

MEMORANDUM OF AGREEMENT

Between

Montana Department of Natural Resources and Conservation – Forestry and Trust Lands Division

And the

Montana Department of Transportation

This **MEMORANDUM OF AGREEMENT** (hereinafter “Agreement”) is hereby entered into by and between the Montana Department of Natural Resources and Conservation – Forestry and Trust Lands Division (hereinafter “DNRC”), and the Montana Department of Transportation (hereinafter “MDT”), collectively referred to as the “Parties.”

WHEREAS, DNRC has the statutory duty to ensure the protection of land under state and private ownership and to suppress wildfires on land under state and private ownership and carries out its wildland fire protection and/or suppression responsibilities in conjunction with local government, and state and federal agencies; and,

WHEREAS MDT is committed to serving the public and holds the responsibility for planning, building, operating, and maintaining a safe and resilient transportation system throughout Montana, and,

WHEREAS wildland fire emergencies routinely impact roadways in Montana and represent major threat to the safety of individuals such as wildland fire responders, incident management teams, and to the general public traveling on roads impacted by those incidents.

WHEREAS, MDT has personnel, equipment, and other resources that can be used in support of wildland fire emergencies, as needed,

NOW, THEREFORE, the Parties agree as follows:

I. Purpose and Intent

The purpose of the MOA is to outline processes which the Parties agree to coordinate and cooperate under during wildland fire emergencies. This also includes training, public messaging, or other activities that require the sharing of resources or information between DNRC and MDT.

- Establish standard procedures for implementing temporary traffic control (TTC) measures on wildland fire emergencies and ensuring the safe and efficient movement of road users through TTC zones.
- Provide guidance for the mobilization of additional MDT personnel, equipment, and other resources in support of wildfire events via the Montana Emergency Response Framework.
- Set forth the procedures for reimbursement of eligible costs incurred when MDT resources are used in support of wildfire emergencies.

II. References

- Interagency wildland fire response policies and procedures are coordinated within the Montana Cooperative Wildland Fire Management and Stafford Act Response Agreement (2023-2027).
- The Montana Emergency Response Framework (MERF) – Montana Disaster and Emergency Services
- The Manual on Uniform Traffic Control Devices (MUTCD) – U.S Department of Transportation & Federal Highway Administration
- Wildland Fire Incident Sign Installation Guide - U.S. Department of Agriculture, Forest Service

III. Terminology and Command Systems

To establish a "common" understanding, words and phrases as used herein are defined in a Glossary attached as Appendix A which is incorporated herein by reference.

IV. Conditions and Procedures

Traffic and congestion problems represent major threat to the safety of individuals such as wildland fire responders, incident management teams, and to the public traveling on roads impacted by those incidents. TTC zones present constantly changing conditions that are unexpected by the road user. This creates an even higher degree of vulnerability for the incident management responders on or near the roadway.

As described in the Montana Cooperative Wildland Fire Management and Stafford Act Response Agreement, coordinating incident traffic control and signage is the responsibility of the relevant wildland fire protection agency. In cases where that is not DNRC, Federal wildland fire agencies may utilize this Agreement, upon consultation and coordination with DNRC.

A. MDT Actions

The Montana Department of Transportation Shall:

1. Provide DNRC with an electronic map and listing that details MDT Administrative Areas as well as the contact information for Maintenance Chief and other relevant MDT staff.
2. Install initial TTCs as necessary, including regulatory and warning signage, flagging, and piloting operations for the first 24 to 48 hours of a wildfire emergency impacting an MDT controlled highways.
3. Be responsible for the establishment and installation of long term TTC involving regulatory signage such as speed zones, no stopping, and no parking zones on roads under the jurisdiction of MDT during the duration of the incident.
4. Authorize the DNRC and cooperating wildfire protection agencies to order/contract to install all TTC signage necessary for incident management on highways in accordance with the provided catalog and sign placement drawings. Any additional documents or permits such as encroachment permits will not be required under this MOA.
5. Furnish a liaison officer to an Incident Management Team on incidents where substantial impacts from wildfire activities are or may occur involving roads under MDT jurisdiction.
6. Grant limited authority to the Incident Commander of a wildland fire emergency to initiate temporary emergency closures of roads under MDT jurisdiction, where incident effects such as fire behavior are changing rapidly and may have substantial immediate effects on public safety. The Incident Commander shall notify the MDT Maintenance Chief as soon as feasible to coordinate additional legal closures if warranted.
7. As available, provide access to the State HAR (Highway Advisory Radio) system and/or Fixed and Portable Variable Message signs for public and/or overall fire safety messages. Messages will be developed on a case-by-case basis as conditions warrant.
8. As available and/or requested, provide MDT personnel and equipment in support wildland fire emergencies via the Montana Emergency Response Framework and Emergency Support Function (ESF) #4.
9. Provide a qualified operator to operate all MDT-owned equipment. Non-MDT employees will not be authorized to operate MDT equipment.
10. Compile actual expenses to invoice DNRC for approved MDT personnel, equipment, operating supplies and other resources mobilized in support of wildland fire emergencies. See also section V. for Billing and Payment protocols.

B. DNRC Actions

The Montana Department of Natural Resources and Conservation Shall:

1. At the request of MDT, provide wildland fire safety training and certifications to MDT personnel that may be used in support of wildland fire emergencies under MERF - ESF #4.
2. DNRC and its cooperators will assume responsibility for installing, maintaining, and operating warning and directional signage, flagging, and piloting needed for incident management operations beyond the initial MDT response and throughout the duration of any such incident.
3. Coordinate with the appropriate MDT Maintenance Chief if special circumstances or situations warrant MDT establishing **regulatory** speed zones or other regulatory traffic control, such as “no stopping” and “no parking” zones on roads under MDT jurisdiction. Depending on availability of MDT signs and personnel, cooperators may assist the MDT in providing signage as necessary for incident management operations.
4. Notify at the earliest time practicable the appropriate MDT Maintenance Chief of planned incident management operations or other activities, such as air operations or back burns, that can impact the traffic on roads under the jurisdiction of MDT and shall include in its notification to the appropriate MDT Maintenance Chief relevant information such as size and duration of the activity.
5. Provide a catalog of standard signs with approved messages conforming to the MUTCD; and provide standard drawings showing typical layout of the catalog signage for the most common incident situations needing temporary traffic control.
6. Coordinate with MDT when standard sign messages do not meet specific on-site conditions, and when circumstances require the use of messages not identified in the catalog.
7. Ensure the removal of all TTC devices when no longer appropriate for incident management.
8. Coordinate with MDT when wildfire conditions and other firefighting resources are in short supply, possibly necessitating the need for MDT personnel or equipment to support wildland fire response.
9. Provide wildland fire related Personal Protective Equipment (PPE) and radios for MDT personnel mobilized and assigned to wildland fire incidents via MERF-ESF #4. DNRC will also facilitate resource tracking and obtaining resource orders for MDT equipment and personnel.
10. Reimburse MDT for approved mobilizations of MDT personnel, equipment, operating supplies, and other resources in support of wildland fire emergencies. See section V. for Billing and Payment protocols.

C. Mutual Agreement and Understanding

The Parties mutually agree to the following:

1. Temporary traffic control is a mandatory element of safety required by Part 6, Temporary Traffic Control, of the Manual on Uniform Traffic Control Devices. Proper use of standard signs and other standard traffic control procedures can help mitigate the threat. This cooperation serves the mutual interest of the parties, cooperators, and the public.
2. All TTC devices and activities, including signage, piloting, and flagging on MDT controlled roads, impacted by incident management activities such as wildland fire protection and/or suppression, shall comply with the standards and guidelines of the MUTCD, MDT Supplements to the MUTCD, and the provided sign catalog and drawings, to the degree practicable
3. MDT, the Incident Management Team for incident management activities and/or local agencies will cooperatively develop TTC plans where warranted. All parties will document information related to TTC decisions, requests, orders/contractors etc. to determine appropriate fiscal responsibility as needed on a case-by-case basis.
4. Traffic control flaggers must be certified to conduct flagging operations on MDT roads. MDT recognizes certification acquired in other states as being valid on MDT roads. All standards in MUTCD Section 6E shall be followed for all flagging operations. Flaggers shall wear safety apparel meeting the requirements of ISEA

American National Standard for High Visibility Apparel and labeled as meeting the ANSI 107-1999 standard performance for Class 2 risk exposure, and these requirements are hereby incorporated herein by reference.

5. MDT is the only authority that can establish speed limits on roads under MDT jurisdiction. Advisory and regulatory speed zones will not be allowed below 45 MPH unless special circumstances or situations warrant.
6. MDT is the primary authority that can designate and legally close roads under MDT jurisdiction. MDT grants to Incident Commanders of incident management activities limited authority to institute temporary emergency road closures that are necessary for immediate safety concerns under this MOU. MDT will be notified as soon as feasible, typically within the first hour of an emergency closure. The sooner the notification the sooner Traveler Information can be disseminated to the traveling public for alternate routing.
7. Length of assignment/commitment of MDT personnel and equipment shall be mutually agreed upon at the time of mobilization. Any extension of assignment will be with concurrence of the DNRC and MDT. DNRC and wildland fire work and rest policies will be followed by MDT.
8. DNRC and MDT payroll staff will coordinate actions for MDT personnel that are being hired by DNRC via a rural or volunteer fire department as an Emergency Firefighter (See also section V. A. 1. - Employees on Loan)

V. Billing and Payment Protocols

A. Personnel

Use of MDT employees by DNRC within or adjacent to their normal MDT job duties will be done under a reimbursement basis and facilitated under this MOA. For approved mobilizations, most commonly under MERF – ESF #4, personnel will remain employees of MDT, and the agency will be responsible for all initial payroll, tax withholding and workers compensation costs. When using this process, MDT shall establish a cost center for each employee to track their respective expenditures related to personnel and equipment supporting each individual wildfire emergency.

All costs submitted for payment will be reimbursed in accordance with the contracts, salary schedules, and/or collective bargaining agreements in place, unless other resource rates are established prior to mobilization. Timesheets shall clearly identify an employee’s current work schedule for the purposes of delineating and billing at overtime rates. Travel and Per Diem expenses can be submitted to DNRC for reimbursement along with the agency invoice as described in Section C below.

1. Employees on Loan

MDT employees who are also members of a rural or volunteer fire department and/or operating in capacity as a DNRC Emergency Firefighter must follow a separate process independent of this MOA. Those employees are considered working outside of their normal MDT duties and reimbursement/timekeeping is handled through DNRC payroll instead of their respective agency. On-loan personnel shall complete the DNRC “Employee on Loan Packet” to facilitate coordination between DNRC and MDT payroll staff and processes to compensate the employee accordingly.

DNRC does not have authority to request or compel an MDT supervisor to grant leave for their employee. MDT personnel **must** have approval from their respective MDT supervisor to be absent from work when operating in support of a rural or volunteer fire department and/or operating in that capacity as a DNRC Emergency Firefighter (EFF).

B. Vehicles, Equipment and Operating Supplies

MDT vehicles, equipment and operating supplies will be billed and reimbursed at rates found in the current year MDT Rate Table. Other resources contracted by MDT will be reimbursed at rates in effect between MDT and the contractor at time of use.

C. Reimbursement Process and Payment Documentation Requirements

See also Montana Operations Manual Policy - MOM-SFSD-POL-SAB 317-Disaster and Emergency Expenses

As a supporting agency for wildland fire emergencies, MDT shall coordinate billing efforts through DNRC. MDT will aggregate information into a complete financial package and submit it to the DNRC for reimbursement upon conclusion of a wildfire activation. Each mobilization (resource order) must be invoiced separately. All invoices will include the DNRC resource order number and request number, if applicable. Regardless of any invoice, the DNRC may only make such payment, or portion of such payment, if there have been monies legislatively appropriated to the DNRC to cover such invoice.

MDT administrative staff coordinating operations or compiling billing packages may be reimbursed at an hourly rate according to applicable laws, regulations and union contracts plus actual expense as agreed upon by the DNRC and MDT.

MDT must submit expenditure estimates to DNRC by December 1st of the calendar year in which support was provided. All invoices must be received no later than January 31st and final payment from DNRC occurs within 60 days after receipt of invoice, unless the parties to this Agreement mutually agree otherwise.

Billing documentation should include:

- An invoice on MDT letterhead that lists the invoice number, invoice date, total amount due, incident name being billed, MDT address, contact name, number, and email address; the [DNRC Billing Invoice Template](#) can be a tool for compiling all mobilization expenses.
- A copy of the Resource Order from the wildland dispatch center.
- MDT Equipment Rate Table for applicable equipment
- Actual expenditure supporting documentation to include:
 - Timecards/Crew Time Reports from the wildland fire incident. Copies of timesheets detailing hours worked and assignment.
 - Statewide Accounting, Budgeting and Human Resource System (SABHRS) reports or similar that details regular and overtime rates including benefits and calculated daily earnings.
 - Equipment Use Information ([Shift tickets](#), mileage logs, fuel receipts, or other expenses documentations)
 - Meals/Lodging and or other Per Diem Expenses
 - Approved replacement equipment costs (along with S# resource order or other agency approval documentation)

Invoices must be submitted to the billing addresses listed below.

Joanne Marceau
Fire Finance and Incident Business Supervisor
Montana DNRC – Forestry and Trust Lands Division
406-542-4252
jmarceau@mt.gov
2705 Spurgin Road
Missoula, MT 59804

VI. General Terms and Conditions

1. Right to Know

Any information furnished under this instrument is subject to Montana’s right to know provision found at Article 2, Section 9 of the 1972 Montana Constitution, and this provision’s implementing legislation found in Title 2, Chapter 6 of the Montana Code Annotated.

2. Modification

Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

3. Participation in Similar Activities

This instrument in no way restricts the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.

4. Commencement/Expiration

This operating plan is entered into and agreed upon by the agencies shown as signatories, commencing upon the date of the last signature and valid for a period of five years.

5. Implementation

- A. This Agreement will become operative upon the last signatory signing the Agreement.
- B. Either party may terminate this Agreement upon providing thirty (30) days' written notice to the other party. Such action shall not relieve the terminating party from obligations assumed hereunder prior to the effective date of termination.
- C. A copy of this Agreement and of any amendments as may be entered into shall, at the time of their full execution, be sent to the other party.
- D. This Agreement will remain in effect for five (5) years from the date of the last signatory.

6. Freedom of Information Act

Any information furnished under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

7. Severability and Validity

Should a court of competent jurisdiction rule any portion, section, or subsection of this Agreement is invalid or nullified, such invalidity or nullification shall not affect, invalidate, or nullify any other portion, section, or subsection of the Agreement. All remaining portions, sections and subsections shall remain in full force and effect.

8. Counterpart Execution

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

9. Principal Contacts

The principal contacts for this instrument are:

DNRC	MDT
Cory Calnan Deputy Chief - Fire Protection Bureau Montana DNRC – Forestry/Trust Lands Division 406-788-7718 (cell) ccalnan@mt.gov	Susan McEachern Montana Dept. of Transportation – Maintenance Division 406-444-6153 (office) 406-431-9272 (cell) smeachern@mt.gov Jon Swartz Administrator - Maintenance Division Montana Dept. of Transportation 406-444-6158 (office) 406-431-6158 (cell) joswartz@mt.gov

VII. Approval

DocuSigned by:


BCFED3406D0D401... 8/12/2024

Jonathon Swartz, Maintenance Administrator Date
 Montana Department of Transportation

DocuSigned by:

438370D1D1D44CE... 8/6/2024

MDT Legal Review Date

DocuSigned by:

B08CBE39D17546E... 8/7/2024

Shawn Thomas, State Forester Date
 Montana Department of Natural Resources & Conservation

Appendices

A. Glossary

1. *Agency Administrator*

Agency officials who have wildland fire jurisdictional responsibilities for lands in Montana. Typically, this role is filled by a: Montana Department of Natural Resources and Conservation, Area Manager; Bureau of Land Management, Field Manager; USDA Forest Service, Forest Supervisor; Bureau of Indian Affairs, Superintendent; National Park Service, Park Superintendent; US Fish and Wildlife Service, Refuge Manager. Also called a “Line Officer.”

2. *Cooperator*

A federal, tribal, state, or local agency that participates with another agency(s) in planning and conducting wildland fire or emergency management projects and activities.

3. *Flagger*

A person who provides temporary traffic control.

4. *Guide sign*

A sign that shows route designations, destinations, directions, distances, services, points of interest, or other geographical, recreational, or cultural information.

5. *Jurisdictional Authority*

The right or authority to legislate, interpret, and apply the laws relating to traffic on the roadway.

6. *Incident Commander (IC)*

The individual responsible for all incident activities, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for managing and conducting incident operations.

7. *Incident Management Activities*

Activities necessary to meet threats (natural or human caused) to life, public safety, property and natural resources.

8. *Incident Management Team (IMT)*

An Incident Management Team (IMT) provides on-scene incident management support during incidents or events that exceed a jurisdiction or agency’s capability or capacity.

9. *National Incident Management System (NIMS)*

The National Incident Management System (NIMS) provides a systematic, proactive approach to guide departments and agencies at all levels of government, nongovernmental organizations, and the private sector to work seamlessly to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life and property and harm to the environment.

10. *Piloting*

Guidance of vehicles through a traffic control zone with the use of pilot vehicles where traffic is not allowed through the zone without a pilot vehicle.

11. Regulatory Sign

A sign that gives notice to road users of traffic laws or regulations, such as speed or weight limits, and stop or yield intersection control.

12. Resources

Personnel, equipment, aircraft, services and supplies available for assignment to incidents. Personnel and equipment are described by kind and type, (e.g., ground, water, air, etc.), and may be used in tactical, support or overhead capacities for an incident.

13. Resource Order

A form documenting the official request and fill of a responding resource. Resource Orders (occasionally referred to as a resource order number) are typically managed by the Wildland Fire Dispatch Centers. The order number includes the incident number, reporting instructions, financial codes and an alpha character (S = Supplies, E = Equipment, O = Overhead, A = Aircraft, C = Crews) followed by a sequential number. Resource orders are required for any entity that will be seeking reimbursement from DNRC.

14. Shift Ticket/Crew Time Report

A form used to document the equipment and personnel work during a given shift (i.e. timecard). See [Montana DNRC Combined Shift Ticket and Crew Time Report](#).

15. Temporary Traffic Control (TTC) Zone

An area of a highway where road user conditions are changed because of a work zone or incident by the use of temporary traffic control devices, flaggers, uniformed law enforcement officers, or other authorized personnel.

16. Traffic Control Devices

Traffic control devices are all signs, signals, markings, and other devices used to regulate, warn, or guide traffic, placed on, over, or adjacent to a roadway.

17. Warning Sign

A sign that gives notice to road users of a situation that might not be readily apparent, such as a change in road geometry or road use.

18. Wildland Urban Interface (WUI)

The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetation fuels.