GUIDELINES FOR INCIDENT CLAIMS HANDLING ON DNRC INCIDENTS

***Remember: When you receive any written request for compensation/reimbursement for damages for a specific amount of money, you have received a CLAIM! Treat it as such and attempt to obtain all relevant documentation at the Incident. Furnish all documentation to Line Officer / Host Land Office at the close of the Incident.

**EMPLOYEE CLAIMS**

| Lost / Stolen / Destroyed personal property of government employee |

Form DNRC-382 must be filled out and approved by the Line Officer or Designee on the incident.

Consult list of allowable items for employee personal items in the 300 Manual Appendix 58-59.

If applicable, advise employee of items "not recommended" for possession at incidents unless ordered on the Resource Order. i.e.: camera, laptop computer

If items lost/stolen/destroyed are valid for employee possession at incident, follow documentation guidelines below.

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**TORT CLAIMS**

| Involves alleged negligence or wrong doing by government or government employees. i.e., negligently set backfire burns house, or other government employee's negligent action results in personal injury or damage to property or equipment. |

Claimant must submit in writing to RMTD/DOA, that they are filing a claim against the State of Montana, and include the reasoning behind the claim.

Do not admit any liability or responsibility for damages on the part of the government until a full investigation is made and agency legal staff is consulted.

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**CONTRACT CLAIMS**

| Equipment damaged on an incident which belongs to a private contractor. |

| No official form. Provide contractor with "Contract Claims Worksheet" as an indication of information required by DNRC to process a claim. |

| Minor damage. i.e.: blown tire, dents |

| Minor vehicle damage, no injuries |

| Vehicle accidents |

| Major damage, related injuries and/or fatalities |

| Refer to the EERA General Clauses, #15 Loss, Damage, Destruction. Note the differences for equipment hired Un-Operated vs Fully Operated. |

| Operator of equipment hired Fully Operated is responsible for operating the equipment within its operating limits and for the overall safety of the equipment. Govt is not liable for any damages unless they are due to gov't negligence. |

| For equipment hired Un-Operated, gov't is liable for damages unless they are due to normal wear and tear, mechanical failure, or contractor negligence. |

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**Gather all documentation possible while at the Incident.** This may include, but is not limited to: claimant statements, supervisor statements, applicable IMT personnel statements, witness statements, photos, receipts, and estimates for repair. All personal statements must include a signature and the printed name, address, phone number, and home unit of the person making the statement. Retain copies of all documentation regarding status of claim or potential claim, notes from conversations regarding claims, and any actions taken regarding claims in the Claims portion of the Incident Finance Package. Notify Finance Section, Safety Officer, as applicable, and Line Officer of claims or potential claims as appropriate.

| Comp/Claims Unit/Finance Sec. investigates and documents on Incident Claims and Accident Log. |

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| Refer to Line Officer. When possible tort is involved, Line Officer must consult with agency legal staff and Tort/Claims Div. before any settlement is made. |

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| Employee should take copies of documentation and original approved DNRC-382 form, back to home unit, and have home unit settle claim. |

| Retain all documentation for actual claims and potential claims in Incident Finance Package. Refer to Line Officer or other jurisdictional Land Office personnel responsible for researching and/or settling Incident claims. See chap. 20/70 SIIBM for details. |

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### EMPLOYEE CLAIMS
**Common Examples of Employee Claims Usually Reimbursed**
- Fire burned over camp, tent and personal belongings destroyed
- Personal items stolen from tent while employee is on duty
- Prescription eyeglasses broken during the course of duty
- Nomex pants not returned after sent to laundry service

**Common Examples of Employee Claims NOT Usually Reimbursed**
- Camera/cell phone/laptop etc. stolen or lost - items not ordered on resource order
- Boots stolen out of bed of truck while employee is at dinner -- (employee negligence caused opportunity for theft to occur)
- Prescription eyeglasses broken after being left on seat of chair (employee negligence...)

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### TORT CLAIMS
**Common Examples of Tort Claims Usually Reimbursed**
- Government set backfire burned fence, home or other improvements on private property
- Engine backed into private fence
- Vehicle accident between private contractor's vehicle and government vehicle, where government driver was determined to be at fault

**Common Examples of Tort Claims NOT Usually Reimbursed**
- Vehicle collision between private contractor's vehicle and government vehicle, where contractor was determined to be at fault
- Uncontrolled fire burned fence, home or other improvements on private property

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### CONTRACT CLAIMS
**Common Examples of Contract Claims Usually Reimbursed**
- Heavy equipment (hired Fully Operated) slid down slope into a tree, cause was determined to be gov't employee's negligence in directing the equipment
- Snag felled by gov't employee falls on parked contractor equipment
- Logs or rocks rolling downhill damaged equipment or equipment was burned up (assume gov't negligence in directing the placement of the equipment)

**Common Examples of Contract Claims NOT Usually Reimbursed**
- Normal wear and tear from fire line duty - i.e.: damage to painted surfaces from minor dings, dents, and scratches, dirty air filters, dirty interiors, chipped windshields, etc
- Damage caused by contractor/operator negligence, speeding or other reckless driving
- Heavy equipment (hired Fully Operated) slid down slope into a tree, no gov't negligence found. (Operator was responsible for operating the equipment safely and within its operating limits.)
- Damage caused in a vehicle accident between private contractors. Advise them to contact their own insurance carriers.

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**Note:**

All potential tort claims must be processed through Risk Management Tort Division of Department Of Administration (RMTD/DOA).

Line officers or others handling tort claims should be very sensitive to the short and long range effects of the claim under consideration.

Use sound judgment, consider possible repercussions consult with Forestry Division, DNRC legal counsel, and RMTD/DOA as necessary.

Never admit fault or liability until or unless a final settlement is made.

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**Note:**

Commonly, contractor claims will require further research or investigation after the incident is over. You may need to obtain additional estimates, pictures of the damaged vehicle, clarification of witness statements, or other information as required, before determining a fair settlement.

Consult Fire Protection Bureau, Forestry Division &/or DNRC legal counsel as necessary.

Normally, do not offer compensation based on one estimate for repair obtained by contractor. Obtain additional estimates from unbiased vendors to ensure the best deal on repair or replacement. Keep depreciation in mind.

Thorough pre-use and post-use inspections are often critical in the settlement of contractor claims. Pictures or videos are especially helpful. At pre-use inspection or EERA sign-up, the contractor should have been told that normal wear and tear on a fire line is probably different from what they encounter in their normal workplace. Dings, dents, scratches, etc are common and normally not eligible for reimbursement.
GUIDELINES FOR INCIDENT CLAIMS HANDLING ON DNRC INCIDENTS

Chapter 70 of the SIIBM states that a claim consists of a "written demand for a specific amount of money, or other objects of value..." When a claimant furnishes this, the Line Officer, or his or her designee, must view it as a claim. DNRC must respond to all claims, regardless of type of claim, dollar amount involved, or government personnel’s opinion of the merit of the claim. Response must be in writing and may consist of denial or settlement. When a claim is denied, every effort should be made to provide claimant with the reasons for denial.

Line Officer or his or her designee, should exercise sound judgment regarding the dollar amount that is approved. Claims of a sensitive nature or high dollar amount (>10,000) should merit consultation with Legal, Bureau, or Division personnel as applicable. Risk Management/Tort must always be involved in claims alleging tort (negligence, wrongdoing) on the part of the government. The individual who approves the claim should be on the “DNRC Signers list”. Depending upon the dollar amount of the claim, an additional signature may be necessary for payment.

Contract Claims should at the very least, be reviewed by the Contracting officer who approved the original EERA. For payment of an approved Contract Claim, the payment/invoice must be processed through the Business Management Bureau. Complete the Determinations and Findings form and include the Fire Payment Approval/Cover Sheet with the “Claim” box checked. Include copies of all appropriate documentation as noted above.