also includes the misuse of legally prescribed drugs and use of illegally obtained prescription drugs.

4.2 Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills or judgment may be adversely affected must be reported to the supervisor, and medical advice should be sought, as appropriate, before performing safety-sensitive functions.

A legally prescribed drug means that the employee has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment, and the physician advises the employee that the substance does not affect the driver's ability to safely operate a commercial motor vehicle (CMV). It must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization. The misuse or abuse of legal drugs while performing safety-sensitive functions is prohibited.

4.3 Alcohol

The use of beverages or substances, including medication, containing alcohol while performing safety-sensitive functions is prohibited. No employee shall perform safety sensitive functions within four hours (4) after using alcohol.

No employee shall be on duty or operate a CMV while the driver possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. An employee who possesses alcohol will be subject to disciplinary action and will be removed from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period but not less than twenty-four (24) hours. The employee will also be referred to the SAP for evaluation to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and be released to duty by the SAP, with completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02. Follow-up testing may be required.

The concentration of alcohol is expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath testing device (EBT). See CFR Part 40, as amended.

5.0 Testing Compliance Requirements

Employees in covered positions will be subject to urine drug testing and breath alcohol testing.

Any employee or prospective employee who refuses to sign any required release(s) for release of information relative to test results or required follow-up evaluations by the Substance Abuse Professional (SAP), fails to comply with a request for testing, provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration or substitution shall be considered as having a positive test.

Refusal includes an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test. (Note: If the employee or prospective employee is unable to provide the required amount of urine for drug testing, he/she will be instructed to drink not more than twenty-four (24) ounces of fluids and, after a period of up to two (2) hours, again attempt to provide a complete sample using a fresh collection container with the original insufficient specimen discarded.)

Refusal to submit to testing and not being available for post-accident testing unless injury prevents testing will be considered insubordination and a positive test. Disciplinary action will be taken which could include termination.

6.0 Testing for Prohibited Substances

Employees in covered positions will be subject to the following tests: pre-employment; post-accident; random; reasonable suspicion; return-to-duty and follow-up.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment and laboratory facilities which have been approved by the U.S. Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in 49 CFR Part 40, as amended.

The Department will protect individual dignity, privacy and confidentiality throughout the testing process.

Drug Testing

Drug testing may occur at any time during **on duty time**. The drugs that will be tested for include marijuana, cocaine, opiates, amphetamines and phencyclidine.

An initial drug screen will be conducted on each specimen.

For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the amounts present are above the minimum thresholds in 49 CFR Part 40, as amended.

The following actions will occur as a result of a confirmed positive drug test:

First occurrence - removal from performing safety- sensitive functions; and subject to long-term disciplinary suspension without pay (ten (10) or more working days), disciplinary demotion, or recommendation to the Director for termination. Unless a recommendation is made to the Director for termination, the employee will be referred to the SAP for evaluation and a determination of what assistance, if any, the employee needs in resolving problems associated with controlled substances use; released to duty by the SAP; and completion of a return-to-duty controlled substances test with a verified negative result for controlled substances use.

Second occurrence - removal from performing safety- sensitive functions; suspension without pay; and recommendation made to the Director for termination.

If the Department determines that an employee will undergo reasonable suspicion testing, the employee shall be removed from performing safety-sensitive functions until the Department is notified of acceptable test results.

Alcohol Testing

Alcohol testing shall be performed only when the employee is **performing** safety sensitive functions, or **immediately prior** to performing or **immediately after** performing safety sensitive functions. (See the six-numbered items under the definition of on-duty time.)

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA) approved EBT operated by a trained breath alcohol technician (BAT).

If the initial test indicates an alcohol concentration of **0.02** or greater, a second (2nd) test will be performed to confirm the results of the initial test.

A confirmed alcohol concentration of **0.04** or greater will be considered a positive alcohol test, and is prohibited conduct under 49 CFR 382.

The following actions will occur:

Confirmed alcohol concentration of **0.02 up to 0.04:**

First occurrence - Removal from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test; and completion of a return-to-duty alcohol test indicating a breath alcohol concentration of less than 0.02.

Second and any additional occurrences - Removal from performing safety-sensitive functions until the start of the employee's next regularly scheduled duty period, but not less than twenty-four (24) hours following administration of the test. The employee will be referred to the SAP for evaluation to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and be released to duty by the SAP, with completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02.

(Note: The above paragraph will also apply to an employee whose first (1st) confirmed test alcohol concentration test results are 0.04 up to 0.10 and a later test with concentration results of 0.02 up to 0.04.)

Confirmed alcohol concentration of **0.04 up to 0.10** (positive test):

First occurrence- removal from performing safety- sensitive functions; and subject to long-term disciplinary suspension without pay (ten (10) or more working days), disciplinary demotion or a recommendation to the Director for termination. Unless a recommendation is made to the Director for termination, the employee will be referred to the SAP for evaluation to determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and be released to duty by the SAP, with completion of a return-to-duty alcohol test indicating an alcohol concentration of less than 0.02 and subject to follow-up testing as outlined in section 6.5 below.

Second occurrence - removal from performing safety- sensitive functions; suspension without pay; and recommendation to the Director for termination.

Confirmed alcohol concentration of **0.10 or greater** (positive test):

First occurrence - removal from performing safety- sensitive functions; suspension without pay; and recommendation made to the Director for termination.

6.1 Pre-Employment Testing

The successful applicant for a covered position will be required to undergo urine drug testing after an offer of employment has been made. The employment offer must be conditioned on receipt of a negative drug test.

Prior to hire, the prospective employee must provide a written release so that the Department can obtain from previous employers for the last two (2) years the required information as provided in 49 CFR Part 382, section 382.413. This information must be obtained from employers for whom the prospective employee operated a CMV. If this information isn't provided to the DNRC within fourteen (14) calendar days from the date the employment begins, the employee must be removed from performing safety-sensitive functions unless the Department can document contact was made with the previous employer, the results of that contact, and why the information wasn't obtained.

A prospective employee with a confirmed positive drug test will be disqualified from consideration for the position being filled. This will not prevent this individual from being considered for any subsequent vacancy.

Failure to achieve these test results will disqualify the person for consideration for the position.

6.2 Reasonable Suspicion Testing

Employees in covered positions may be subject to a fitness- for-duty evaluation which includes urine and breath testing when there is reason to believe that drug or alcohol use is a potential factor in affecting job performance.

A reasonable suspicion determination will be made by a supervisor who has been trained in reasonable suspicion and who believes that the employee has violated the prohibitions of these regulations based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Reasonable suspicion determinations must be documented within twenty-four (24) hours of observation and by test results received. A description of the behaviors that led to the determination must be signed by the person who made the determination.

6.3 Post-Accident Testing

Employees in covered positions will be required to undergo urine and breath testing if they are involved in an accident with a Department CMV which occurs on a public road AND EITHER - involves a fatality; OR - a moving violation is issued to the (CMV) driver; AND EITHER - involves injury to a person who, as a result of injury, immediately receives medical treatment away from the scene of the accident;

- one (1) or more of the motor vehicles incur disabling damage as a result of the accident requiring the vehicle to be towed away by a tow truck or other vehicle, or if it were driven, it would be damaged more.

(Note: Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It does NOT include damage to tires even if a spare is unavailable, head or taillight, turn signal, horn or windshield damage).

Following the accident, the employee will be tested within two (2) hours of the accident. If this can't be done, reasons for nontesting must be documented. Attempts to test will cease after eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing.

Any employee in a covered position involved in an accident must refrain from alcohol use for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test. Any employee who leaves the scene of the accident without appropriate explanation prior to submission to drug and alcohol testing will be considered to have refused the test. This will be considered a positive test.

6.4 Random Testing

Employees in covered positions will be subject to random, unannounced testing.

The selection for random testing will be made by a scientifically valid method, and each employee shall have an equal chance of being tested each time selections are made.

A random number of those tested for drugs will also be subject to alcohol testing.

Drug testing may occur at anytime during **on-duty time**. Alcohol testing will be performed before, during or after the employee is performing safety-sensitive functions.

In accordance with the regulations, the minimum annual percentage rate for alcohol testing will be completed for twenty-five (25%) of the average number of covered positions. Drug testing will be completed for fifty percent (50%) of the average number of covered positions. If Department is in a pool with other employers, the actual percentage of Department employees may be higher or lower.

6.5 Return-to-Duty and Follow-Up Testing

Employees who previously had a confirmed positive on a drug or alcohol test must have a negative test and be evaluated and released to duty by the SAP before returning to perform safety-sensitive functions for the Department.

Employees will be required to undergo unannounced follow-up alcohol and/or drug testing as directed by the SAP. This will consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. Follow-up testing will not exceed sixty (60) months from the date of the employee's return to duty.

Additionally, employees with a second (2nd) occurrence of a confirmed alcohol concentration test of 0.02 or greater will be required to complete a return-to-duty test and also be evaluated by the SAP before returning to work as indicated in section 6.0 above.

6.6 Employee Requested Drug Testing

An employee who questions the results of a confirmed positive drug test may request an additional test be conducted. This test must be conducted at a different testing DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. The method of collecting, storing and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended.

The employee's request for a re-test must be made to the MRO within seventy-two (72) hours of notice of the initial test result. Requests after the seventy-two (72) hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee. All costs for a retest on the split sample will be paid by the employee unless the second (2nd) test invalidates the original test.

7.0 Employment Assessment

Any employee who has a confirmed positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended will be evaluated by the SAP designated by the Department. The employee must sign a release so that the Department can obtain information on the rehabilitation program duration, completion and follow-up requirements.

The SAP will evaluate the employee to determine what assistance, if any, the employee needs in resolving problems associated with the prohibited use or abuse of drugs or alcohol, recommend a rehabilitation program and follow-up schedule and determine if the rehabilitation program has been successfully completed. The SAP will also determine if and when the employee can be released to return to duty.

If an employee is released to return-to-duty, he/she must properly follow the rehabilitation program prescribed by the SAP and have a verified confirmed negative return-to-duty test result as indicated in section 6.0 above. Failure to follow the program will result in a recommendation to the Director for termination of employment.

8.0 Proper Application of Policy

The Department is dedicated to assuring fair and equitable application of this policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to a subordinate, shall be subject to disciplinary action up to and including termination.

9.0 System Contact

Any questions regarding this policy or any other aspects of the drug-free and alcohol-free Department program should contact the Department Personnel Director or his designee at (406 444-2074).

Attachment 1

Definitions

Accident - an occurrence involving a Department commercial motor vehicle (CMV) operating on a public road AND EITHER - involves a fatality; OR - moving violation is issued to the CMV driver; AND EITHER - involves injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; OR - one (1) or more motor vehicles incurs disabling damage as a result of the accident requiring the vehicle to be towed away by a tow truck or other vehicle, or if it were driven, it would be damaged more.

(Note: Disabling damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. It does not include damage to tires even if a spare is unavailable, head or taillight, turn signal, horn or windshield damage.)

Alcohol - the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcohol concentration (AC) - means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Alcohol use - the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

Breath alcohol technician (BAT) - an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Commercial motor vehicle (CMV) - a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- has a gross vehicle weight rating of 26,001 or more pounds; or
- is designed to transport 16 or more passengers, including the driver; or
- is of any size and is used in the transportation of hazardous materials requiring placards.

Confirmation test - for alcohol testing, this means a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration.

For controlled substances testing, this means a second analytical procedure to identify the presence of a specific drug or metabolite determined by Gas Chromatography/Mass Spectrometry (GC/MS) which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.

Controlled substance - includes, marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine.

Covered positions - positions that are subject to Commercial Drivers License (CDL) requirements and perform safety-sensitive functions. (See **ATTACHMENT 2**).

Driver - any person who operates a CMV. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.

Evidential breath testing device (EBT) - a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's September 1993 or later "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

Medical Review Officer (MRO) - a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

Negative test - for drugs, a test with the amounts present that are at or below the minimum thresholds in 49 CFR Part 40, as amended. For alcohol, a concentration below 0.04.

On-duty time - All time from the time a driver begins to work or is required to be in readiness to work until the time he is relieved from work and all responsibility for performing work.

On-duty time shall include:

1. All time at a carrier or shipper plant, terminal, facility or other property, or on any public property, waiting to be dispatched, unless has been relieved from duty by the motor carrier.
2. All time inspecting to make sure that the parts, accessories and emergency equipment are in good working order and ready for use or otherwise inspecting, servicing, or conditioning any commercial vehicle.
3. All time spent at the driving controls of a commercial motor vehicle in operation.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipment loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

Performing a safety sensitive function - means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function. See items 1-6 above in the definition of on-duty time.

Positive test - for a drug test, an amount above the minimum thresholds in 49 CFR Part 40, as amended. For an alcohol test, a breath alcohol concentration at 0.04 or greater.

Refuse to submit - (to an alcohol or controlled substances test) means that a driver:

1. fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part;
2. fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part, or
3. engages in conduct that clearly obstructs the testing process.

Reasonable suspicion - belief that the employee has violated the alcohol or controlled substances prohibitions, based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee.

Safety sensitive functions - see items 1-6 in the definition of "**on-duty time**" above.

Screening test (also known as initial test) - in alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

Substance abuse professional (SAP) - a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Attachment 2

Classes That May Require A Commercial Driver's License

Classification Title

Forester 040013, 040014, 040015

Forestry Tech 452009, 452010
Forestry Worker 441004

Mechanic/Machinist 996301

Mechanic/Machinist Foreman 996303

Equipment Operator 919006, 919007

Land Use Specialist 013019, 013020, 013021

Warehouse Worker 922004, 92200

History: NEW: 10/3/95 (originally #3-0013).



State of Montana
Department of Natural Resources and Conservation

Changes in Federal Drug and Alcohol Testing
Regulations, 1996

Document Type: Policy	Issuing Authority: DNRC	First Issued: 11/1/96
Number: P-DNRC-HR-6A	References: Drug and Alcohol Testing Policy (P-DNRC-HR-6)	Effective Date: 11/1/96
Approval Signature: /s/ Randy Mosley for Bud Clinch, Director		Last Revised: 11/1/96

Section 40.3-Definitions: Substance abuse professional. Insert definition from Part 382. After "Counselors Certification Commission" add "or by the International Certification Reciprocity Consortium (Alcohol & Other Drug Abuse)".

Section 40.25-Specimen collection procedures is amended by removing the word "oral" from paragraphs (e)(2)(i)(A) and (B) and adding after the word "temperature," in paragraph (e)(2)(i)(A): "(taken by a means other than use of a rectal thermometer).

Section 40.25(f)910)(iv)

(A)(1) In either collection methodology, upon receiving the specimen from the individual, the collection site person shall determine if the specimen has at least 30 milliliters of urine of a single specimen collection or 45 milliliters of urine for a split specimen collection.

(2) If the individual has not provided the required quantity of urine, the specimen shall be discarded. The collection site person shall direct the individual to drink up to 40 ounces of fluid, distributed reasonably through a period of up to three hours, or until the individual has provided a new urine specimen whichever occurs first. If the employee refuses to drink fluids as directed or to provide a new urine specimen, the collection site person shall terminate the collections and notify the employer that the employee has refused to submit to testing.

(3) If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection site person shall discontinue the collection and notify the employer.

(B) The employer shall direct any employee who does not provide a sufficient urine specimen (see paragraph (f)(10)(iv)(3) of this section to obtain, as soon as possible after the attempted provision of urine, an evaluation from a licensed physician who is acceptable to the employer concerning the employee's ability to provide an adequate amount of urine.

(1) If the physician determines, in his or her reasonable medical judgment, that a medical condition has, or with a high degree of probability, could have, precluded the employee from providing an adequate amount of urine, the employee's failure to provide an adequate amount of urine shall not be deemed a refusal to take a test. For purposes of this paragraph, a medical condition includes an ascertainable physiological condition (e.g., a urinary system dysfunction) or a documented pre-existing psychological disorder, but does not include unsupported ascertains of "situational anxiety" or dehydration. The physician shall provide to the MRO a brief written statement setting forth his or her conclusion and the basis for it, which shall not include detailed information on the medical condition of the employee. Upon receipt of this statement, the MRO shall report his or her conclusions to the employer in writing.

(2) If the physician, in his or her reasonable medical judgment, is unable to make the determination set for in paragraph (f)(10)(iv)(B)(1) of this section, the employee's failure to provide an adequate amount of urine shall be regarded as a refusal to take a test. The physician shall provide to the MRO a brief written statement setting forth his or her conclusion and the basis for it, which shall not include detailed information on the medical condition of the employee. Upon receipt of this statement, the MRO shall report his or her conclusions to the employer in writing.

Section 40.33-Reporting and Review of Results (b)(2) Reserved.

(c)(5) The MRO may verify a test as positive without having communicated directly with the employee about the test in three circumstances:

(1) The employee expressly declines the opportunity to discuss the test; (2) Neither the MRO nor the designated employer representative, after making all reasonable efforts, has been able to contact the employee within 14 days of the date on which the MRO receives the confirmed positive test result from the laboratory; (3) The designated employer representative has successfully made and documented a contact with the employee and instructed the employee to contact the MRO (see paragraphs (c)(3) and (c)(4) of this section), and more than five days have passed since the date the employee was successfully contacted by the designated employer representative.

(6) If a test is verified positive under the circumstances specified in paragraph (c)(5)(2) or (3) of this section, the employee may present to the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented the employee from being contacted by the MRO (paragraph (c)(5)(2) of this section) or from contacting the MRO (paragraph (c)(5)(3) of this section) within the times provided. The MRO, on the basis of such information, may reopen the verification, allowing the employee to present information concerning a legitimate explanation for the confirmed positive test. If the MRO concludes that there is a legitimate explanation, the MRO declares the test to be negative.

(f)(2) If the analysis of the split specimen is reconfirmed by the second laboratory for the presence of drug(s) or drug metabolite(s), the MRO shall notify the employer and the employee of the results of the test.

Section 382.107-Definitions - The definition of "Substance Abuse Professional" is removed (moved to part 40).

History: NEW: 11/196 (originally #3-0013 Addendum #2).

	Montana Operations Manual Standard	Category	Information Technology
		Effective Date	10/01/2012
		Last Revised	09/20/2012
Issuing Authority	Department of Administration State Information Technology Services Division		
STD-Employee Use of Information Technology			

I. Purpose

This standard outlines the minimum requirements for state government employees regarding information technology usage.

II. Scope

This standard applies to all executive branch agencies and independent contractors, excluding the university system, who have access to, use, or manage state government-controlled information technology.

III. Standard

A. Employees

1. Employees shall use information technology only for conducting state business. Incidental personal use is permitted. "Incidental" is defined as use that does not create cost to the state, interfere with the employee's duties, disrupt state business, or compromise the security or integrity of state government systems.
2. Employees shall abide by copyright law. This includes all laws regarding protected intellectual property, including software. Unauthorized use of copyrighted materials or another person's writings is copyright infringement.
3. Employees shall:
 - a. protect data in their custody, including knowing if data is confidential;
 - b. ensure that critical data is saved to an appropriate location;
 - c. maintain a secure, virus-free environment including checking CD's and USB sticks for viruses before using them on a state computer;
 - d. seek system administrator before installing any software;
 - e. protect equipment from theft and report any loss of equipment or information to their supervisor immediately;

- f. protect passwords and lock systems before leaving them unattended; and
 - g. notify managers or system administrators of anything unusual or if a computer may have a virus.
4. Employees do not have an expectation of privacy when using state-controlled information technology. Unless specifically expressed by proper authority, employee use of state-controlled devices may be accessed, read, copied, used or disclosed with or without the employee's knowledge.

B. Agency Controls

1. Agencies may place additional requirements on employees beyond the requirements in this standard.
2. Agencies shall manage its employees and the use of state information technology resources under the agency's control.
3. Agencies shall require employees sign a document stating they understand the requirements in this standard at the beginning of employment and at least once a year.

C. Model Employee Agreement

A model employee agreement for use by organizations is located at the back of this standard.

IV. References

- [2-17-512, MCA – Powers and duties of department](#)

V. Contact

Send all inquiries regarding this document and its contents to itpolicy@mt.gov.

State of Montana
Employee Use of Information Technology

Information technology is essential to the State of Montana and each employee is responsible for the safe keeping of these resources. This policy outlines important areas of responsibility. Violations of this policy may result in disciplinary action up to and including termination. All employees shall read and sign this policy every year.

Acceptable Use

The State of Montana uses information technology for conducting state business.

Employees must not use technology for purposes other than those that would further their job duties. Incidental personal use is permitted. "Incidental" is defined as use that does not create cost to the state, interfere with the employee's duties, disrupt state business, or compromise the security or integrity of state government systems.

Employees may not violate law, rules, regulations, or policies using information technology while in the course of their duties, including copyright laws. This includes the duplication, transmission, or use of intellectual property without the proper agreements.

Security Responsibility

Employees shall:

- Protect data in their custody, including knowing if data is confidential;
- Ensure that critical data is saved to an appropriate location;
- Maintain a secure, virus-free environment;
- Seek system administrator before installing any software;
- Protect equipment and report any loss of equipment or information immediately;
- Protect passwords and lock systems before leaving them unattended;
- Notify their manager or system administrator of anything unusual or if they think a computer may have a virus.

Privacy

Employees have no expectation of privacy when using state-controlled equipment. State officials may access, read, copy, use or disclose information on state-controlled equipment without prior notification.

Employee Signature

I _____ have read the State of Montana's computer use policies and agree to comply with the conditions within this document.

I understand that all activity using state information technology resources may be monitored including monitoring of my communications, with or without notice; therefore, I have no expectation of privacy when using these resources.

Signed _____ Date _____

	Montana Operations Manual Policy	Category	Procurement/ Surplus Property
		Effective Date	01/30/2013
		Last Revised	01/31/2013
Issuing Authority	Department of Administration General Services Division		
Fuel Card Policy			

I. PURPOSE

The policy establishes the requirements for managing and using fuel cards for efficient and cost-effective fuel and maintenance purchases when conducting State business.

II. SCOPE

This policy applies to Executive Branch agencies that operate agency-owned, fuel-powered vehicles and equipment. The Montana Department of Transportation's daily-use and agency-leased motor pool vehicles are exempt from this policy.

III. PROCEDURES / REQUIREMENTS / RESPONSIBILITIES

A. Agencies must:

1. Use the Department of Administration's (DOA) State Procurement Bureau's exclusive fuel card contracts.
2. Designate an authorizing official(s) to oversee its fuel card procedures. Provide the authorizing official's personal contact information to the DOA's State Procurement Bureau.
3. Establish procedures and assign responsibilities to manage fuel card use. Procedures and responsibilities must include the following:
 - a. Collect and compare monthly vehicle odometer readings to the vehicle's monthly fuel transactions to ensure fuel consumption is appropriate for the vehicle.
 - b. Retain monthly statements.
 - c. Resolve billing disputes.

If an error is found on a statement (e.g., employee did not make the transaction, incorrect amount, etc.), the vendor where transaction took place, must be contacted by the agency to try to resolve the dispute. If the vendor does not agree an error has occurred and does not agree to correct the disputed amount, the transaction will be identified and submitted in writing to the card provider within 60 days of the transaction date. The card provider will investigate the dispute and report findings back to reporting agency. If a dispute is not submitted within 60 days of the transaction date, the agency is responsible for paying the disputed item. If the vendor agrees an error has occurred, the vendor will credit the account and the credit will appear on the next statement. See current fuel card contract for dispute resolution policy.

4. Establish internal controls for using fuel cards. Available controls include:
 - a. Limit on the number of transactions during a certain time period (day, month, week).
 - b. Limit dollar amount per transaction.
 - c. Limit Merchant Category Codes.
 - d. Restrict purchases to specific hours of the day or days of the week.
 - e. Require odometer reading at the point-of-sale.

Note: Default fuel card controls limit purchases to fuel and maintenance items and allow five transactions per day up to a total of \$1000. Agency Authorizing Officials and their Supervisors may increase these limits on an as needed basis without a policy exception.

B. Authorizing Official(s) will:

1. Assign a fuel card to each agency-owned vehicle showing the vehicle's license plate number on the front of the card.
2. Issue separate fuel cards for non-vehicular uses (e.g., lawn mower).
3. Require each employee authorized to operate an agency-owned vehicle to read the Fuel Card Policy and sign the Fuel Card Use Employee Agreement Form (attached) before they receive a Personal Identification Number (PIN).
4. Retain the signed Fuel Card Use Employee Agreement Form for two years after the employee's termination date.
5. Assign a unique PIN to each authorized employee. Generic PINs are prohibited.

6. Manage internal controls in accordance with the agency's procedures.
7. Immediately cancel fuel cards that are lost, stolen, or assigned to a vehicle that is transferred, sold, or surplused.
8. Maintain a record of the agency's approved exceptions to the Fuel Card Use policy.

C. Employees authorized to use fuel cards must:

1. Read the Fuel Card Policy.
2. Sign the Fuel Card Use Employee Agreement Form acknowledging their responsibilities for fuel card use.

Note: Employees are prohibited from using premium grade fuel unless required by the vehicle operation manual.

D. Supervisors of authorized employees must:

Review and approve monthly fuel card transactions for each authorized employee under their supervision and ensure fuel card use is consistent with the employees' work assignments.

IV. REQUEST FOR EXCEPTIONS

The authorizing official may submit a request for an exception to any part of this policy to the DOA's State Procurement Bureau. The State Procurement Bureau will determine if an exception is granted based on the following criteria:

- A. The policy has created an undue hardship on the agency;
- B. The circumstances are non-traditional and require unique accommodation; or
- C. The exception will not compromise internal controls.

V. VIOLATIONS

Each agency is responsible for policy enforcement and investigating all alleged violations and complaints. Agencies will take appropriate disciplinary action including, but not limited to, cancellation of an employee's fuel card privileges, termination, and possible criminal charges.

VI. DEFINITIONS

- A. **Authorized Employee:** An employee designated to use a fuel card.

- B. Authorizing Official:** An individual(s) designated by the agency to authorize and cancel fuel cards, manage internal controls, and maintain a record of the agency's exceptions.
- C. Card Provider:** The State's contracted fuel card provider.
- D. Ethanol-Blended Gasoline:** A fuel mixture of gasoline and ethanol produced from agricultural products as defined in 2-17-414, MCA.
- E. Generic PIN:** A PIN not directly assigned to a single individual. Generic PINs are prohibited.
- F. Merchant Category Code:** A number used by the fuel card vendor to classify suppliers into market segments.
- G. Personal Identification Number (PIN):** A unique number assigned to an individual.
- H. Vehicle Maintenance:** Expenses including gas, oil, repairs, labor, storage, and service.
- I. Vendor:** The point-of-sale for a fuel or vehicle maintenance purchase.
- J. Non-Vehicular Use:** Uses associated with equipment such as a lawn mower, snow sweeper, leaf blower, or chainsaw.

VII. CROSS REFERENCE GUIDE

The following laws, rules, or policies contain provisions relevant to fuel purchasing cards. This list is not exhaustive; other policies may apply.

- A. ARM 2.6.203** Authorized Driver – definition.
- B. 2-17-414, MCA** State vehicles use of ethanol-blended gasoline – definition
- C. 2-17-418, MCA** Agency records on fuel efficiency measures
- D. 2-17-421, MCA** Use – state business only – exception, compensation for driving personal vehicle – penalty for private use
- E. 2-17-425, MCA** Limit on use of state vehicle to commute to worksite – definitions
- F. Title 18, Chapter 4, MCA** Montana Procurement Act

VIII. CLOSING

For questions about this policy, contact the State Procurement Bureau at:
Department of Administration
State Procurement Bureau
125 N. Roberts Street, Mitchell Building, Room 165
Helena, MT 59620-0135

406-444-3366

Rick Dorvall, email: rickdorvall@mt.gov

STATE OF MONTANA
FUEL CARD USE EMPLOYEE AGREEMENT

1. I have read, understand, and will comply with the Fuel Card Policy.
2. I understand I am required to use ethanol-blended gasoline when the manufacturer allows and I am prohibited from using premium grade fuel unless required by the vehicle operations manual.
3. I agree to use the card for all fuel purchases unless obtained from a state-owned bulk site with a manual transaction process.
4. I will immediately notify the authorizing official if a card is lost or stolen or if my PIN is compromised.
5. I understand that I am required to comply with internal control procedures.
6. I agree not to share my Personal Identification Number (PIN) with any other person.
7. I understand I can only use the card for fuel and authorized vehicle maintenance purchases for state-owned vehicles.
8. If I misuse the card for personal purchases, I authorize the State to deduct from my salary or from other monies owed me, an amount equal to the total of the personal purchases. I also agree to allow the State to collect any amounts owed by me even if the State no longer employs me.
9. I understand improper use of this card may result in disciplinary actions, including termination of employment and criminal action.
10. I understand the State may terminate my card use privileges at any time for any reason.

Employee Signature

Authorizing Official's Signature

Employee Printed Name

Authorizing Official Printed Name

Date

Date

	Montana Operations Manual Policy	Category	Travel
		Effective Date	10/1/2015
		Last Revised	10/09/2015
Issuing Authority	Department of Administration State Financial Services Division		
Employee Travel			

I. Purpose

This policy provides the guidelines for how agencies should conduct travel and the ensuing expenses.

II. Scope

This policy applies to all state agencies and institutions, excluding community colleges.

III. Policy - Employee Travel

Traveling is a necessary operation of state government. However, employees and their agency should always remember that travel expense can be a major budget consideration. Employees must always be aware of the need for efficiency and economy in travel. Although the legislature establishes laws governing travel and the Department of Administration prescribes the policies, the responsibility for adhering to the laws and providing effective managerial control rests with the employee and their agency. Any collective bargaining agreement providing a greater meal or travel reimbursement supersedes this policy.

A. Applicable State Statues

Unless covered by a separate section of statute, all elected officials, appointed members of boards, commissions, or councils, department directors and all other state employees are subject to the regulations contained in [Title 2, Chapter 18, Part 5](#) - Travel, Meals and Lodging of the Montana Code Annotated (MCA). Legislators are subject to certain limitations while the legislature is in session, as noted in [Section 5-2-301](#), MCA.

B. Travel Guidelines

When considering state travel, an employee and their agency must follow these guidelines:

1. The department head or designated approving authority must approve all out-of-state and foreign travel. A "[Request and Justification for Travel Form](#)" is

available on the department's travel website for use in the review and approval process relating to this travel.

2. Each agency shall hold to the absolute minimum the number of personnel attending a function requiring travel.
3. Lodging expenses should be kept as low as possible. The agency/employee must try to receive either the state rate or a government rate and be prepared to show pictured identification proving they are a state employee. Lower rates can only be requested, not demanded.
4. Transportation costs should be kept as low as possible and time away from the office minimized. The least expensive class service available must be used for all commercial air travel trips and should be scheduled to avoid unnecessary back-tracking and overlapping.
5. When traveling by car, employees should adhere to speed limits.
6. No state agency shall pay an employee's travel cost to attend a function that does not benefit the state. However, to promote employee initiative and efforts at self-improvement, the agency head has discretionary authority to give time off with pay to participate in the desired function.
7. Although each state agency should assist and support other states and organizations, Montana cannot do so at its own expense. However, if another state or organization is willing to pay travel costs to have an employee lecture or provide other assistance; the agency head has discretionary authority to contribute the employee's personal service to the project.

C. Departure and Return Time

Departure time and return time normally mean the times when the employee leaves from and return to headquarters, respectively. However, if they depart from their home and return to their home without stopping at headquarters, the times leaving from and returning to home become the times they use in computing the allowance. If they leave from their home and return to headquarters after the trip, the starting time would be when leaving home and the ending time would be when arriving at headquarters.

D. Reimbursable Travel Expenses

Reimbursable travel expenses are the business-related expenses incurred when traveling on official state business. Non-business-related expenses, incurred when taking vacation or compensatory time off while in a travel status, are not reimbursable expenses.

Miscellaneous business expenses associated with official state travel are reimbursable. Each expense of \$25 or more must be supported by a receipt. Report all miscellaneous expenses in the "Other Expense" column of the agency's Travel Claim Form, and explain each one in the space provided at the bottom of the form. Some examples of allowable miscellaneous expenses are: needed working supplies purchased on an emergency basis; taxi fares; and

business telephone calls. Meal tips and meal taxes are not considered miscellaneous expenses.

All non-university employee travel reimbursements are to be issued through the State payroll system. In order to avoid financial hardship for employees, agencies are encouraged to have their employees use a state issued purchasing card.

1. [Travel Expense Voucher, Form DA-101](#)

Employees must use a travel expense voucher or similar travel claim form authorized by their agency to itemize their allowable expenses. The travel expense voucher is available electronically at the department's travel website.

2. Travel Expense Voucher – Frequency of Filing

An employee should file travel expense vouchers no more than twice monthly. Unusual circumstances may justify an exception to this rule. Travel expense vouchers should be filed within thirty days of completion of the related travel. Employees who do not file for reimbursement of travel costs within three months after incurring the expense waive their right to reimbursement unless approved by appropriate agency staff.

3. Travel Expense Voucher – Supervisor's Approval Required

The immediate supervisor or the supervisor having the most direct knowledge of the travel-related activities must approve the employee's travel expense voucher. Exceptions to this rule are listed below.

E. Travel Time Allowed

It is usually necessary to begin traveling prior to the time established for the meeting, appointment, or conference that necessitated the travel. Also, business activities may end late in the day, and because of inclement weather, fatigue, or the unavailability of transportation, it may not be feasible for the employee to return promptly to headquarters. In such cases, they may claim travel expenses for a reasonable time before and after the actual business activities that necessitated the travel. Because circumstances vary, managers have to decide what is reasonable on a case-by-case basis. To the extent possible, however, an employee should travel within a normal travel shift, as defined in Section V.A of this policy. For example, the employee may want to start a meeting in Great Falls at 9:00 a.m. rather than 8:00 a.m. or conclude business at 3:00 p.m. to allow adequate time to return home. The aim is to reduce state travel expense whenever possible.

F. Travel Status When Going to Job Site/Work Assignment (revised April 8, 2009)

If the employee travels each day from headquarters or home to a specific work site or work sites within the same general vicinity, they are not in a travel status and should not claim a meal allowance unless they have to stay overnight. The employee should consider the work sites to be their "headquarters" for that day. Examples include MDT employees who travel each day from their headquarters

or home to a construction site or FWP employees who travel each day from their headquarters or home to patrol or maintain a specific state park or fishing access site. This does not apply to specific labor contract allowances. The employee may claim mileage expense, however, at the appropriate rate, if they are using their personal vehicle.

G. Change in Travel Status

When traveling from in-state to out-of-state, and vice versa, an employee must observe these rules regarding reimbursement for lodging and meals:

1. The geographical location of the lodging facilities determines the applicable reimbursement; that is, if the employee stays in-state, in-state rates apply, and if they stay out-of-state, out-of-state rates apply.
2. When an employee boards a flight originating in Montana with an out-of-state destination, they receive out-of-state rates from the time they depart until they return to Montana. However, if a layover for business or personal reasons occurs in-state, then the out-of-state rates do not apply until they leave Montana from the layover point. If employees are traveling by other means of transportation, the geographical location in which they first become eligible for a meal allowance determines the reimbursement.

H. Frequent Traveler Promotion Usage

Employees are free to join frequent flyer programs and any other frequent traveler programs offered by airlines, hotels, car rental agencies, or other travel vendors. Most airlines will require traveler program enrollment for online ticket purchases. If frequent flyer mileage earned from state travel can be accounted for separately from mileage earned from personal travel, the employee must apply the mileage earned from state travel toward free airline tickets for future state travel.

Agencies are encouraged to use programs such as Horizon/Alaska Airlines' Easy Biz that accrue miles on a two-for-one basis that may be allocated directly to the agency, in addition to the accumulation of personal miles. Commercial Airline "Bumping"

Voluntary Bumping - Many times commercial airlines overbook flights and request that passengers volunteer to take a later flight in exchange for a free or discounted airline ticket. Employees may take advantage of being "voluntarily bumped" from a flight and keep the free or discounted airline ticket for their personal use as long as the extra time it takes to reach the destination does not cause a disruption in state business and the employee uses leave or off-duty time for the extra time. The employee should receive approval in advance from their supervisor to take leave time, if appropriate, and if the opportunity could arise for them to volunteer to be "bumped". They are not entitled to receive meal allowance or lodging reimbursement for this extra time. The extra time is the time between when they would have left and the time that same day or the next when they actually do leave. Since the employee is on a business trip, they should be compensated for the actual flying time. In addition, they should be compensated

for any time spent on work-related activities during this time. For example, if they are scheduled to fly out of Helena at 7:00 a.m. on Monday morning to go to Boston and are bumped to the 2:00 p.m. flight that same day, they may return to the office and work or they can take leave time until they have to return to the airport. If an employee is scheduled to leave Boston at 10:00 a.m. Thursday to return to Helena and are voluntarily bumped but unable to get another flight until Friday at 7:00 a.m. and their normal work schedule is Monday through Friday 8:00 a.m. to 5:00 p.m., they cannot be reimbursed for lodging Thursday night or meal allowance for Thursday and they will be considered off duty on Thursday.

Involuntary Bumping - Commercial airlines also overbook flights and require passengers to take a later flight. If an employee is involuntarily bumped they may be entitled to lodging and meal reimbursement. They are entitled to receive meal allowance or lodging reimbursement for this extra time if the airline does not provide the lodging and meals at no cost to them. If vouchers are provided, but are not adequate, they are eligible for reimbursement at the difference between the actual cost of lodging and the state per diem rate and the value of the vouchers received. When involuntarily bumped, an employee is considered on duty during the regular work shift. For example, if an employee is scheduled to fly out of Helena at 7:00 a.m. on Monday morning to go to Boston and is bumped to the 2:00 p.m. flight that same day, they may return to the office and work or they can take leave time until they have to return to the airport. If an employee is scheduled to leave Boston at 10:00 a.m. Thursday to return to Helena and are involuntarily bumped and unable to get another flight until Friday at 7:00 a.m. and their normal work schedule is Monday through Friday 8:00 a.m. to 5:00 p.m., they may be reimbursed for lodging Thursday night and the meal allowance for Thursday and they will be considered on-duty on Thursday during their normal working hours. If this were to occur on Saturday with the return flight instead on Sunday, they may be eligible for the lodging and meal reimbursement but would be considered off duty during this period except for actual flying time because the additional time falls outside the normal work shift.

Involuntary Bumping with a Free Ticket or Cash – The employee may choose to either:

1. Treat this event as if they were voluntarily bumped and keep the cash or airline ticket (they are not eligible for meal or lodging reimbursements and considered off duty);
2. Remit the cash to the State or use the ticket for State purposes (they are eligible for meal and lodging reimbursements and may be considered on duty dependent on their normal work shift).

I. Special In-Lieu Allowances

An employee may wish to use other than the most economical and efficient mode of transportation to complete a travel-oriented work assignment. For example, they might be going to a conference in Seattle and be allowed to use their personal vehicle rather than fly. In this example, their agency can allow transportation reimbursement up to the air travel equivalent; that is, the cost of

the plane fare, if it is less than reimbursement at the equivalent mileage rate. In addition, they should be able to claim compensation for the travel time it would take to fly. The remaining travel time required to drive would be their personal time. They would have to travel during off-duty hours or take leave time. Applicable claims must be marked **In-Lieu Allowance** and the underlying details fully explained.

J. Transportation Purchase Order

The transportation purchase order form and process have been eliminated. The Department of Administration requires agencies to use the State's purchasing card to purchase all airline tickets for individual employee travel.

K. Airline Ticket Purchase

Agencies are required to use the State's purchasing card to purchase all airline tickets for **employee** travel unless it can be documented that another payment method is in the state's best interest. This applies to ticket purchases made through a travel agent, purchased directly from an airline, or purchased from an online travel source.

IV. Use of, and Reimbursement for, State and Personal Vehicles and Airplanes

There are a number of options available to an employee when required to travel by car. The state motor pool, operated by the Department of Transportation, has a variety of vehicles available in Helena. The employee should use motor pool vehicles for business travel whenever possible. Questions regarding procedures should be directed to the motor pool office at 444-2705.

The motor pool rules are in the [State Vehicle Use Rule](#), and govern the use of state-owned or leased vehicles in the motor pool. The motor pool bills the agencies periodically for the vehicles used. Agencies having their own state vehicles should establish rules regarding the use of their vehicles.

If motor pool vehicles are not available, the employee has the option to use their personal vehicle or vehicles from the private rental agency contract, (See Section IV.F), whichever is most cost effective.

A. Use of Personal Vehicles-Reimbursement Rates and General Requirements

[Section 2-18-503](#), MCA, establishes three rates for personal vehicle use. These are referred to as the standard, high and low rates in this policy.

The standard reimbursement rate for personal vehicle use is 48.15 percent of the rate established by the Internal Revenue Service for the current year rounded to the nearest ½ cent. For example, if the current Internal Revenue Service rate is 40.5 cents, the standard reimbursement rate will be 19.5 cents.

If an employee meets certain conditions, as discussed in Section IV.C, they may receive reimbursement at a rate equal to that established by the Internal Revenue Service for the current year (high rate) for the first 1,000 miles traveled within a given calendar month. After the 1,000 mile threshold is reached the

employee meeting these conditions will be reimbursed at the high rate less 3 cents (the low rate).

The Department of Administration periodically issues memos to alert agencies of changes in the mileage reimbursement rates. If an employee drives a personal vehicle on state business and are reimbursed mileage, they must comply with the Motor Vehicle Safety - Responsibility Act, [Section 61-6-1](#), MCA, and the mandatory liability protection provisions of [Section 61-6-3](#), MCA, and must be aware of personal vehicle usage liability as provided by the Department of Administration - Risk Management and Tort Defense Division.

Reimbursement for miles traveled in a personal car must be actual map miles from point A to point B and back. The agency has the discretion to allow an appropriate amount for in-town mileage. This would be in lieu of the employee needing to keep a log book showing detailed odometer readings each time they use their personal vehicle while on state time.

B. Use of Personal Vehicles-Reimbursement at Standard Rate

If the department director or designated approving authority authorizes the use of a personal vehicle on state business, the employee must be reimbursed for mileage at the standard rate unless they meet the conditions in Section IV.C.

C. Use of Personal Vehicles-Reimbursement at High Rate

An employee must receive reimbursement at the high rate for the first 1,000 miles traveled during a calendar month under the following circumstances:

1. A motor pool vehicle or other state-owned or leased vehicle is not available.

If a request for a vehicle cannot be met, the motor pool will promptly prepare a memo and submit it to the employee or agency, stating a vehicle was not available on the date requested. At the agency's discretion, personal vehicle use may be authorized and the employee must be reimbursed at the high rate. The agency shall indicate approval to use a personal vehicle on the motor pool memo and provide two copies to the employee. The memo from the motor pool must be attached to the travel reimbursement form.

2. The use of a personal vehicle is considered to be in the best interest of the state.

The department director or designated approving authority may approve personal vehicle usage for staff when they believe there is sufficient justification that it is in the best interest of the State for a personal vehicle to be used on state business. The agency shall prepare a personal vehicle use authorization form and provide two copies to the employee.

3. Legislators and members of the general public on official state business.

Members of the legislature, while traveling between their residence and Helena, and all other members of the general public except state employees, directors and elected officers are entitled to mileage when using their own motor vehicles for official state business.

After the first 1,000 miles traveled during a calendar month, an employee can receive reimbursement only at 3 cents less than the rate established by the Internal Revenue Service for the current year. In addition, consideration should be given to using the private rental agency contract vehicles if that is a more cost effective means of transportation.

D. Use of Personal Vehicles-Exemptions

The following persons are exempt from meeting the requirements of Section IV.C and are authorized reimbursement at the high rate:

1. Members of boards, commissions, committees, or advisory councils unless related to state employment
2. Employees driving 25 miles or less in any calendar day

These exemptions do not preclude an agency from prescribing internal administrative procedures that require people to use agency-owned vehicles or to receive the standard rate.

E. Personal Vehicle Use Authorization Form (Revised 12/11/09)

In order to claim reimbursement, an employee must use the personal vehicle use authorization form or similar form authorized by their agency prior to using their personal vehicle. The [Personal Vehicle Use Authorization](#) form is available electronically on the State's travel policy website.

F. Private Rental Agency Vehicles Contract – In State (revised 3/11/10)

The State Motor Pool, in conjunction with the Department of Administration, has entered into a contract to supply the “overflow” vehicle needs of state employees through two private rental agencies. The services are available on a statewide basis in the following locations: Helena, Butte, Missoula, Bozeman, Great Falls, Billings and Kalispell. The contract provides for the same type vehicles that are available through the motor pool.

Although the cost of obtaining a vehicle through a private vendor exceeds the motor pool cost, this cost must be weighed against the cost of using a private vehicle, especially at the “high” rate, or scheduling the trip at a later date when a vehicle is available at the motor pool. An added benefit of this private contract is the statewide coverage. Using this contract, vehicles can be obtained at a reasonable cost to complete all job functions throughout the State

Direct any questions concerning this contract to the motor pool at 444-2705 or by contacting the MDT Equipment Bureau Chief at 444-6151.

G. Private Rental Agency Vehicles – Out of State

When renting a vehicle from a car rental company, employees should not purchase the additional insurance offered by the company. Insurance is provided for the employee either through DOA Risk Management and Tort Defense or by the state credit card vendor when this is used.

H. Use of Personal Airplanes – Mileage Reimbursement Rate

[Section 2-18-503](#)(4), MCA, establishes the mileage rate to be used when reimbursing members of the legislature, state officers, employees, jurors, witnesses, county agents and all other persons out of public funds for the use of their own airplanes in the performance of official duties. They are entitled to collect mileage for the actual nautical air miles traveled at a rate equal to twice the “high” rate allowed for personal vehicle use. The Department of Administration periodically issues memos to alert agencies of changes in the mileage reimbursement rates.

V. Meal Allowances Generally

To be eligible for a meal allowance while traveling on state business, an employee must be in a travel status for more than three continuous hours and be at least 15 miles from headquarters or home, whichever is closer. Appointed members of a state board, commission or council, or a member of a legislative subcommittee, select or interim committee are exempt from this requirement and are entitled to a midday meal on the day of a meeting, regardless of proximity of the meeting to headquarters or their home. This exemption does not apply to a member of a legislative committee that is meeting during a legislative session.

Because the meal allowance is a fixed amount per meal, inclusive of taxes and tips, not reimbursement for actual costs incurred, an employee is generally entitled to receive a meal allowance if they are in a travel status and meet the above criteria. However, they may not request reimbursement for meals included in the cost of a conference registration that is paid by their agency or for meals provided by the State or another governmental entity.

To determine eligibility for a meal allowance, keep two items in mind:

1. The employee’s relationship with their travel shift (Section V.A); and
2. The time ranges in which travel status has to occur for each meal (See Section V.B).

A. Meal Allowance – Definition of “Travel Shift”

[Section 2-18-502](#)(3), MCA, defines "travel shift" as beginning one hour before and ending one hour after an employee’s regular scheduled work shift. The employee may claim only one meal per day when all travel takes place within their assigned travel shift. They are entitled to two meal allowances during a 24-hour calendar day under the following circumstances: departing within their travel shift but returning outside the shift or departing before their assigned travel shift and returning during the travel shift.

When travel is totally outside the confines of the employee’s travel shift, eligibility for a meal allowance is governed strictly by the time ranges for each meal, as specified in Section V.B. For example, if they traveled to Billings from Helena and left at 5:00 a.m. to attend a 9:00 a.m. meeting that lasted until 5:00 p.m. and then had to return to Helena that evening and their normal working hours are 8:00 a.m. to 5:00 p.m., they would be entitled to all three meals since they would be in

a travel status for three continuous hours in each segment of the time ranges specified in Section V.B.

An employee cannot claim a meal allowance, however, if they stop to eat and extend the normal travel shift by the amount of time it takes to eat. For example, if an employee traveled to Butte from Helena and left at 8:00 a.m. to attend a 9:00 a.m. meeting and the meeting ended at 4:30 p.m., they could not claim dinner because they would not be in travel status for more than three continuous hours in the 3:01 p.m. to midnight time range prior to eating dinner.

B. Meal Allowances – Time Ranges

The time ranges determining eligibility for meal allowances are established in [Section 2-18-502\(1\)](#), MCA. In order to claim an allowance for a meal, an employee must be in a travel status for more than three continuous hours within one of the following time ranges:

<u>Time Range</u>	<u>Meal Allowed</u>
12:01 a.m. to 10 a.m.	Morning Meal
10:01 a.m. to 3 p.m.	Midday Meal
3:01 p.m. to midnight	Evening Meal

Each time range must be considered separately when applying the more-than-three-hour rule. For example, if an employee travels from 8 a.m. to 2 p.m., they receive the allowance only for the midday meal.

VI. Reimbursement for Lodging

A. Reimbursement for Receiptable Lodging

The employee receives reimbursement for their actual out-of-pocket lodging expenses, including room tax, up to the maximum amounts set by [Section 2-18-501](#), MCA, for in-state and out-of-state travel. [Section 2-18-501\(3\)](#), MCA, authorizes the Department of Administration to designate the locations and circumstances under which the actual cost of lodging may be claimed when the actual cost exceeds the maximum lodging reimbursement rates established in [Section 2-18-501\(1\)](#), MCA, (In-State) and [Section 2-18-501\(2\)](#), MCA, (Out-of-State). Sections VII.B and C describe the procedures to follow for reimbursement at actual cost. In order to claim lodging reimbursement, the original receipt from a licensed lodging facility must be attached to the agency's travel claim form or the travel expense voucher, Form DA-101. Other receipts, such as credit card receipts, are not acceptable.

If the employee is traveling with their non-state-employee spouse, the lodging rate claimed must reflect only the rate for one person. The single-occupant rate should be noted and marked as such on the receipt.

Whenever practical, more than one hotel or motel should be contacted to ensure the best possible room rate is received in a location. Although an establishment may not have rooms available at or below the standard state rate, it may be willing to offer a government rate or other discounted rate that is less than its normal business rate. To save on travel costs, the employee should always ask for the lowest rate for which they qualify.

Be aware that most hotels require an employee to show a valid state identification card before they will honor the state rate.

B. Reimbursement for Non-Receiptable Lodging

If an employee stays in a non-receiptable facility (e.g. with friends or relatives or in a camper or trailer) or you fail to obtain a receipt, [Section 2-18-501\(5\)](#), MCA, authorizes the employee to claim \$12 per night for lodging expenses.

C. No Reimbursement for Provided Lodging

In some instances, lodging is provided at no charge. In these instances, lodging expense cannot be claimed. Examples include:

1. Lodging is provided on campus for industry or government seminars;
2. Lodging is included in the registration fee;
3. A cabin is provided for backwoods work.

VII. In-State Travel Guidelines

[Section 2-18-501\(1\)](#), MCA, establishes the meal allowances and lodging reimbursements for in-state travel.

A. In-State Travel – Meal Allowance Rates

In-state allowances for the morning, midday, and evening meals that correspond to the time frames discussed in Section V.B are as follows:

Morning meal	\$5
Midday meal	\$6
Evening meal	<u>\$12</u>
Total per day	<u>\$23</u>

B. In-State Travel – Lodging Reimbursement Rates in General

Except as provided in Section VII.C, the maximum lodging reimbursement rate for in-state travel is the actual cost of lodging, not to exceed the federal per diem rate plus the applicable taxes on the allowable rate.

The federal per diem room rates for Montana are available through the Internet at the following location:

<http://www.gsa.gov/portal/category/100120>

C. In-State Travel – Lodging Reimbursement at Actual Cost (No Cap)(Revised July 17, 2012)

The agency director or designated approving authority may approve lodging reimbursement at actual cost, without applying the cap provided for in Section VII.B under the following circumstances:

1. Lodging below the cap is temporarily unavailable due to special functions such as fairs, sporting events, conventions or seasonal demand;
2. Emergency travel arrangements prevent finding accommodations below the cap;
3. Remote locations with limited accommodations within a 15-mile radius prevent finding accommodations below the cap;
4. A shortage of available lodging below the cap;
5. An employee in a regulatory or undercover function has reasonable cause to believe there is risk to his/her personal safety if identified as a State employee.

The employee must provide adequate justification, along with the original lodging receipt, to the director or designated approving authority. The justification should also indicate that reimbursement at actual cost is within the agency's appropriation level. An example of the documentation is included in Attachment A of these policies.

VIII. Out-Of-State Travel Guideline

Meal allowance and lodging reimbursement for out-of-state travel follows federal guidelines, as established in [Section 2-18-501\(2\)](#), MCA. The federal schedules are available in the Department of Administration or through the Internet as follows:

<http://www.gsa.gov/portal/category/100120>

This Internet site also provides links to other travel information including the Federal Discount Lodging Directory and other listings of hotels and motels that accept the federal per diem rates in all the states as well as many foreign countries. The listings provide other information about the lodging facilities including addresses and telephone numbers. The links are shown on the bottom half of the web page, a copy of which is included in Attachment B to these policies.

The federal rates change periodically, and the Department of Administration will notify agencies when these changes occur.

A. Out-Of-State Travel – Meal Allowance Rates (Revised October 1, 2015)

Meal allowances for out-of-state travel are equal to the maximum standard federal rate (or CONUS per diem rate) per meal. Although the federal schedules provide for higher meal allowances in specific locations, [Section 2-18-501\(2\)\(b\)](#), MCA, does not allow an employee to use anything other than the standard or CONUS per diem rate. Unlike the out-of-state lodging reimbursement rates, it was not the intent of the legislature to allow out-of-state meal allowances to vary

by location. Rates are established for morning, midday, and evening meals, corresponding to the time frames discussed in Section V.B. Because the individual meal rates are not included in the Internet site information, the Department of Administration will provide updates to those rates as they occur. The current standard federal per diem rate per meal is as follows:

Morning meal	\$11
Midday meal	\$12
Evening meal	<u>\$23</u>
Total per day	<u>\$46</u>

B. Out-Of-State Travel – Lodging Reimbursement Rates

The maximum lodging reimbursement for out-of-state travel is the maximum federal rate per day for the location involved, plus the taxes on the allowable cost. Reimbursement is at the standard federal rate unless the area or location is listed in the federal schedules with a specific maximum lodging rate that is higher than the standard.

Out-of-state lodging reimbursement includes the taxes on the allowable cost. If your actual out-of-state lodging rate is equal to or less than the maximum federal per diem rate for that area, you receive reimbursement for all taxes. However, if your actual lodging rate is higher than the maximum federal per diem rate for that area and reimbursement at actual cost is not approved, you may receive reimbursement only for the taxes on the maximum allowable federal rate. **NOTE:** Many times, a lodging facility will waive taxes if it is established that the individual staying at the lodging facility is a government employee. In order to reduce travel costs, you should inquire as to the taxability of your lodging rate.

C. Out-Of-State Travel – Lodging Reimbursement at Actual Cost

The agency director or designated approving authority may approve reimbursement of out-of-state lodging at actual cost if the request meets the following criteria:

1. Government rates are requested and they are not available at the hotel where the conference or meeting the employee is attending is being held; **and**
2. (a.) Government rates or rates significantly lower than the conference hotel rates are not available at another hotel within a reasonable distance from the conference hotel (consider the cost of a taxi and employee safety or convenience walking to other nearby lodging); **or**
(b.) It is necessary for purposes of accessibility and/or security for the employee to stay at the hotel in which the conference is being held; **or**
(c.) Emergency or last minute travel arrangements preclude finding accommodations within the federal guidelines; **and**
(d.) Reimbursement at actual cost is within the agency's appropriation level.

It is preferable to obtain approval for reimbursement of lodging at actual cost before out-of-state travel. Adequate justification should be provided, along with the original lodging receipt, to the designated approving authority. An example of the type of documentation needed is included in Attachment A of these policies.

IX. Out-Of-Country Travel (revised April 8, 2009)

For travel to a location outside of the United States , except as provided in Sections IX.A and IX.B, the meals and lodging rates provided in [Section 2-18-501\(4\)](#), MCA, follow:

Meals:	Morning meal	\$7
	Midday meal	\$11
	Evening meal	<u>\$18</u>
	Total per day	<u>\$36</u>
Lodging	Per night	\$155

Note: Employees must submit receipts for both foreign meals and lodging to receive reimbursement.

A. Out-Of-Country State Travel Reimbursement at Actual Cost – Up to Federal Rate (New Section April 8, 2009)

If the meal or lodging costs exceed the rates established in law, the employee will be reimbursed for actual meal and lodging expenses up to the daily maximum established by United States Department of State for the related foreign area. The federal schedules for foreign travel rates are available at:

http://aoprals.state.gov/content.asp?content_id=184&menu_id=78

The first column of the federal foreign travel schedules specifies the maximum lodging reimbursement. The second column specifies the maximum per diem for meals and “incidental expenses”. The federal meal “per diem” is allocated at the rate of 15% for breakfast, 25% for lunch, and 40% for dinner, or 80% of the total for a full day, rounded to the nearest dollar. If an employee is in foreign travel status for less than a full day, the federal meal total should be allocated using the individual meal percentages provided above. When an employee is in foreign travel status for an entire day, the receipts will be compared to the total allowed per day to arrive at the reimbursement due.

As calculated above, the 20% foreign “incidental allowance” included in the federal “per diem” rate, not allowable under state law, is excluded from the daily federal total to arrive at the meals allowed a State employee.

B. Out-Of-Country State Lodging – Reimbursement at Actual Cost – Above Federal Rate (New Section April 8, 2009)

The agency director, or designated approving authority, may approve lodging reimbursement at actual cost. Employees must provide adequate justification, along with the original lodging receipt, to the director or designated approving

authority. The justification should also indicate that reimbursement at actual cost is within the agency's appropriation level.

X. Travel Advances and the Procurement Card

All outstanding travel advances must be repaid to the State by June 30, 2008. Starting July 1, 2008, travel advances should be short-term (no more than 30 days), and processed through the payroll system. Travel advances should not exceed \$200.00 or be used for lodging or car rentals. Agencies may use discretion to avoid financial hardships for employees.

A. Procurement Card Program

Agencies that issue the State's procurement card to employees should require its use for air travel, lodging and out-of-state vehicle rental unless it can be documented that another payment method is in the state's best interest. Agencies must follow the guidelines established for general procurement card use. For additional procurement card information, see the State Procurement Card Program policies at <https://gsd.mt.gov/procurement/agency/creditcardprograms>

XI. Third Party Reimbursement and/or Payment

As discussed in Section III.B, state agencies are encouraged to assist and support other states and organizations and to promote employee initiative and efforts at self-improvement. These functions must directly benefit the State in order for a state agency to pay the travel costs associated with efforts in these areas. Although the agency may not be able to pay for the travel costs associated with a function, the agency head or other approving authority has the discretionary authority to contribute an employee's personal time and/or to give time off with pay to participate in a function.

In these situations, an outside party may reimburse an employee or their agency for travel incurred on behalf of the third party. Examples of these types of situations include the following:

1. An employee is invited to make a presentation at a training conference or national meeting of an organization and the organization pays all travel costs associated with the conference; or
2. An officer or board member of a national organization related to the job they perform and must attend several meetings each year for which the organization reimburses the travel costs incurred; or
3. An employee manages one or several federal programs in an agency and the federal government sponsors a conference for which they would like representation from each of the states and are willing to arrange for and provide an airline ticket, lodging and all other costs for the employee to attend this conference.

In each of these situations, the outside third party may reimburse the agency or the employee as an individual for the travel costs incurred or it may actually

make all of the arrangements and provide for all lodging and meals so that neither the employee nor the agency incurs any costs directly.

Because the employee is participating in this activity primarily for the purpose of the third party and only secondarily because they are a state employee, they are allowed to follow the travel policies of that third party and/or to be reimbursed for all costs incurred and do not have to follow state policies as long as the agency is not required to incur any expenditures associated with this travel. In other words, either (1) the employee as an individual incurs the expenditures and is reimbursed directly or (2) the third party makes all arrangements and provides for all travel or (3) expenditures incurred by the agency are properly abatable as discussed in Policy 318, Section VI, Expenditures.

If the agency is only partially reimbursed for the travel costs by the third party, state statutes and policies with regard to employee travel applicable to the specific costs not reimbursed or for all costs incurred if only a certain percentage is reimbursed must be adhered to. For example, if the outside party pays for the airline ticket and all the lodging costs, their policy with regard to these costs may be followed but state policy must be followed with regard to meal reimbursement. However, if the outside party agrees to pay 50 percent of all travel costs associated with this trip, state statutes and policies with regard to reimbursement must be adhered to for all costs associated with this trip.

**ATTACHMENT A
REQUEST FOR REIMBURSEMENT OF LODGING AT ACTUAL COST
IN-STATE/OUT OF STATE**

Name of Employee Date

Destination/Hotel

Travel Dates Rates to Be Approved

Mark the type of travel and the appropriate justification below

Note – The reimbursement must be within the agency’s authorized appropriation level.

In-State

- Lodging costs below the caps provided for in Policy 1910, Section VII.B or VII.C are temporarily unavailable due to seasonal demand or to special functions such as fairs, sporting events or conventions;
- Emergency travel arrangements preclude being able to find accommodations at costs below the caps provided for in Policy 1910, Section VII.B or VII.C;
- Remote locations with limited accommodations within a 15-mile radius preclude obtaining accommodations at costs below the caps provided for in Policy 1910, Section VII.B or VII.C;
- There is reasonable cause to believe person safety is at risk due to employment position;

Explanation:

Out of State

- Government rates are not available at the hotel; **and**
 - Government or significantly lower rates are not available at another hotel within a reasonable distance;
 - It is necessary for purposes of accessibility and/or security to stay at the hotel in which the conference is being held;
 - Emergency or last minute travel arrangements preclude finding accommodations within the federal guidelines;

Explanation:

APPROVED BY DATE
Director or Designated Approving A