

RESOLUTION NO. 11-19063

A RESOLUTION OF THE BILLINGS, MONTANA, CITY COUNCIL ADOPTING RANDOM DRUG/ALCOHOL TESTING POLICY FOR POLICE DEPARTMENT EMPLOYEES, AND AUTHORIZING THE CITY ADMINISTRATOR TO ENACT RULES AND PROCEDURES GIVING POLICIES FORCE AND EFFECT AND INCLUDING AN EXPIRATION DATE.

WHEREAS, the City of Billings is committed to protecting the safety, health and well being of all employees and the individuals with whom the employees come into contact; and

WHEREAS, City employees are expected to report to work alcohol- and drug-free, and are expected to engage in activities which are appropriate for the work environment and do not compromise the City's integrity or interest in maintaining a safe, secure and alcohol- and drug-free workplace; and

WHEREAS, the City Council has approved a 2-year contract with Montana Public Employees Association – Billings Unit (MPEA) in which union members have cooperated in developing a random drug and alcohol testing policy; and

WHEREAS, procedures are being adopted contemporaneously by Administrative Order to implement the Police Department Random Drug/Alcohol Testing Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA AS FOLLOWS:

1. That the City of Billings hereby adopts the Police Department Random Drug/Alcohol Testing Policy.
2. That the Resolution and attached Policy shall be reviewed by the City Council with each proposed new MPEA Collective Bargaining Agreement.

APPROVED AND PASSED by the City Council of the City of Billings, this 13<sup>rd</sup> day of June, 2011.



THE CITY OF BILLINGS

By: Thomas W. Hanel  
Thomas W. Hanel, Mayor

ATTEST:

BY: Cari Martin  
Cari Martin, City Clerk

**BILLINGS POLICE DEPARTMENT  
RANDOM DRUG/ALCOHOL  
AND  
REASONABLE SUSPICION POLICY**

## **PURPOSE:**

The purpose of this policy is to provide an alcohol and drug-free workplace for the protection and well being of the Billings Police Department, its employees, and the public it serves, along with City property, equipment, and operations. Employees are expected to report to work alcohol and drug free in order to enable safe and efficient job performance. Employees are expected to engage in activities while on-the-job, while on department premises, or in the scope and course of employment which are appropriate for the work environment and do not compromise the department's integrity or interest in maintaining a safe, secure, and alcohol and drug free workplace.

## **POLICY:**

The Billings Police Department (BPD) is committed to protecting the safety, health, and well being of all sworn and civilian employees and the individuals we come into contact with as we fulfill our mission statement serving the City of Billings. Therefore, we have established an alcohol and drug-free workplace program that balances our respect for individuals with the need to maintain an alcohol and drug-free environment.

If there are employees who have drug or alcohol problems, the City remains willing to assist in the resolution of these problems and encourages affected employees to seek help through the Employee Assistance Program (EAP) which is available free to employees and eligible family members. The City will not terminate employment, discipline, or discriminate against an employee solely because an employee voluntarily seeks treatment for an alcohol or substance abuse problem by following the safe-harbor provisions of this policy.

The unlawful manufacture, distribution, possession, sale, transfer, or use of, and/or illegal use of a legally obtainable drug or substance or impairment by over-the-counter prescription drugs or misuse of alcohol is strictly prohibited. Illegal possession of drug paraphernalia is prohibited. As a condition of employment, all employees must abide by this prohibition while in any employment capacity with the City, and while on City property, in any City vehicle, or at any City office or facility. All employees are expected to be at work without being under the influence of drugs and/or alcohol, including controlled substances, in order to enable safe and efficient job performance.

## **NOTE:**

A glossary of key terms is available at the end of this policy.

For the purposes of this policy:

**Alcohol** – means an intoxicating agent in alcoholic beverages, food, or medication; ethyl alcohol, also called ethanol; or the hydrated oxide of ethyl.

**Controlled Substance(s)** – means any drug, substance, or precursor included in Schedules I through V as defined by Section 812 of Title 21 of the United States Code (21 USC 812) or any drug, substance, or precursor included within the definition of "Dangerous Drug" in Title 50 Chapter 32 Part 2, Montana Code Annotated (for example, but not limited to: cocaine, marijuana, medical marijuana, and methamphetamine.) For the purpose of this policy, the term 'controlled substance' does not include the use of prescribed drugs, which have been legally obtained and are being used in the manner and for the purpose for which they were prescribed. The term does not include distilled spirits, wine, malt beverages, or tobacco. It does include medical marijuana.

**Illegally Used Drugs / Illegal use of drugs** – means:

- a. any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes or in the prescribed manner;
- b. all designer drugs not listed in the Controlled Substances Act (for example, but not limited to: MDA, fentanyl); or
- c. any other over-the-counter or non-drug substances (for example, but not limited to: airplane glue) being used for other than their intended purpose.

## **PROCEDURE:**

### **I. EMPLOYEES SUBJECT TO THIS POLICY**

- A. All sworn officers, regardless of rank or assignment, are subject to this policy. This includes supervisors and management up to and including the Chief of Police.
- B. Prospective police officer job applicants are subject to pre-employment testing and testing prior to confirmation.

### **II. EMPLOYEE ASSISTANCE PROGRAM**

- A. Any employee needing help in dealing with drug and/or alcohol problems is encouraged to use the City's Employee Assistance Program (EAP) and the benefits available through the City's medical plan. Additional information regarding the City's Employee Assistance Program is available in the HR Policy Manual - Employee Assistance Program policy. Contact Human Resources if you have questions or need more detailed information. The City EAP plays an important role in preventing and resolving problem alcohol and drug use by:
  1. Providing confidential counseling and assistance to employees and their qualifying family members who self-refer for treatment or

whose tests have been verified positive and monitoring the employee's progress through treatment and rehabilitation;

2. Providing educational materials and training to employees on alcohol & drug use issues;
3. Ensuring the confidentiality of test results and related medical treatment and rehabilitation records, which they maintain.

B. The EAP will not be involved in the collection of test samples or the initial reporting of test results. The City's designated testing professional will be responsible for such testing.

**III. SAFE HARBOR REFERRAL**

A. A fundamental purpose of the Department's Alcohol and Drug-Free Workplace Policy and procedures is to assist employees who themselves are seeking treatment for alcohol or *controlled substance* use or misuse of prescription drugs. For this reason, the Department will not initiate disciplinary action against any employee regarding the disclosure of his or her drug or alcohol related problem who meets all three of the following conditions:

1. Voluntarily identifies him/herself to Human Resources as a misuser of alcohol and/or illegal drugs and/or misuses prescription drugs, as they apply to this policy, prior to being identified through other means, or prior to being asked to provide a urine and/or breath sample for testing;
2. Obtains evaluation, counseling or rehabilitation from an approved facility; and
3. Thereafter refrains from using *controlled substances* or misusing prescription drugs and/or alcohol. The employee may be subject to a return-to-work agreement.

B. This provision is not intended to allow an employee to evade disciplinary action. The key to this provision's rehabilitative effectiveness is an employee's willingness to admit his/her problem. Since the key to this provision's rehabilitative effectiveness is an employee's willingness to admit the problem, this provision is not available to an employee who requests protection under this provision after:

1. Being identified through other means; or

2. Being asked to provide a urine sample for testing; or
3. Having had a verified positive test result for alcohol and/or *controlled substances* pursuant to this policy.

C. Drug or alcohol related incidents that are subject to discipline and occurred prior to seeking Safe Harbor are not covered by Safe Harbor protections.

#### **IV. ALCOHOL MISUSE**

- A. These prohibitions apply while an officer is on duty and applies in all City owned facilities, on all City owned property, in any City owned or leased vehicle, and at any City approved activity.
- B. Employees are prohibited from consuming alcohol while on duty, during a City approved activity such as training, or while on standby.
- C. Employees are prohibited from reporting to work or to a City approved activity under the influence of alcohol.
- D. Employees are prohibited from reporting to work or to a City approved activity exhibiting signs of alcoholic consumption such as the odor of an alcoholic beverage on breath.
- E. This policy includes unanticipated call-out situations. If an employee cannot meet this requirement, it is his or her responsibility to tell a supervisor or person initiating the request to return to work that he/she cannot report to work. He/She shall suffer no reprisals for doing so.
- F. An officer may receive an assignment of undercover duty. The use, consumption, distribution, or possession of alcohol, while acting in the course and scope of the undercover assignment, is an exception to this policy and is not prohibited.
- G. Handling alcoholic beverages during normal policing activities, such as for evidentiary purposes, while on duty is an exception to the policy and is not prohibited.
- H. Alcohol is a legal substance therefore it is not the intention of this policy to prohibit employees from consuming alcohol when not on duty, or during the course and scope of employment when the employee's performance of duties has concluded for the day. Listed below are examples of situations in which the responsible use of alcohol by employees during the course and scope of Department business may be acceptable. However, employees are expected to seek prior

direction from the Chief of Police regarding the appropriateness of consuming alcohol in these situations.

1. While attending seminar or conference functions where alcohol is being served; or
2. While traveling on business, provided all work duties for the day have been completed and the employee is not operating a BPD vehicle.

I. Although alcohol use may be permitted under limited circumstances, employees are expected to use good judgment and behave in a professional and respectable manner while in the course and scope of Department business. Misuse of alcohol under these circumstances is a violation of this policy and may result in disciplinary action up to and including termination. Employees are required to abide by all terms of the vehicle usage policy.

J. BPD Policy 2-3 Rules of Conduct also applies.

## **V. CONTROLLED SUBSTANCE AND/OR DRUG USE**

- A. These prohibitions apply in all City owned facilities, on all City owned property, in any City owned or leased vehicle, and at any BPD approved activity.
- B. The unlawful manufacture, distribution, dispensing, possession or use of a *controlled substance* is prohibited.
- C. The illegal use of a legally obtainable drug or substance is prohibited
- D. Use and possession of legally obtained prescription drugs when taken as prescribed and over-the-counter drugs is not prohibited by this part subject to the following:
  1. Employees taking legally obtained prescription medication that may affect the employee's job performance (i.e., drowsiness, impaired reflexes, or impaired reaction time) shall notify a supervisor when reporting for duty of the name of the medication, dosage, and dosing frequency. If the medication causes impairment, it is the employee's responsibility to give the prescribing physician notice of the nature of the employee's job duties. The employee shall obtain a written note from the prescribing doctor that releases the employee to work.
  2. Employees should refrain from using over-the-counter medication that could cause impairment, such as muscle relaxants or cold

medication. Employees taking over-the-counter medication that could cause impairment shall notify a supervisor when reporting for duty of the name, dosage, and dosing frequency.

3. A supervisor, under reasonable suspicion, may relieve an employee from duty if it is determined that a medication is causing impairment to an employee's ability to perform the functions of his or her job. The employee will be required to utilize his/her accrued sick or leave time until such time that the employee is no longer impaired by the medication. If the employee runs out of leave time he/she may then be placed on unpaid leave status.

E. The use, possession, or cultivation of marijuana is strictly prohibited. This includes a prohibition against the use, possession, or cultivation of marijuana for medicinal purposes whether or not the employee has a medical marijuana or caregiver card.

F. BPD Policy 2-3 Rules of Conduct also applies.

## VI. TYPES OF TESTING

### A. Reasonable Suspicion Testing

1. All sworn officers will be tested for alcohol and/or *controlled substances* and/or *illegally used drugs* when there is reasonable suspicion of on-duty use or impairment. Reasonable suspicion testing may be based upon, among other things:
  - a. observable phenomena, including but not limited to direct observation of drug or alcohol use or possession and/or the physical symptoms of being under the influence of a drug or alcohol such as the odor of an alcoholic beverage;
  - b. a pattern of abnormal conduct or erratic behavior;
  - c. arrest or conviction for a drug or alcohol-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use, or trafficking;
  - d. information provided by reliable and credible sources or which is independently corroborated; or
  - e. newly discovered evidence that the employee has tampered with a previous alcohol or drug test.
2. Although reasonable suspicion testing does not require certainty, mere hunches alone are not sufficient to meet the standard for a test.

3. If an employee is suspected of using or being impaired by alcohol, controlled substances, or illegal drugs in violation of ~~pursuant to~~ this policy, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion and will present those for concurrence with another supervisor. Concurrence may be from the Chief of Police, Deputy Chief, Captain, Lieutenant, Sergeant, or representative from Human Resources.
4. Department supervisors who are currently certified Breath Test Specialists and who operate a certified breath testing device, either a portable breath tester or an intoxilyzer, may conduct reasonable suspicion breath alcohol tests.
5. The employee shall remain on duty, but shall not be allowed to operate a vehicle or perform job functions until the circumstances are evaluated, and the supervisor receives concurrence.
6. Employees who are subject to reasonable suspicion testing shall be transported to and from the collection facility.
7. Testing will be conducted under direct observation.
8. The appropriate supervisor will, within 48 hours, prepare a written report detailing the circumstances that formed the basis to warrant the testing. This report should include the appropriate dates and times of reported alcohol or drug related incidents, reliable/credible sources of information, rationale leading to the test, and the action taken. All documentation related to the determination shall be forwarded to Human Resources and copies sent to the Office of Professional Standards.

## B. Post-Incident Testing

1. Employees involved in critical incidents, on-the-job accidents, or who engage in unsafe on-duty job-related activities that pose a danger to themselves or others or the overall operation of the Department may be subject to testing. The Chief of Police or designee may initiate testing when such circumstances involve:
  - a. Death; or
  - b. Serious bodily injury requiring immediate emergency room or urgent care center treatment;
  - c. Damage to government or private property estimated in excess of \$5,000; or

- d. At the request of the employee
2. An employee subject to post-incident testing shall remain immediately available for up to two (2) hours for such testing, or the Department may consider the employee to have refused to submit to testing.
  - a. If there were extenuating circumstances that kept the employee from submitting to a test within 2 hours after the incident, the Chief of Police or his designee shall evaluate those circumstances and make the final determination as to whether or not it will be deemed a refusal.
  - b. An employee will be subject to call-in for up to 24 ~~32~~ hours following the incident for testing if a test was not conducted within the initial two-hour period.
  - c. An employee subject to post-incident testing shall not consume alcohol or drugs, either legal or illegal, prior to the testing. Exceptions may be made for previously prescribed maintenance medications and/or medications administered to treat any personal injury.
3. If a test under this provision is not administered within two (2) hours of the occurrence, the supervisor shall document the reason(s) why it was not promptly administered. If more than eight (8) hours pass, then no alcohol test will be administered. If more than twenty-four (24) hours pass, no drug test shall be administered. If either test is not completed, the supervisor shall document the reason(s) why. The documentation shall be forwarded to Human Resources and copies sent to the Office of Professional Standards.

#### C. ~~D.~~ Random Testing

1. Random testing for alcohol and/or *controlled substances* will be conducted on all sworn officers. The testing will occur during the officer's regular working hours.
2. Random tests will be unannounced and will occur throughout the calendar year.
3. The random selections will be conducted by a designated Human Resources representative using a lottery system conducted by an outside agency. To ensure that all employees who have been designated for testing have an equal chance of being randomly tested, a scientifically valid random process is used.

- a. The annual number of random alcohol tests will be no more than ten percent (10%) of the average number of employees subject to random testing.
- b. The annual number of random drug tests will be no more than twenty-five percent (25%) of the average number of employees subject to random testing for illegal drugs.

4. Human Resources will notify the employee's supervisor or designee and provide the name of the individual selected for random testing. The employee shall not be given advance notice of the scheduled testing. Upon notification by the supervisor, employees shall proceed immediately to the testing site.

5. Substances Tested For During Random Testing

- a. The Department will test for the following substances:
  - (1) Alcohol;
  - (2) Marijuana;
  - (3) Cocaine;
  - (4) Amphetamines;
  - (5) Opiates; and
  - (6) Phencyclidine (PCP)

6. The following cutoff concentration shall be applicable to determine whether specimens are negative or positive for the following drugs or classes of drugs utilizing the initial test procedure. The cutoff levels used by the Department's DHHS certified lab may change and will be published in the Code of Federal Regulations and Federal Register and shall take precedence over the levels listed herein. All cutoff concentrations are expressed in nanograms per milliliter (ng/mL).

Type of drug or metabolite	Initial test	Confirmation test
(1) Marijuana metabolites (i) Delta-9-tetrahydrocannabinol-9-carboxylic acid (THC)	50	15
(2) Cocaine metabolites (Benzoylecdgonine)	150	100
(3) Phencyclidine (PCP)	25	25
(4) Amphetamines	500	250
(i) Amphetamine	500	250

(ii) Methamphetamine <sup>1</sup>		250
(5) Opiate metabolites	2000	
(i) Codeine		2000
(ii) Morphine		2000
(iii) 6-acetylmorphine (6-AM) <sup>2</sup>		10
(iv) MDMA <sup>6</sup>	500	250

<sup>1</sup> Specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/mL.

<sup>2</sup> Test for 6-AM in the specimen. This test conducted only when specimen contains morphine at a concentration greater than or equal to 2000 ng/mL.

<sup>6</sup> Methylenedioxymethamphetamine (MDMA).

7. Employees should be aware that use of hemp oil products will not be an acceptable defense for a positive Delta-9-tetrahydrocannabinol-9-carboxylic acid (THC) test.
8. Alcohol shall be confirmed positive if both the initial and confirmation tests reveal a breath alcohol content of .04 grams of alcohol per 210 liters of breath or higher. If the initial and confirmation test is below .04 but above .02, the employee will be immediately placed on administrative leave with pay status and will be subject to progressive discipline.

#### D. Return to Duty and Follow-up Testing

1. After a verified positive test result for drugs and/or alcohol, employees must have a negative test result before returning to work.
2. All employees referred through administrative channels who undergo a counseling or rehabilitation program will be subject to unannounced drug and/or alcohol testing from the time they return to work for a period of one year following completion of such a program.
  - a. Such employees shall be tested at the frequency recommended by the Substance Abuse Professional (SAP) ~~EAP~~.

- b. Such testing is distinct from testing which may be imposed as a component of a rehabilitation program.
- 3. Confirmation of and continuing participation in a rehabilitation program, as recommended by SAP, is required of an employee returning to duty.
- 4. In some instances, SAP may require completion of a program prior to returning to duty.
- 5. The SAP will notify Human Resources when an employee has completed a rehabilitation program.
- 6. After an employee returns to work during or following a rehabilitation program, a single positive test result for alcohol or a *controlled substance* or the illegal use of a legal drug or failure to successfully complete the recommended rehabilitation program will result in referral to the Office of Professional Standards for investigation. If an employee is found to have violated this part, the penalty shall be termination of employment.

## **VII. TEST PROCEDURES**

- A. Drug testing will be done by the split sample method. Testing services shall be provided by a designated contractor at a designated collection site with collection personnel trained in accordance with U.S. Department of Health and Human Services (DHHS) standards and analyzed by an independent DHHS certified lab. The personnel involved in testing and processing results are not employees of the Billings Police Department.
- B. Employees subject to testing shall comply with all requirements of the testing process and personnel. Employees will complete all requirements of initial and follow-up tests. Failure to do so will result in disciplinary action the same as if the test was verified positive. For alcohol testing, failure to do so will result in disciplinary action the same as if the test was verified positive for an alcohol concentration of .04 or above.
- E. Procedures for Alcohol Testing
  - 1. All alcohol tests will be breath testing only.

2. Upon arrival at the collection site, the employee will show photo identification. Acceptable identification includes an actual Montana driver's license or department ID.
3. Initial breath alcohol testing
  - a. Initial breath alcohol testing is performed by a Breath Alcohol Technician (BAT) who is employed by the collection facility and who is trained in the operation of an evidential breath testing device (EBT) as approved by the National Highway Traffic Safety Administration (NHTSA).
  - b. The employee shall be observed for 20 minutes prior to testing and shall be instructed not to eat, drink, or place anything in his/her mouth until the conclusion of the breath test.
  - c. The employee will receive instructions such as 'blow with a strong continuous breath until advised to stop.'
  - d. If the result of the initial breath test is an alcohol concentration of .02 or greater, a confirmatory test shall be conducted.
4. Confirmation or verification alcohol breath testing
  - a. Confirmation/verification tests shall only be conducted by a Breath Alcohol Technician who is employed by the collection facility. The confirmatory test may be conducted on the same EBT as the initial test.
  - b. Before the confirmatory test is given, the employee shall be observed for 20 minutes prior to testing and shall be instructed not to eat, drink, or place anything in his/her mouth until the conclusion of the breath test.
  - c. The employee will receive instructions such as 'blow with a strong continuous breath until advised to stop.'
  - d. Collection site personnel may require the employee to sign forms.
  - e. If the employee has any concerns following the testing process, the employee should advise a supervisor at the collection site, the employee's supervisor, or Human Resources.

## F. Procedures for Drug Testing

1. An employee will be verbally notified by a supervisor that he/she has been chosen for a random drug test.
2. The employee will report immediately to the collection site.
3. The employee will strictly follow all directions from collection site personnel before, during, and after collection.
4. Upon arrival at the collection site, the employee will show photo identification. Acceptable identification includes an actual Montana driver's license or Police Departmental ID.
5. The employee will remove outer garments, such as a jacket or coat. The employee will not be required to remove clothing such as a shirt and pants, and will not be required to put on a hospital gown. All personal belongings, such as a bag or purse, must remain with the outer garments. The employee may retain a small wallet.
7. An employee subject to testing for *controlled substances* or *illegally used drugs* under this policy shall be permitted to provide urine specimens in private and in a restroom stall or similar enclosure so that the employee is not visually observed while providing the sample.
8. Collection site personnel may be within hearing range so they can confirm the sample was physically produced at that time.
9. The employee is encouraged to observe the entire collection procedure.
10. Collection site personnel may require the employee to sign forms.
11. If the employee has any concerns following the testing process, the employee should advise a supervisor at the collection site, the employee's supervisor, or Human Resources.

## **VIII. Special Testing Procedures**

### **A. Direct Observation Testing**

1. Collection site personnel of the same gender as the employee tested may observe the employee to provide the urine specimen when

- a. Collection site personnel may have reason to believe that a particular individual has altered or substituted the specimen, or
  - b. The employee has previously tampered with a sample, or
  - c. The employee has equipment or implements capable or tampering with or altering urine samples.
2. Direct observation shall not be the norm.
3. In addition to the procedures listed under Random Testing, the procedure will include direct inspection of the employee with shirt lifted and trousers lowered.
4. Collection site personnel will directly observe the urine leaving the body and entering the collection container.

B. Specimen Temperature Outside of Range

If the temperature of the specimen is outside the range of 32-38 degrees C / 90-100 degrees F or shows signs of contaminants, then there is reason to believe the donor may have altered or substituted the specimen, and another specimen shall be collected for testing under the direct observation of a representative from the collection facility.

C. Dilute Sample

1. If the Medical Review Officer (MRO) notifies the City that an employee's test was positive and dilute, the test will be treated as verified positive. The employee shall not be required to submit another test.
2. If the MRO notifies the City that an employee's test was negative and dilute, and there is no acceptable medical explanation, the following procedures will be followed. If the employee declines to complete or does not complete these procedures, it will be treated as a refusal.
  - a. If the creatinine concentration of the dilute specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL, another test will be collected under direct observation.
    - (1) This test will be conducted unannounced (with the minimum possible advance notice) as soon as possible after the initial test.

- (2) The employee will be escorted by a supervisor immediately to the collection site.
  - (3) The employee will be directed not to ingest anything until after the test is completed.
  - (4) If the result of the direct observation test is also negative and dilute, the employee will not be required to take an additional test. The result shall be considered confirmed positive.
- b. If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, another test will be collected, but shall not be conducted under direct observation, unless there is another basis for utilization of direct observation.
  - (1) This test will be conducted unannounced (with the minimum possible advance notice) as soon as possible after the initial test.
  - (2) The employee will be directed not to ingest anything until after the test is completed.
- c. If the 2<sup>nd</sup> specimen is positive and dilute, the test will be treated as positive.
- d. If the specimen is again negative and dilute, the following procedure will apply:
  - (1) If the creatinine concentration of the second dilute specimen was equal to or greater than 2mg/dL, but less than or equal to 5 mg/dL, another test will be collected under direct observation in the same manner as listed under 2a above.
  - (2) If the result of this direct observation test is also negative and dilute, the employee will not be required to take an additional test because the result was dilute. The result shall be considered confirmed positive.
  - (3) If the creatinine concentration of the second dilute specimen is greater than 5 mg/dL, the employee will not be required to take an additional test because the result was dilute. The test will be considered negative.

#### D. Insufficient Urine Specimen Volume

45mL of urine is required to constitute sufficient testing volume. If the employee does not provide sufficient volume, the following "shy bladder" procedures will apply. If the employee declines to complete or does not complete these procedures, it will be treated as a refusal.

For purposes of this section, permanent or long-term medical conditions are those physiological, anatomic, or psychological abnormalities documented as being present prior to the attempted collection, and considered not amenable to correction or cure for an extended period of time, if ever. Examples would include destruction (any cause) of the glomerular filtration system leading to renal failure; unrepaired traumatic disruption of the urinary tract; or a severe psychiatric disorder focused on genito-urinary matters. Acute or temporary medical conditions, such as cystitis, urethritis or prostatitis, though they might interfere with collection for a limited period of time, cannot receive the same exceptional consideration as permanent or long-term conditions.

**Shy Bladder Procedure:**

1. The insufficient specimen will be discarded. Specimens may not be combined.
2. Employees will be advised 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 sufficient urine specimen, whichever occurs first. The employee may decline to drink, but will still be required to provide a sufficient urine specimen.
3. The employee shall remain in the testing area under observation during the three hour period.
4. If the employee has not provided a sufficient specimen within three hours of the first unsuccessful attempt to provide the specimen, the collection attempt will be discontinued, and the employer will be notified.
5. The employee will be directed to obtain, within seven calendar days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. (The MRO may perform this evaluation if the MRO has appropriate expertise.)
6. After completing the evaluation, the referral physician must provide a written statement of his/her recommendations and the basis for those to the MRO. Detailed information on the employee's medical condition beyond what is necessary to explain the conclusion must not be in this statement. The MRO will seriously consider and assess the referral physician's recommendations in making a determination about whether the employee has a medical condition that has, or with a high degree of probability could have, precluded

the employee from providing a sufficient amount of urine. The MRO will notify Human Resources as soon as a determination is made.

- a. If the employee refuses to obtain the evaluation, the test will be deemed a refusal.
- b. If the evaluation determines the employee has a medical condition, and the medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the test will be cancelled.
- c. If the evaluation determines that the employee's medical condition is a serious and permanent or long-term disability that is highly likely to prevent the employee from providing a sufficient amount of urine for a very long or indefinite period of time, the MRO will conduct a further medical evaluation to determine if there is clinical evidence that the employee is using a *controlled substance* or *illegally using drugs*. During this evaluation, a blood test may be required.
  - (1) If the medical evaluation reveals no clinical evidence of *controlled substance* use or *illegal use of drugs*, the test result shall be negative.
  - (2) If the medical evaluation reveals clinical evidence of *controlled substance* use or illegal use of legal drugs, the test result shall be cancelled. (Because this is a cancelled test, it does not serve the purposes of a negative test, *i.e.*, the employer is not authorized to allow the employee to begin or resume duty, because a negative test is needed for that purpose).
- d. If the evaluation determines that there is not an adequate basis for determining that a medical condition has, or with a high degree of probability could have, precluded the employee from providing a sufficient amount of urine, the test will be considered a refusal.

## **IX. Test Refusal**

- A. Refusals will result in administrative action the same as if the test was verified positive. In the case of a breath test refusal, administrative action will be the same as if the test was verified in excess of .04.
- B. Employees will be considered to have refused testing if they:
  1. Refuse to provide a specimen; or
  2. Refuse to complete all required tests as directed; or
  3. Fail to report for a required test at the scheduled time; or

4. Engage in conduct that clearly obstructs the testing process; or
5. Tamper with the test; or
6. Alter or substitute the specimen; or
7. Fail to provide adequate breath or specimen volume without a verified medical explanation.

## **X. Deferral of Testing**

- A. An employee selected for random drug and alcohol testing may obtain a deferral of testing if Human Resources concurs that a compelling need necessitates a deferral on the grounds that the employee is:
  1. In a leave status (sick, annual, administrative or leave without pay); or
  2. In official travel status away from the test site or imminently embarking on official travel scheduled prior to testing notification.
- B. An employee whose random drug and/or alcohol test is deferred will be subject to an unannounced test within the following 60 days.

## **XI. Positive Test Result Procedure**

- A. Samples testing positive for *controlled substances* or *illegally used drugs* will undergo further testing to identify the specific type of drug(s) or substance(s) in the specimen.
- B. The applicant or employee will be contacted by the Medical Review Officer (MRO) and have the opportunity to provide an explanation of a positive result, which may include providing medical documentation of lawful use of a prescription or over-the-counter medication.
- C. If the MRO determines there is no justification for the positive result, such result will then be considered a verified positive test result.
- D. The Medical Review Officer shall notify Human Resources of a verified positive test result.
- D. The MRO will notify the employee of the verified positive test result. Once notified, the employee may within 72 hours of notification request the split specimen be tested by another DHHS certified lab.
- E. If the employee is unable, for a legitimate reason, to make this request within the 72 hour period, the split specimen test will automatically be conducted.

F. The employer shall pay for the additional test if the additional test results are negative, and the employee shall pay for the additional tests if the additional tests are positive.

## **XII. FINDINGS AND ADMINISTRATIVE ACTION:**

A. An employee may be found in violation of this policy on the basis of any appropriate evidence including, but not limited to:

1. direct observation of prohibited alcohol use or illegal drug use including misuse of prescription medication; or
2. evidence obtained from an arrest or criminal conviction for a drug or alcohol related offense; or
3. a verified positive test result; or
4. an employee's voluntary admission, unless the employee is meeting the requirements as outlined under the Safe Harbor Referral; or
5. test refusal.

B. If an employee is found to be in actual and illegal possession of a *controlled substance*, illegally used drug, and/or related paraphernalia, he/she may be prosecuted under the applicable state or federal law (refer to Federal Controlled Substances Act Title 21 United States Code, Offenses Involving Dangerous Drugs Title 45 Chapter 9 Montana Code Annotated, and Model Drug Paraphernalia Act Title 45 Chapter 10 Montana Code Annotated.)

C. An employee may also be subject to criminal sanctions for reckless conduct leading to actual loss of life, injury, or damage to property pursuant to state and federal law.

D. Effects of Positive Drug Testing Results

1. Any employee receiving a verified positive test for a *controlled substance* shall be referred to the Office of Professional Standards and will be subject to termination.
2. Any employee receiving a verified positive test for *illegally used drugs*, i.e., prescription medication or over-the-counter medication, shall be referred to the Office of Professional Standards and will be subject to mandatory administrative action such as referral to SAP and disciplinary action up to and including termination. The severity of the action chosen will depend on the circumstances of each case.

3. Successful completion of any rehabilitation recommended will be a condition of continued employment.
  - a. The cost of rehabilitation will be the responsibility of the employee.
  - b. Employees may be allowed to use accrued leave (sick leave followed by vacation and/or compensatory leave) to complete rehabilitation until such leave is exhausted at which time the employee may be allowed to go on unpaid leave.
  - c. The employee remains responsible for successful completion of a SAP designated treatment program, and assertions regarding the effectiveness of a program shall not constitute either an acceptable explanation or excuse for continuing to misuse alcohol and/or drugs or a defense to disciplinary action if the employee does not complete treatment.
4. The Department may initiate action to terminate an employee for refusing to obtain and complete counseling or rehabilitation through an SAP or a state licensed facility as recommended by SAP.
5. The employee must have a negative test result before returning to work.
6. The employee shall be subject to a return-to-duty agreement.
7. Following a verified positive test and after returning to duty, the employee will be subject to unannounced testing for a period of time determined by the SAP.

#### E. Effects of Positive Alcohol Testing Results

1. When an employee is found to be in violation of the alcohol provisions of this policy, mandatory administrative action will result, such as referral to SAP and disciplinary action up to and including termination. The severity of the action chosen will depend on the circumstances of each case.
2. Any rehabilitation recommended will be a condition of continued employment.
  - a. The cost of rehabilitation will be the responsibility of the employee.

- b. Employees may be allowed to use accrued leave to complete rehabilitation until such leave is exhausted at which time the employee may be allowed to ~~will~~ go on unpaid leave.
  - c. The employee remains responsible for successful completion of a treatment program, and assertions regarding the effectiveness of a program shall not constitute either an acceptable explanation or excuse for continuing to misuse alcohol and/or drugs or a defense to disciplinary action if the employee does not complete treatment.
- 3. The Department may initiate action to terminate an employee for refusing to obtain counseling or rehabilitation through an SAP or a state licensed facility.
- 4. In addition to the mandatory administrative actions outlined above, any employee with a first breath alcohol test which shows a breath alcohol content of .02 or greater but less than .04 breath alcohol concentration shall be subject to discipline, but will not be terminated based solely on the test result alone.
  - a. The employee may not return to duty for the remainder of the scheduled work day and shall have a negative test result before returning to work.
  - b. The employee shall be subject to progressive discipline.
  - c. The employee may be required to go to SAP for assessment. The employee will be required to successfully complete any recommendations by SAP.
  - d. The employee shall be subject to a return-to-duty agreement.
- 5. Any subsequent positive test for alcohol use will cause the employee to be subject to disciplinary action up to and including termination. If the determine is made to retain the employee, the following conditions shall apply.
  - a. The employee may not return to duty for the remainder of the scheduled work day and shall have a negative test result before returning to work.
  - b. The employee will be subject to progressive discipline.

- c. As a condition of continued employment, the employee shall be required to go to SAP for assessment. The employee will be required to successfully complete any recommendations by SAP.
  - d. The employee shall be subject to a return-to-duty agreement.
- 6. In addition to the mandatory administrative actions outlined above, any employee with a first breath alcohol test which shows a breath alcohol content greater than .04 alcohol use will cause the employee to be subject to disciplinary action up to and including termination. If the determine is made to retain the employee, the following conditions shall apply.
  - a. The employee may not return to duty for the remainder of the scheduled work day and shall have a negative test result before returning to work.
  - b. The employee will be subject to progressive discipline.
  - c. As a condition of continued employment, the employee shall be required to go to SAP for assessment. The employee will be required to successfully complete any recommendations by SAP.
  - d. The employee shall be subject to a return-to-duty agreement.
- 7. Following a verified positive test and after returning to duty, the employee will be subject to unannounced testing for a period of time determined by the SAP.
- 8. Any employee who is immediately removed from duty due to breath alcohol concentration shall be placed on Administrative Leave with Pay status, and the incident will be referred to the Office of Professional Standards.

### **XIII. RECORDS AND REPORTS**

- A. The employee's privacy shall be maintained. All testing information specifically relating to individuals pursuant to this program and any intervention steps, including referral for treatment, counseling or rehabilitation programs, is confidential and shall be treated as such by everyone authorized to review or compile program records.
- B. In order to efficiently implement this requirement and to make information readily retrievable, Human Resources shall maintain all records relating to testing, suspicion of tampering, and any other authorized documentation necessary to implement this policy. Such

information shall remain confidential, with only authorized individuals who have a need-to-know having access to them.

- C. The results of a test of an employee for alcohol, *controlled substances*, or *illegally used drugs* along with all information, interviews, reports, statements, and memoranda may not be disclosed to an outside entity without the prior written consent of such employee, unless the disclosure is to:
  - 1. the tested employee;
  - 2. to the Medical Review Officer;
  - 3. to the SAP in which the employee is receiving counseling or treatment or is otherwise participating;
  - 4. to Human Resources and/or to any supervisory or management official within the Department and/or City having authority to take, process, or implement adverse personnel action against such employee;
  - 5. pursuant to the order of a court of competent jurisdiction or where required by the Department to defend against any challenges of adverse personnel action by the City;
  - 6. report information that is required by law to be reported to a state or federal licensing authority in response to inquiries relating to a workplace accident involving death, physical injury, or property damage in excess of \$5000 when there is reason to believe that the tested employee may have caused or contributed to the accident
- D. Test results with all identifying information removed may be used for data collection and other activities necessary to comply with testing requirements.
- E. Information obtained through testing that is unrelated to the alcohol use, *controlled substance* use, or illegal use of a drug must be held in strict confidentiality by the Medical Review Officer and may not be released to the employer without the written consent of the employee tested.

#### **XIV. ROLES AND RESPONSIBILITIES:**

- A. Employees are expected to report to work drug and alcohol free in order to enable safe and efficient job performance. Employees are expected to engage in activities while on-the-job, while on Department premises, or while in the scope and course of employment, which are

appropriate for the working environment and do not compromise the Department's integrity or interest in maintaining a safe, secure alcohol and drug-free workplace. Employees are prohibited from use of controlled substances and the illegal use of drugs while off duty. Employees are prohibited from the use of alcohol off duty that adversely affects the employee's work performance, the safety of the employee or others at work, or the City's regard or reputation in the community. This includes reporting to duty while under the influence of alcohol.

B. Supervisor/Command Staff are expected to:

1. attend training sessions on alcohol misuse, *controlled substance* misuse, and the *illegal use of drugs* in the workplace when offered;
2. when reasonable suspicion is confirmed, initiate an alcohol/drug test as described in this policy;
3. refer employees to the City's designated Substance Abuse Professional (SAP) under appropriate conditions for assistance in obtaining counseling and rehabilitation upon a finding of alcohol misuse, use of controlled substances, or illegal use of drugs;
4. initiate appropriate disciplinary action upon a finding of alcohol use, *controlled substance* use, and/or the illegal use of legal drugs;
5. in conjunction with Human Resources, assist higher-level supervisors and the SAP Administrator in evaluating employee performance and/or personnel problems that may be related to alcohol misuse, use of *controlled substances* or the *illegal use of drugs*; and
6. ensure confidentiality of all information regarding employee testing, disciplinary action and rehabilitation.

C. Office of Professional Standards shall be responsible for:

1. ensuring a complete investigation of circumstances; and
2. necessary follow up testing.

D. Human Resources shall:

1. direct and implement this program to ensure it is administered consistently;

2. consult with the Chief of Police or designee in determining appropriate action for situations related to this program; and
3. ensure that all records and information of personnel actions taken against employees with verified positive test results remain confidential and only shared with individuals having a legal right to access.

## **XV. ADDITIONAL PROVISIONS**

- A. Department Educational Program. Annually, employees will be provided with information regarding *controlled substances*, alcohol, and *illegal use of drugs*. All supervisors shall receive training in compliance with 49 CFR 382.603.
- B. Notification of Arrest, Charge, and/or Convictions. Any employee who is arrested for, charged with, and/or convicted of a criminal drug or alcohol related violation must notify the Office of Professional Standards within seven (7) calendar days of the arrest, charge, and/or conviction. A conviction, a plea of guilty, a plea of no contest, receiving a suspended imposition of a sentence, and a withheld judgment will all be considered the same as a conviction. This obligation to report applies irrespective of whether adjudication is withheld.
- C. Limitation of Adverse Action. No adverse action, including follow-up testing, may be taken by the employer if the employee presents a reasonable explanation confirmed by the MRO indicating that the original test results were not caused by the use of *controlled substances*, by alcohol consumption, or by the *illegal use of drugs*. Reasonableness shall be determined by the Office of Professional Standards. If the employee presents a reasonable explanation confirmed by the MRO, the test results must be removed from the employee's record and destroyed.
- D. Employee's Right of Rebuttal. The employer shall provide an employee or prospective employee who has been tested under any qualified testing program with a copy of the test report. The employee or prospective employee will be given the opportunity to provide notification to the Medical Review Officer of any medical information that is relevant to interpreting test results, including information concerning currently or recently used prescription or nonprescription drugs. The employer is also required to obtain an additional test of the split sample by an independent laboratory selected by the person tested at the request of the employee. The employee must be provided the opportunity to rebut or explain the results of any test.

- E. New Employee Notification. Applicants for police officer positions will be informed about the drug-free workplace policy on the vacancy announcement. During the screening process applicants will be notified of the testing requirements and that appointment to the position is contingent upon a negative pre-employment drug test. Upon hiring, new employees will receive a copy of the policy in the Employee Policy Handbook.
- F. Employee Policy Confirmation Receipt. Employees will be required to sign a statement that confirms that he/she has received a copy of the alcohol and drug-free workplace policy. The statement will be maintained in the employee's personnel file.
- G. Cost. Testing must be at the employer's expense. If an employee contests the verification test results, another test will be conducted. If that test is positive, the employee will be responsible for payment. If it is negative, the employer will be responsible for payment. Employees will be compensated at the employee's regular rate, including benefits, for time attributable to the testing program.
- H. Unintentional Ingestion. Any employee who unintentionally ingests a *controlled substance* shall immediately report the incident to his/her supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.
- I. Voluntary Testing. Employees may volunteer for testing as part of a Department investigation. The employee must cooperate with all parts of the test and complete all requirements of collection site personnel.
- J. Union Representation. Employees may have a union representative present during the testing process. The testing shall be delayed no more than 20 minutes to await the arrival of a union representative. If a union representative is not available, testing shall proceed.

## **XVI. Reservations**

Employees who are enrolled in and are participating in, or have completed a supervised rehabilitation program and are no longer engaging in the misuse of alcohol, use of *controlled substances*, or *illegal use of drugs*, shall be protected from discrimination and harassment through the Americans with Disabilities Act of 1990. This prohibition does not preclude follow-up testing.

This program is intended to carry out the Department's Alcohol and Drug-Free Workplace Policy. All situations will be handled in accordance with this policy and in consultation with representatives of Human Resources. Situations not specified by the policy will be referred to and reviewed by

the Office of Professional Standards and Human Resources in consultation with the Chief of Police.

## **XVII. Definitions**

**Adulterant** – Adulterating substance or agent aimed to corrupt, debase, or make impure.

**Adulterated specimen** – A urine specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

**Alcohol** – means an intoxicating agent in alcoholic beverages, food, or medication; ethyl alcohol, also called ethanol; or the hydrated oxide of ethyl.

**Alcohol concentration** – means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

**Breath Alcohol Technician (BAT)** – A person who instructs and assists individuals in the alcohol testing process and operates an EBT.

**Cancelled test** – A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which this part otherwise requires to be cancelled. A cancelled test is neither a positive nor a negative test. Having a cancelled test does not relieve the employee of the responsibility to provide a test that produces a measured outcome.

**Collection site** – A place designated by the employer where employees present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs or providing a breath sample to be analyzed for the presence of alcohol.

**Confirmation test** - For alcohol, a second test following a screening test with a result of 0.02 or greater that provides a measure of alcohol concentration. For *controlled substances* and *illegally used drugs* testing, an analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screening test and which uses a different technique and chemical principle from that of the initial screening test in order to ensure reliability and accuracy.

**Controlled Substance** – means any drug, substance, or precursor included in Schedules I through V as defined by Section 812 of Title 21 of the United States Code (21 USC 812) or any drug, substance, or precursor included within the definition of "Dangerous Drug" in Title 50 Chapter 32 Part 2, Montana Code Annotated (for example, but not limited to: cocaine, marijuana, methamphetamine, and anabolic steroids.) For the purpose of this policy, the

term 'controlled substance' does not include the use of prescribed drugs, which have been legally obtained and are being used in the manner and for the purpose for which they were prescribed. The term does not include distilled spirits, wine, malt beverages, or tobacco.

**Critical Incident** – means any incident in which someone is killed or is seriously injured, such as a police shooting incident.

**Dilute specimen** – means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

**Direct observation** – means an employee being directly observed while providing a urine sample. The procedure will include direct inspection of the employee with shirt lifted and trousers lowered and will include direct observation of urine leaving the body and entering the collection container.

**Employee** – means any sworn officer up to and including the Chief of Police.

**Employee Assistance Program (EAP)** – means a contract-based counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

**Employer** – means the Department and the City of Billings.

**Evidential Breath Testing Device (EBT)** – means an instrument reliable in measuring alcohol concentration in breath, which meets the National Highway Traffic Safety Administration specifications and is listed in the conforming products list of evidential breath testing devices.

**Illegally Used Drugs / Illegal Use of Drugs** – means:

- d. any prescribed drug which is legally obtainable but has not been legally obtained or is not being used for prescribed purposes or in the prescribed manner;
- e. all designer drugs not listed in the Controlled Substances Act (for example, but not limited to: MDA, fentanyl); or
- f. any other over-the-counter or non-drug substances (for example, but not limited to: airplane glue) being used for other than their intended purpose.

**Initial test or Screening test** – means a test for *controlled substances* or *illegally used drugs* to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing. In alcohol testing, an analytical procedure to determine whether an employee has a prohibited concentration of alcohol in his or her system.

**Insufficient urine specimen** – means less than the 45mL of urine required to constitute a sufficient testing volume. An insufficient specimen will prompt “shy bladder” procedures.

**Medical Review Officer (MRO)** – means an independent licensed physician responsible for receiving laboratory results generated from the Department's Alcohol and Drug-Free Workplace Program who has knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other biomedical information.

**Precursors** – means a biochemical substance which can be processed or synthesized into one of the categories of drugs to be tested under this policy.

**Referral Physician** – means a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised when an employee provides an insufficient urine specimen. The MRO may act in this capacity if he/she has appropriate expertise.

**Return-to-Duty Agreement** – means an agreement between the Department and an employee that allows an employee continued employment under stringent guidelines prohibiting use of drugs and alcohol. An employee's failure to meet the terms of the agreement, which may include successfully passing tests for alcohol and/or *controlled substances* and/or *illegally used drugs*, shall result in termination.

**Sample** – means a breath or urine specimen that is used to determine the presence of a *controlled substance*, *illegally used drug*, or a breath alcohol content.

**Shy bladder procedure** – means the procedure that is followed when an employee does not provide a sufficient urine volume (45mL) for testing.

**Split specimen** – means, in drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

**Substance Abuse Professional (SAP)** – the City's substance abuse professional evaluates employees who have violated drug and alcohol policies and makes recommendations concerning education, treatment, follow-up testing, and after care.

**Supervisor** – means an employee of the Police Department holding the rank of sergeant or above up to and including the Chief of Police.

**Unannounced test** – means a test for alcohol, control substances, and/or *illegally used drugs* previously scheduled and announced only to the employee just prior to the scheduled time, allowing only appropriate time for the employee to immediately proceed directly to the scheduled testing site.

**Verified Positive Test Result for Alcohol** – means the presence of alcohol in the breath at a level of .02 or greater as confirmed by two tests with evidential breath testing devices and administered by a trained and certified Breath Alcohol Technician.

**Verified Positive Test Result for Drugs** – means a test result that was positive for a *controlled substance* or illegally used drug on an initial FDA-approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, (or other confirmation tests approved by the U.S. Department of Health and Human Services), and reviewed and verified by the Medical Review Officer in accordance with this policy and the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

#### REFERENCES:

Montana Workforce Drug and Alcohol Testing Act  
39-2-205 through 39-2-211 Montana Code Annotated (MCA)

Procedures for Transportation Workplace Drug and Alcohol Testing Programs  
Title 49 Part 40 (and Part 382) Code of Federal Regulations (CFR)

Federal Controlled Substances Act  
Title 21 United States Code (USC)

Offenses Involving Dangerous Drugs and Procedural Provisions  
Title 45 Chapter 9 Montana Code Annotated (MCA)

Model Drug Paraphernalia Act  
Title 45 Chapter 10 Montana Code Annotated (MCA)

Controlled Substances Codes  
Title 50 Chapter 32 Montana Code Annotated (MCA)