



**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

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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.



**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 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).