



PERSONNEL MANUAL

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SECTION 1

ORGANIZATIONAL STRUCTURE

1 ORGANIZATIONAL STRUCTURE

The Medford Water Commission (MW or MW) is publicly owned and controlled by the citizens of Medford. It is operated for the public by MW as established by the charter of the City of Medford. The Commission consists of a Board of five non-paid Commissioners who are appointed by the Mayor and whose appointments are approved by the City Council. The Commissioners serve five-year terms (one new Commissioner being appointed or reappointed each year).

The **Commission Board** governs Medford Water, sets general goals, and establishes policy and procedures. The Board appoints the General Manager, who is responsible for the operation of the entire utility. The General Manager hires all employees of the Commission.

The Water Management Team (WMT) consists of the Human Resources Manager, Finance Manager, Information Technology Manager, Engineering Manager, Water Operations Manager, and Water Resources & Customer Service Manager. The organizational structure is shown in the following diagram.

SECTION 2

GENERAL EMPLOYMENT PRACTICES AND POLICIES

2 GENERAL EMPLOYMENT PRACTICES & POLICIES

The following personnel rules and policies apply to all regular, trial service and seasonal employees. Some employees are subject to different terms and conditions as stated in collective bargaining agreement(s) with lawfully designated bargaining units, or employment agreements for management and professional employees. Except as specifically limited or modified in such written agreements, the policies and procedures in this Personnel Manual apply.

Except as required by law, benefits are applied to full-time employees only. Except as required by law, seasonal employees (including leased workers, temporary and part-time employees) do not qualify for MW benefits.

In Oregon, “at will” is the default employment status. “At will” means either employer or employee may terminate employment at any time, with or without notice, with or without cause, for any reason not prohibited by law. Regular full-time employees who are not members of the Bargaining Unit are at will during their trial service period, but certain rights accrue after the trial service period ends, as outlined later in this Manual.

For all employees, MW reserves the right to revise the terms and conditions of employment prospectively, except as specifically prohibited by law or by an applicable collective bargaining agreement. All employees will be notified of any such changes, in writing, and in advance of the changes.

2.1 Equal Employment Opportunity

MW is committed to a policy of nondiscrimination for all employees. MW provides equal employment opportunity to all qualified employees and applicants without regard to race, color, religion, gender, sexual orientation or gender identity, national origin, age, disability, marital status or any other status protected by applicable federal, state, or local law.

MW will provide reasonable accommodation to any applicant with a disability who needs such accommodation to participate in the recruitment process and will engage in the interactive process to discuss potential reasonable accommodation options with any employee with a disability who may need such accommodation to perform the essential functions of his or her job. MW will also provide reasonable accommodation to any employee who needs such accommodation for sincerely held religious observances or faith practices.

This EEO policy applies to all aspects of the employment relationship, including recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

This Manual includes procedures for reporting concerns about discrimination or harassment, and to seek accommodation. However, nothing in this Manual is intended to or does prevent an employee from filing a claim with an administrative agency or in court, unless otherwise precluded by law. No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against because of exercising his/her rights to report concerns about discrimination or harassment, to seek accommodation, or file a claim with an administrative agency in court.

2.2 Americans With Disabilities Act (ADA) and Oregon Disabilities Law

Medford Water Commission has established appropriate procedures to ensure prompt and equitable resolution of matters under the ADA, which includes grievance procedures and an assigned MW employee as the ADA Coordinator, as part of his or her duties. The ADA

Coordinator shall review complaints received from the public regarding the accessibility of programs, services, or activities sponsored by the Medford Water Commission. These procedures shall be construed to assure that the Medford Water Commission complies with the ADA and implementing regulations.

The ADA is a comprehensive federal civil rights law that specifically protects individuals with physical and mental disabilities. State law also protects the rights of individuals with disabilities. Individuals are protected under the ADA and state disability law if any of the following conditions exist:

- They currently have a physical or mental condition that restricts their ability to perform a major life activity as compared to most people in the general population.
- The impairment may be episodic, chronic, and/or in remission, but may still qualify as a disability if it restricts one or more major life activities when active.
- “Major life activity” may include: Caring for oneself; Performing manual tasks; Seeing; Hearing; Eating; Sleeping; Walking; Standing; Lifting; Bending; Speaking; Breathing; Learning; Reading; Concentrating; Thinking; Communicating; Working; Socializing; Sitting; Reaching; Interacting with others; Transportation; Ability to acquire, rent or maintain property; Operation of major bodily functions including normal cell growth, functions of the immune system, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions
- They have a history of such impairment; and/or,
- They are perceived to have or regarded as having such impairment.

The ADA and state law also prohibit discrimination on the basis of an individual's association with someone with a disability.

2.2.1 Disability Accommodation of Employees

The Commission offers equal employment opportunities for qualified individuals who may have one or more disabilities, but who are still able to perform the essential functions of the job, with or without accommodation. Essential functions are defined as the fundamental non-marginal duties of the position. A job function may be considered essential if, for example, the position exists for the performance of the function, there are only a limited number of employees available to perform it, or the function requires some special skill or expertise, and the employee was hired or is being hired because of his or her skill or expertise in that area. These are only examples of when a function will be considered “essential.”

The Commission will provide reasonable accommodation to employees and applicants, unless no accommodation is possible that will allow the applicant or employee to perform the essential functions of the job, or all potential accommodations would cause undue hardship for the operation of the organization as a whole.

Reasonable accommodation may take different forms, depending on the circumstances, and could include making existing facilities accessible, job restructuring, a modified work schedule, modifying equipment or acquiring assistive devices (such as a larger screen for an employee with vision-impairment, or modified telephone for an employee with hearing-impairment), or adjustment of other policies or work standards. Reasonable accommodation may also include

providing unpaid leave after all other leave is exhausted and, as a last resort, transfer to an open position for which the employee is qualified.

Undue hardship is evaluated considering the nature and cost of accommodation, financial resources available, number of employees employed by the Commission and the overall effect of the accommodation on resources and operations.

If a medical condition is affecting your ability to perform job functions, you should discuss the need for possible accommodation your supervisor and Human Resources. The Commission may ask you to get your doctor involved to identify the effect of your medical condition on your ability to perform the essential functions of the job, and potential accommodations.

All medical documentation is maintained separately from your personnel file and will not be disclosed except to the extent necessary to management to understand restrictions and accommodations needed, or as otherwise required or permitted by law.

2.2.2 Fit For Duty, Return To Work and Medical Examinations

Medford Water Commission may require current employees to undergo a medical examination when it is job-related and consistent with business necessity, or otherwise as allowed by federal and state law. For example, a medical examination may be required to determine potential health problems when an employee is exposed to toxic or unhealthful conditions, when an employee is having difficulty performing his or her job effectively, when an employee requests an accommodation and an examination is necessary to determine whether the employee has a disability covered by the ADA and to identify an effective accommodation, or to determine whether an employee is able to perform essential job functions.

Required medical examinations will be paid for by MW and will be performed by a physician or licensed medical facility designated or approved by the Commission. Medical records will be treated as confidential and kept in a separate medical file. Records may be made available to the employee, persons designated and authorized by the employee, relevant insurance companies, and the employee's doctor to the extent permitted or required by law.

Employees who need to use prescription or non-prescription legal drugs while at work must inform human resources if the use might impair their ability to perform the job safely. Depending on the circumstances, employees may be reassigned, prohibited from performing certain tasks or prohibited from working if they are determined to be unable to perform their jobs safely.

2.2.3 Pregnancy Accommodation

Medford Water Commission will make every effort to accommodate the known limitations related to pregnancy, childbirth or related conditions, or lactation, if such accommodation can be provided without undue hardship for MW. Accommodations may include, but are not limited to:

- Acquisition or modification of equipment/devices
- More frequent or longer breaks
- Assistance with manual labor
- Temporary modification of work schedules or work assignments

MW will not discriminate against any applicant or employee because the applicant or employee may need accommodation under this policy and will not retaliate against an applicant or employee who requests accommodation under this policy.

2.2.4 Breaks to Express Milk/Lactation Breaks

Nursing mothers with children who are eighteen (18) months or younger may take reasonable breaks, as necessary, to express milk. MW will make every effort to provide a clean, private area that is not a restroom for this purpose.

An employee who is returning from parental leave and plans to express milk during working hours or who otherwise knows she wants to utilize breaks under this policy, should notify HR as soon as possible. An employee taking breaks under this policy is encouraged to, but not required to, take lactation breaks at the same time as other paid and unpaid breaks. For any lactation break that does not coincide with a regularly scheduled break, the time will be unpaid.

If a non-exempt employee is unable or unwilling to take breaks during her regularly scheduled break times, and loss of pay would otherwise result, MW will evaluate the possibility of flexing the employee's schedule. However, MW is not required to and cannot guarantee that all employees using this policy will be allowed to flex their schedule to avoid reduction in pay.

2.3 Religious Accommodation

MW will attempt to accommodate sincerely held religious beliefs and religious practices, when such beliefs or practices conflict with MW policies and procedures, or when an employee's work schedule interferes with his or her ability to participate in religious practices. An employee seeking such accommodation should discuss the issue first with his or her direct supervisor and human resources. MW will provide accommodation unless such accommodation presents an undue hardship for the ability of the employee's department or work group to meet customer needs and fulfill the obligations of MW as to that department or work group.

2.4 Residence

Certain key employees and those on 24-hour call (Utility Persons, Standby, Field Technicians, Water Treatment Operators, On-Call, AIC), are required to live within 22 driving miles of their reporting location, as a condition of employment. For collective bargaining unit employees, refer to the approved union agreement.

2.5 Promotions

It is the policy of the Commission to consider present employees when any vacancies occur. This means that employees have an opportunity to advance to positions of higher pay and responsibility. This should not be interpreted to mean that qualified people will not be brought into the operation from the outside if it appears desirable and the General Manager or selection committee does not feel that an equally qualified person is already on the Commission staff.

All promotions are made at the recommendation of the manager, supervisor, human resources and at the discretion of the General Manager. Some of the considerations for a promotion include but are not limited to: past evaluations of an employee's performance with his/her current position, initiative, reliability, dependability, new position qualifications, technical knowledge, any current disciplinary actions, Veterans' Preference if applicable, and ability to assume the added responsibility.

2.6 Trial Service Period

2.6.1 New Employees

Every new regular full-time employee shall serve a trial service period of twelve (12) months; at the end of this period, and must be considered either a regular status employee or terminated. The Commission reserves the option to extend the trial service period. The purpose of this trial service period is twofold: first, it allows the supervisor to evaluate the employee's performance on the job; and secondly, the new employee is given an opportunity to decide if the work is to employee's liking.

Upon completion of the trial service period, an employee is immediately eligible for all further privileges and benefits provided by the Commission, if not already implemented.

During the Trial Period, the employee is at will, and may resign or be discharged at any time for any reason or for no reason, at the sole discretion of the General Manager, unless otherwise specified.

2.6.2 On Promotion

Employees promoted to a higher classification shall serve a twelve (12) month trial service period. The General Manager has the right to return an employee on promotional trial service status to his/her previous position if it is still available. When an employee is returned to his or her original position, it is not necessarily disciplinary. In any event, return to the original position during the trial service period, after promotion, is not subject to the appeal rights outlined later in this manual related to discipline.

Employees promoted from a collective bargaining unit to a supervisory, management, professional, or any other classification not represented by the bargaining unit shall serve a twelve (12) month trial service period and shall be treated as a new employee without any right to reinstatement to their former position within the bargaining unit, if the promotion is rescinded or employment is terminated, unless otherwise provided by the terms of the Collective Bargaining Agreement (CBA).

2.7 Standby, On-Call/AIC Duty

Since the provision of water service is a 24-hour job every day of the year, regardless of the circumstances, all supervisors, and those employees specifically responsible for certain portions of the water system, must make arrangements to see that their area of responsibility is covered at all times, except when on pre-approved vacation or a leave of absence protected by law.

Certain employees may be specifically assigned Standby, On-Call or AIC duty. When on these duties, employees are generally free to use the time as they wish, so long as they remain accessible by cell phone and available to return to work within a reasonable period of time (within 22-mile driving miles of their reporting location). As a result, time on these duties is not paid time. However, Bargaining Unit employees may receive special standby pay under the terms of the applicable collective bargaining agreement.

For non-exempt employees, time spent responding to a call or email while performing these duties is compensable if it lasts more than 15 minutes (individually or cumulatively during a single shift). When called back to work, employees are expected to report back to work as soon as possible.

2.7.1 On-Call/AIC Compensation

All non-union, non-exempt employees assigned to On-Call or Acting in Charge (AIC) responsibility outside of regular working hours, shall be compensated by earning additional accrued vacation days per year (based on level of On-Call/AIC coverage, with a maximum of (5) vacation days per year), in addition to pay for actual time worked when called back to work.

All non-union, exempt employees who are assigned to On-Call or Acting in Charge (AIC) responsibility outside of regular working hours, shall be compensated by earning additional accrued vacation days per year (based on level of On-Call/AIC coverage, with a maximum of (5) vacation days per year). No additional pay for time worked, when employee has been called back to work, will be paid.

All On-Call/AIC employees shall maintain a cell phone for accessibility.

2.8 Outside Employment

Employees who wish to engage in outside employment must notify the General Manager in advance and must complete a Conflict-of-Interest form to ensure there is no conflict of interest. The General Manager must provide prior written approval of the outside employment. Approval shall be given unless:

- 1) The employment was obtained using the influence of or because of the employee's current position with the Commission, in violation of Oregon ethics laws;
- 2) The position represents a significant risk of conflict of interest, as that term is defined by Oregon ethics laws (for example, if the position would put the employee in a position to influence rates, water quality inspections, third party contracts, etc.); or
- 3) The employment will or appears reasonably likely to interfere with the employee's ability to devote all his or her regularly scheduled working time and energy to the Commission job, and to perform his or her position with MW effectively, efficiently, and safely.

2.9 Personal Conduct Policies

Your conduct when acting in your role as an MW employee must comply with all applicable federal, state, and local laws and ordinances, must demonstrate excellent customer service, be respectful of your position and must support the work of the Commission.

General Expectations Related to Employee Conduct

The Commission expects its employees to maintain a high standard of professional conduct during the course of their duties. It is the responsibility of every employee to maintain a cooperative, productive and courteous work environment. Employees are expected to use good judgment, patience and courtesy in their interactions with coworkers, superiors, subordinates, and the public we serve.

Language and conduct shall be professional, respectful, and appropriate. Language shall not be harassing, discriminatory, offensive, or threatening. This policy applies to verbal conduct including words spoken in person or on the phone, and written words (including email, social media, text, etc.), as well as non-verbal conduct (such as facial expressions, gestures, etc.).

Nothing in this policy is intended to interfere with any employee's Constitutional rights or the right to engage in concerted activity to improve working conditions. However, MW has the right

and obligation to ensure a respectful workplace for all employees, and effective business operations. The Employee Conduct policy is intended to promote those goals, in order to fulfill the Commission's duty to carefully steward the public funds and safeguard the public trust.

It is not possible or desirable to list all actions that violate MW's expectations regarding employee conduct. It is expected that employees will treat each other and our customers with courtesy, respect and will be good stewards of the public trust. The following are some examples of behavior that may lead to discipline, up to and including termination of employment:

- Theft from customers, co-workers, and/or theft of MW property;
- Fighting, violence, or threats of violence while on duty, on MW property, or on customer property;
- Insubordination when instructed to perform a task that is not unlawful or clearly dangerous;
- Falsification of records;
- Violation of MW safety rules and policies;
- Rude or unprofessional interactions with customers, vendors, or other third parties with whom you come into contact in your role as an MW employee, especially (but not solely) if it is not an isolated occurrence;
- Rude or unprofessional interactions with co-workers and/or supervisors;
- Violation of Oregon ethics laws and/or laws regulating political activity on the job or when speaking as an MW employee;
- Unlawful discrimination or harassment of other MW employees, customers, or other members of the public with whom you come into contact in your role as an MW employee;
- Excessive tardiness and/or absenteeism that is not for reasons protected by law, and/or for which the employee has not followed MW attendance protocols;
- Improper use of MW equipment, including carelessness, reckless behavior, and/or intentional damage;
- Violation of MW's policies regarding information and electronic equipment, including violating copyright laws, downloading pornography, sending harassing emails, gambling online, or disclosing confidential information without authorization (except as specifically permitted by law);
- Repeated failure to perform job tasks that does not improve with progressive discipline;
- Violation of MW's Drug Free Workplace policies.

2.9.1 Public Relations

The practice of good public relations is expected of each MW employee. Each phone call, each letter, each personal interaction with employees leaves a lasting impression with the public. When having contact with the public, by word of mouth or telephone, all employees should be courteous and represent MW in a professional manner.

Nothing in this policy is intended to or does interfere with employees' First Amendment rights, however MW does have the right to impose policies to ensure smooth and effective operations, and to ensure that the public is served in a safe, professional, and respectful manner.

2.9.2 Gifts

Gifts over \$50 in value shall not be either solicited or accepted. Work must be done, or material purchased, strictly on its own merits and never because of an obligation incurred by the acceptance of a gift.

2.9.3 Alcohol and Drugs

No employee will be allowed on the job or in the workplace under the influence of alcohol or illegal drugs. See our Drug Free Workplace Policy in this Manual for more information about the Commission's policies and related drug testing policies and procedures.

2.9.4 Personal Appearance

The way an employee dresses will be appropriate with the type of work assigned, but neatness and cleanliness are always essential. In all situations, moderation and sensibleness should be exercised. Business Casual is appropriate for office-related settings.

Shorts are not permitted when on duty, except as necessitated by your work duties/responsibilities and approved by your direct supervisor. The supervisor will inform human resources of any alterations. Jeans must be work appropriate. All safety gear, including hardhats, gloves, and steel-toed boots or other work appropriate footwear, must be worn whenever required by Commission policy.

If any part of this policy, or any instruction by your supervisor regarding your personal appearance, conflicts with religious beliefs or practices, or causes problems with a medical condition, please speak with your supervisor and Human Resources. The Commission will accommodate your religious beliefs or disability needs if possible, without undue hardship on Commission operations.

2.9.5 Gambling on Premises

Gambling on or within MW property or premises is not allowed. However, such things as small employee-generated sports, baby birth times or lottery pools, etc. are acceptable on the premises, if they do not detract from normal business functions.

2.9.6 Firearms and other Weapons

During working hours, employees are not allowed to carry any firearm or other weapon on their person, in a Commission vehicle, or at an MW facility, without prior written authorization from the General Manager. An employee is strictly prohibited at all times from having in his or her possession (including in vehicle) any firearm or other weapon while at a client site or other third-party location, while the employee is present in role as an MW employee.

2.9.7 Political Activity

MW employees are prohibited by state law from using their official authority or influence to further the cause of any measure or candidate for election to public office.

The restrictions imposed by the law of the State of Oregon are: "No public employee shall solicit any money, influence or service or other thing of value or otherwise aid or promote any political

committee or the nomination or election of any person to public office while on the job during working hours. However, nothing in this section is intended to restrict the right of a public employee to express his/her personal political views [on his or her own time].”

Expressing your views about legislation or a candidate while at work, or when using your Commission email, could appear to be using your role as a public official to influence elections or legislative process, and therefore is prohibited. However, you are absolutely free, on your own time and outside the workplace, to have and express personal opinions about political issues, to support any candidates you wish to support.

2.9.8 Solicitor(s) and Visitor(s)

MW prohibits the solicitation, distribution and posting of materials on or at MW property by an employee or non-employee, except as may be permitted by this policy and as provided by law. Charitable, community activities supported by MW, and MW-sponsored programs are allowed, with acknowledgement from human resources.

Employees may only admit non-employees to work areas with management approval or as part of MW-sponsored programs. These visits should not disrupt workflow.

2.10 Discrimination and Harassment Prohibited

Unlawful discrimination is defined as words and/or acts that are based on one or more of the characteristics or classes protected by federal, state, or local law: race; color; age; religion; gender (including pregnancy); national origin; disability; marital status; military service; veteran status; sexual orientation or gender identity; or any other legally protected characteristic or status. These are referred to as “*protected classes*.”

Not every employment action that an employee disagrees with or dislikes constitutes discrimination. However, an adverse employment action that is undertaken *because of* a person’s protected class is unlawful discrimination, prohibited by law and by Commission policy.

Unlawful harassment is a form of discrimination, defined as conduct that is so severe that it substantially interferes with an employee’s work performance or creates an intimidating, hostile, or offensive work environment.

Not every annoying or offensive act constitutes unlawful harassment. However, conduct that meets the description above is unlawful if it is based on or directed toward a person’s protected class.

It is the policy of MW to maintain a work environment that is free from discrimination or harassment based on protected classes under federal, state, or local civil rights laws.

Discrimination or harassment of MW employee(s) by anyone – supervisors, co-workers, members of the public, or vendors – is not tolerated. In addition, as stated elsewhere in this Manual, MW also prohibits discrimination or harassment by MW employees against customers, vendors, contractors, or others with whom they come into contact while working.

This policy covers conduct in the workplace, at social functions sponsored by MW (such as holiday dinners, picnics, sporting events, etc.), and business functions (such as conferences, after hours dinner meetings, etc.), and any time or place that an employee is performing work for MW or is present in the role of an MW employee.

2.10.1 Sexual Harassment

Sexual harassment can differ from other types of harassment. Sexual harassment may consist of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature if (1) submission to the conduct is in any way made a term or condition of employment; (2) submission to (or rejection of) the conduct is used as the basis for any employment-related decisions; or (3) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. Sexual assault is unwanted contact of a sexual nature that is inflicted upon a person or compelled through the use of physical force, manipulation, threat, or intimidation. Sexual assault is a form of sexual harassment. MW will continue to provide periodic training for employees, supervisors and managers to the level that is required by law.

2.10.2 Harassment-Free Workplace

The Commission is determined to maintain a working environment free from all forms of harassment based on any characteristic or status protected by law. This means the Commission will not tolerate ethnic jokes; religious slurs; use of offensive slang or derogatory terms or slurs denoting race, age, national origin, disability, etc.; mimicking one's speech, accent or disability; or other conduct that might create or contribute to a hostile intimidating or offensive working environment. Additional examples of unlawful harassment include, but not limited to:

1. Complaining about a co-worker's use of workers' compensation or medical leave, and implying the employee is faking it, or "milking it";
2. Physical contact that may be interpreted as sexual, such as rubbing a co-worker's shoulders, or hugging without the co-worker's consent or request;
3. Complaining about a transgender person's use of the restroom that conforms to their self-identified gender;
4. Repeated flirtation or asking a co-worker out on a date, when the co-worker has not invited the flirtation, or has already turned down an invitation for a date;
5. Suggesting that a co-worker is too old to learn new technology, lift heavy items, etc. (even if the person making the comment includes himself or herself as being "old");
6. Commenting that certain kinds of work are "too hard" or "too complicated" for women;
7. Making fun of a gay person for being too effeminate or too masculine;
8. Complaining that a co-worker's religious clothing (such as a hijab or yarmulke) makes you uncomfortable, looks "unprofessional," or should be "banned";
9. Threatening to fire someone, or suggesting she "won't get far" in the Commission, because she refuses to go out on a date, or broke off a relationship;
10. Mobbing, bullying, or efforts to cast co-workers in a negative light.

These are just examples, and not a complete list of every type of behavior that could constitute unlawful harassment. Some conduct may only constitute harassment if it occurs repeatedly; other acts, such as using certain derogatory terms based on sexual orientation, or using certain racial epithets, or displaying a noose, are so serious that even a single instance may constitute unlawful harassment.

2.10.3 Supervisory Responsibility

It is the responsibility of supervisors at all levels to ensure a working environment free from all forms of harassment exists throughout their work area, and to immediately report to HR any reports of harassment and any observed problems that could lead to reports of harassment.

2.10.4 Reporting Discrimination or Harassment

If an employee experiences, observes, or becomes aware of any discrimination or harassment, or any other violation of this policy, he or she is encouraged to report the situation immediately to his/her supervisor, HR or directly to the Commission's General Manager, if uncomfortable with reporting the matter at other levels, or if the employee has already reported the problem at a lower level and does not feel appropriate action has been taken. All employees must document any incidents involving sexual harassment.

If an employee has a concern about the General Manager, he or she should submit a complaint to the Chair of the Board of Water Commissioners. If an employee has a concern about a Commissioner, he or she should submit a complaint to the General Manager.

Formal complaints should be legibility written and contain the pertinent facts dealing with the harassment. Even if you state that you do not want any action taken, depending on the circumstances MW may have a legal obligation to investigate and take appropriate action.

You may file an anonymous complaint if you wish, but please understand that it may hamper the Commission's ability to fully investigate the issue.

Nothing in this policy is intended to or does prevent an employee from filing a complaint with a state or federal agency, or in court.

2.10.5 Investigation

The General Manager is responsible for working with HR to ensure that all complaints are promptly and thoroughly investigated in as confidential a manner as is possible under the circumstances, except where maintaining confidentiality would impede the Commission's obligation to investigate and take effective action.

An employee who has filed a complaint will be provided as much information about the findings and conclusion as the Commission can reasonably provide, without invading others' privacy or compromising its ability to effectively manage the workplace.

Appropriate corrective action will be taken, up to and including termination, when violations have been verified to have occurred.

No employee will be discriminated or retaliated against in any way for bringing a question or complaint to management's attention, for participating in an investigation, or for filing a complaint with an administrative agency or in court. If appropriate, HR will conduct a follow-up investigation after a period of time, to make sure any harassment that was discovered is not continuing or has not re-occurred.

2.10.6 Other Provisions

Nondisclosure or Nondisparagement Agreements.

Under this policy, a nondisclosure agreement is any agreement by which one or more parties agree not to discuss or disclose information regarding any complaint of work-related harassment, discrimination, or sexual assault.

A Nondisparagement agreement is any agreement by which one or more parties agree not to discredit or make negative or disparaging written or oral statements about any other party or the organization.

A no-rehire provision is an agreement that prohibits an employee from seeking reemployment with the company and allows a company to not rehire that individual in the future.

The Commission will not require an employee to enter into any agreement if the purpose or effect of the agreement prevents the employee from disclosing or discussing conduct constituting discrimination, harassment, or sexual assault.

Any employee claiming to be aggrieved by discrimination, harassment, or sexual assault may, however, voluntarily request to enter into a settlement, separation, or severance agreement which contains a nondisclosure, Nondisparagement, or no-rehire provision and will have at least seven days to revoke any such agreement.

Time Limitations.

Nothing in this policy precludes any person from filing a formal grievance in accordance with a collective bargaining agreement (if applicable), the Bureau of Labor and Industries' Civil Rights Division or the Equal Employment Opportunity Commission. Note that Oregon state law requires that any legal action taken or alleged discriminatory conduct (specifically that prohibited by ORS 659A.030, 659A.082 or 659A.112) commence no later than five years after the occurrence of the violation. Other laws applicable to the Commission, such as the Oregon Tort Claims Act, may have a shorter time limitation on filing and require a claimant to provide notice of the claim to the Commission.

2.11 Reporting Unlawful or Illegal Conduct; Prohibition on Retaliation

Employees may report concerns about MW's compliance with any law, regulation or policy. MW does not prohibit an employee from reporting or disclosing information that the employee reasonably believes is evidence of any of the following:

- A violation of any federal, Oregon, or local law, rules or regulations by MW;
- Mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health resulting from action of MW;
- A substantial and specific danger to public health and safety resulting from actions of MW;
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant, except that such information must be submitted to the employee's supervisor or the MW individual authorized to receive such information, who will then promptly relay the information to the appropriate law enforcement authorities.

In addition, per Oregon law, MW will not prohibit an employee from discussing the activities of MW with a member of the Legislative Assembly, legislative committee staff acting under the

direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county or metropolitan service district.

2.11.1 Exceptions

Nothing in this policy or Oregon law:

- Prohibits MW from requiring an employee to inform his or her supervisor if there is an official request for information or testimony;
- Permits an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and policies about leaving the workplace, unless the employee is requested by a government representative to appear and/or participate in an investigation or audit;
- Authorizes an employee to represent the employee's personal opinions as the opinions of MW;
- Authorizes an employee to disclose information required to be kept confidential under state or federal law, rule or regulation; or
- Prohibits MW from disciplining an employee if the information disclosed by the employee is known by the employee to be false, if the employee discloses the information with reckless disregard for its truth or falsity, or if the information disclosed relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

This policy is not intended to protect an employee from the consequences of his or her own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance.

2.11.2 Employee Reporting

If you have concerns about conduct covered by this policy, or potentially covered by this policy, you are encouraged to talk to your supervisor. If you are not comfortable speaking with your supervisor, or you are not satisfied with your supervisor's response, you are encouraged to speak with Human Resources or the General Manager. Concerns about the General Manager can be submitted to the Chair of the Board of Water Commissioners. Concerns about a Commissioner may be reported to the General Manager. However, nothing in this policy interferes with your right to report conduct that is subject to this policy to an administrative agency with enforcement jurisdiction over MW, to a legislator, or as otherwise permitted by applicable Oregon and Federal whistleblower laws.

Supervisors and managers are required to inform human resources about reports of improper or unlawful conduct they receive from employees, to ensure MW can fulfill its duty to investigate reports of unlawful or illegal conduct and ensure any such conduct is stopped.

The identity of any employee who has reported information under this policy to MW management shall not be disclosed by MW during an internal investigation of the report, without the employee's written authorization.

2.11.3 Additional Protection for Reporting Employees

Under Oregon law, an employee who discloses a good faith and objectively reasonable belief that MW has violated the law will have an “affirmative defense” to any civil or criminal charges related to the disclosure. For this defense to apply, the disclosure must relate to the conduct of a coworker or supervisor acting within the course and scope of his or her employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) manager of MW; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

2.11.4 Prohibition Against Retaliation

Under Oregon law, it is unlawful for an employer to retaliate against an employee for engaging in protected disclosures. Prohibited “retaliation” may take the form of discrimination, dismissal, demotion, transfer, reassignment, supervisory reprimand, warning of possible dismissal or withholding of work, whether or not the action affects or will affect wages or other compensation.

In addition, MW prohibits retaliation against an employee because he or she participates in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no MW employee will be adversely affected because they refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws and regulations. MW may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy. Any employee who believes he or she has experienced retaliation for making protected disclosures or reports may file a complaint with the Oregon Bureau of Labor and Industries or may file a lawsuit in court.

2.12 Social Media

MW does not monitor, and will not take any adverse employment action related to, employees’ use of personal social media that occurs on their own time, using their own equipment and internet access, except under the following narrow circumstances: if MW becomes aware of social media communications by employees that refer to Commission services, employees, and/or customers and (1) contain profanity, obscene/pornographic matter, or threats of violence, (2) violate MW’s policies prohibiting discrimination and harassment, (3) disclose confidential customer information, or otherwise violate MW’s Confidentiality policies, except as specifically permitted by law, or (4) contain defamatory or knowingly false or fraudulent information.

In addition, MW will take action if an employee’s social media communication violates Oregon ethics laws, or any other applicable laws governing public employees.

As stated elsewhere in this Manual, MW equipment is provided for business use, and should not be used for personal social media or other personal communications, except that union communications and other concerted activity may occur during non-working hours (such as when on break). As also stated elsewhere in this Manual, MW reserves the right to and does monitor all use of its equipment and internet.

Pursuant to Oregon law, MW will not request an applicant’s or employee’s social media passwords or request access to an applicant’s or employee’s social media account, nor will MW require an employee to post anything about MW on his or her personal social media account.

MW is permitted, under Oregon law, to require an employee to share content from his or her social media account when investigating a report of the employee's social media activity, for the purpose of ensuring compliance with applicable laws, regulatory requirements or prohibitions against work-related employee misconduct.

2.13 Procurement

The General Manager, members of the Water Management Team (WMT), and certain supervisory or administrative employees are authorized to make expenditures on behalf of MW. The Board of Commissioners will establish the maximum authority for the General Manager, and the amount the General Manager may authorize subordinates to expend, and MW's policies and procedures will be reviewed and updated regularly to reflect the correct procurement authority.

2.14 Cell Phone Use

2.14.1 Cell Phone Use While Driving

If an employee receives a work-related call while driving and the employee is either (1) on duty or (2) on call or on standby, the employee may:

- Take the call while using a hands-free device that allows the driver to keep eyes on the road and both hands on the wheel, if it is safe to do so in his or her judgment; or
- Pull over to the side of the road or other safe area to stop and take the call.

No other use of the cell phone is permissible under MW policy or Oregon law. *It is always acceptable to turn off your cell phone while driving. There is no expectation that you must answer a call while driving.*

2.14.2 Personal Cell Phone Use While on Duty

In general, employees are expected to focus on work duties while on duty. Personal calls, texting, emails, social media communications, and other personal uses of your cell phone should be limited to rest and meal periods and other breaks.

If there is an urgent reason that you need to be available for a call (such as a child at home alone, or waiting to hear about a medical issue), please discuss the situation with your supervisor, and MW will work with you to determine a reasonable, temporary solution.

Employees in safety sensitive positions should not have their personal cell phones turned on or with them, except as approved by supervisor for a work-related reason.

2.15 Searches

2.15.1 Commission Property

MW reserves the right to conduct searches of MW equipment or facilities generally and may search any physical thing or area directly connected to MW's operation (i.e. desk or locker, vehicle, etc.) when a member of the Water Management Team has reasonable grounds to believe illegal drugs or evidence of any other violation of MW policies may be found. The right extends to MW computers and information stored on MW computers and electronic systems and accounts (such as email and download history), and telephones (such as voicemails, photos taken on cell phones, and call history), and any other MW electronic equipment.

Employees should have no expectation of privacy in property or equipment that belongs to the Commission, or property that is provided by the Commission for business purposes.

2.15.2 Private Property

Searches by the Commission of the private property of employees are subject to the protections of the Fourth Amendment against unreasonable searches and seizures. A Commission locker is not the private property of an employee, even though the employee may store private property, such as a coat or handbag, in the locker. Searches of an employee's private property conducted for non-investigatory, work-related purposes and searches conducted for purposes of investigation into work-related misconduct must be reasonable under all the circumstances of the situation. A search is reasonable under the circumstances if it is reasonable in its inception and scope, i.e., it is carried out in a way that is reasonably related to and not excessively intrusive in light of the purpose of the search. An employee may be asked to consent to a search of the employee's private property.

2.16 Leaving Commission Employment (Separation in Good Standing)

2.16.1 Retirement

Retirement plans for Water Commission employees fall under the Oregon Public Employees Retirement System. Refer to PERS web site at <http://www.oregon.gov/PERS>. PERS service or retirement benefits are paid without regard for any benefits you may also receive from Social Security, other retirement plans, or other insurance plans. Call the Social Security Administration toll-free at 800-772-1213 for information on your Social Security benefits.

2.16.2 Resignation

Employees may resign at any time, with or without notice, and with or without cause. However, in order to be considered eligible for re-hire in the future, an employee must give fourteen (14) calendar days written notice, unless extenuating circumstances exist. The General Manager and human resources shall have discretion to determine when extenuating circumstances exist justifying lack of notice and/or shorter notice.

2.16.3 Layoff

It shall be the policy of the Commission to reassign employees in lieu of layoff, if possible. The Commission retains the right to demote or lay off employees in "reduction in force" situations, arising from financial or reorganization decisions.

2.16.4 Separation Pay

No separation pay will be granted, except payment for unused vacation and compensatory time, upon termination of employment.

2.16.5 Retiree Temporary Work Assignment Policy

Intent

To be utilized when a critical business need exists, to maintain successful operations, and to prepare, transfer knowledge, and train other employees to fulfill responsibilities.

Eligibility Criteria

- An established business need must be present for a retiree temporary work assignment **and**
- Retiree must have left the organization in good standing **and**
- General Manager must approve all proposals for retiree temporary work assignment.
HR will process requests, validate and forward to GM for review. Retiree will be rehired, once approved.

Terms of Temporary Work Assignments

Compensation - A retiree's compensation will be within MW existing pay range and managed to market, based on the scope of work, duties and responsibilities. Position is not eligible for pay increases.

Time Limit – A retiree's temporary work assignment is not to exceed six (6) months. Exceptions will require review and approval by GM.

Overtime Work (*Applies to Non-Exempt only*) - Regarding overtime, COMP time will be utilized if extenuating circumstances exist. Requires advanced approval from Supervisor overseeing the retiree's work assignment.

Benefits – MW will provide health insurance benefits to retiree only (cost share aligned with current employee process in place); Retiree will have 40 hours of sick leave front loaded when hired, then accrue remaining hours until assignment ends (max of 56 annually); Retiree will earn Vacation at a rate of 4.0 hours per pay period; MW's regular scheduled Holidays will apply to Retiree. Retiree will not receive the HRA VEBA benefit.

Reporting Hours – MW is responsible for tracking and reporting retiree's hours worked to PERS.

PERS Eligibility- It is the retiree's responsibility to meet PERS regulations regarding the number of hours worked annually. Retiree understands the elected retirement option, may have restrictions that apply. It is the retiree's responsibility to understand the impact of their retirement elections and eligibility to work past retirement.

See PERS website for detailed information of retiree's responsibilities related to hours worked post retirement. <https://www.oregon.gov/pers/RET/Pages/Work-After-Retirement.aspx>
Senate Bill 1049 regulations apply (sunset on December 31, 2034). *MW does not administer PERS or PERS eligibility requirements. The information listed does not fully represent PERS retirement options or restrictions, and may be subject to change. **The retiree is solely responsible for understanding and fully complying with PERS regulations.***

SECTION 3

COMPENSATION AND SCHEDULES

3 COMPENSATION AND SCHEDULES

3.1 General

MW employees are categorized as exempt from overtime or non-exempt from overtime. These categories are defined by applicable federal and state law. Exempt employees are typically managers, supervisors, administrative employees, and professional employees, who are paid on a salary basis.

Non-exempt employees are typically paid on an hourly basis and are entitled to overtime pay at the rate of 1.5 x their regular hourly rate for all hours worked over 40 hours in any workweek.

Exempt employees are not entitled to overtime pay regardless of the number of hours worked, and their salaries are not reduced due to any partial day absences (except as provided by law), or partial-week absences caused by MW.

The Commission also categorizes employees as follows:

Regular Full-Time: Regularly scheduled to work at least 40 hours per week

Temporary or Limited Duration: Temporary employees may be either full-time or part-time but are generally hired for no more than six (6) months.

Only Regular Full-Time employees accrue paid vacation. All employees accrue paid sick leave and other paid and unpaid leave mandated by applicable law, although eligibility requirements apply, as noted in the relevant sections in this Manual. In addition, for temporary employees the temporary agency is usually responsible for tracking leave accruals and providing leave.

Finally, certain Regular Full-Time employees are designated by the General Manager as members of the Water Management Team. Members of the Water Management Team have specific authority and discretion, are generally considered “on call” any time they are not actively on duty, on vacation or legally protected leave of absence, and are granted some additional benefits due to the additional duties and obligations.

3.1.1 Responsibility of Administration

The General Manager, working with Human Resources, shall be responsible for administering the pay plan for all positions, and shall be responsible for interpreting the application of the plan. In all questions related to the plan, the General Manager and Human Resources will be guided by the Equal Opportunity principles stated in this Manual and in applicable law, the criteria stated in Oregon’s Pay Equity Act, and the compensation schedules established by the Commission.

Annually at budget time, the General Manager and Human Resources review the step, incentive, and Structural Adjustments pay plans and the General Manager then submits his findings together with recommended amendments to the Board. The General Manager may

recommend, and the Board may change the rates of pay for any grade of position at this time as well.

3.1.2 Paydays

Paydays for all MW employees are the 5th and 20th days of each month. Should either of these days fall on a Saturday, Sunday, or holiday, the payroll will be issued on the business day prior to the normally scheduled payday.

3.2 Tracking Time

Non-exempt employees are required to track their time as instructed by their supervisor (timesheet, computer time-tracking program, etc.).

Non-supervisory employees may not enter time for another employee or alter their own time after entry without supervisor approval. Falsification of time will lead to discipline, up to and including termination of employment.

All employees are expected to arrive on time and ready to work at the start of their scheduled shift. Tardiness affects everyone and will usually result in discipline.

If you realize you are unexpectedly going to be late or absent, you must notify your direct supervisor/manager by phone call or email, (not via text), and you must provide enough information about the reason for your tardiness or absence to ensure that personnel records are accurate.

Generally, a non-exempt employee will be considered “tardy” for disciplinary or performance evaluation purposes if he or she is 15 or more minutes late. However, a pattern of shorter tardiness may also lead to coaching or discipline, especially if it affects others in his or her department, group, or team.

Payroll tracks time in fifteen (15) minute increments. If the employee is less than 15 minutes late, no wages will be lost. After the first 15 minutes, the amount of time will be rounded down for the first 8 minutes, and rounded up in the next 8 minutes, for payroll purposes.

Example: Employee is scheduled to arrive at 9:00 am, arrives at 9:22 am. The employee’s time records will accurately reflect the time of arrival, and the first full 15 minutes will be docked from the employee’s pay, but the next 7 minutes will not affect the employee’s pay (not more than 8 minutes, so not rounded up). Note that the rounding down/up policy is related to payroll only and does not affect management’s right to take action related to excessive tardiness.

Exempt employees do not lose wages for partial day absences, including tardiness, except for specific absences covered by the OFLA/FMLA, Oregon Sick or PLO, where no sick leave or other paid leave is available. However, if an exempt manager is frequently late to a job site and it is affecting the productivity of his or her group, or otherwise having a negative impact on his or her subordinates, appropriate disciplinary steps may result.

3.3 Working Hours

3.3.1 Regular Working Hours

The regular working hours for full-time employees are based on a 40-hour week, 8-hour day, Monday through Friday, from 8:00 a.m. until 5:00 p.m. and with one hour off for lunch. Lunchtime normally falls between 12:00 Noon and 1:00 p.m. but may be varied so that people will be on duty at all times during the day. Other special circumstances may require different working hours, which must be approved by a supervisor.

3.3.2 Flex Time

Flex time will be granted on occasion to meet the special needs of the employee on an hour-for-hour basis and is not available for employees with less than six months at MW. Prior approval must be granted by the employee's supervisor. The employee may come in early or work past normal working hours to make up for the time the employee is/was off. Make up time must be accomplished during the same work week and pay period as the flex time is taken. Flex time is solely for the benefit of the employee and shall not be used in lieu of payment of overtime or compensatory time.

3.3.3 Rest Periods

Oregon law requires a paid rest period of 10 minutes for every 4 hours worked, for non-exempt employees. The Commission has voluntarily chosen to extend that time.

A paid rest period of fifteen (15) minutes shall be granted for and shall be taken by all non-exempt employees during each 4-hour work period. Supervisors are required to see that this policy is followed but a time accounting is not required to be maintained. Employees are to be aware of and follow the policy.

By law, rest periods cannot be used at the beginning or end of the workday nor at the beginning or end of the lunch period. Rest periods cannot be saved for other work periods. Non-exempt employees who repeatedly fail or refuse to take their assigned rest periods will be subject to discipline, up to and including termination of employment.

3.3.4 Rest Periods for Nursing Mothers

Upon request by any employee who is nursing a child 18 months of age or younger, the Commission shall provide a 30-minute rest period to express milk during each four-hour work period. If possible, regularly scheduled rest breaks will be taken at the same time as breaks to express milk. Upon request, the employee may be allowed to come in early and/or work late to make up the time. Otherwise, any time not covered by normal paid break time will be unpaid time.

If these rest periods affect insurance coverage, they shall be considered time worked for insurance purposes. MW will make reasonable efforts to provide a location, other than a public restroom or toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. MW necessary and mutually agreed-upon, the Commission may allow an employee to temporarily change job duties if the employee's regular job duties do not allow her to express milk.

3.4 How Compensation is Determined *(Non-Bargaining Unit Employees)*

3.4.1 Market-Pay Compensation Method

Medford Water's positions are benchmarked to comparator commission and/or other matching professional occupations. Benchmark positions are reviewed to identify emerging occupational trends. A detailed compensation study will be performed every 3 to 5 years, or as determined by the General Manager in order to ensure compensation for MW jobs align with occupational trends. Elements of this survey shall include items such as job description (JD) review and update, match updated JD to market comparators, determine and review job/level groups, determine and update applicable salary grade schedule, Equal Pay analysis practices, review of benefit comparators, etc.

As a result of this study, a wage range for each category will be listed for each position. The wage range is an average of all jobs within the category (i.e. Level I, Level II, etc.). An employee's compensation will mainly fall within the listed range. An employee new to the role or with less skills/experience/education, as outlined in the job description, will be placed at the entry. Fully skilled is considered to be at range mid-point.

When the survey results in an upward adjustment to the classification mid-point, employee range placement is generally preserved. HR, in cooperation with management, will take the opportunity to review individual range placement scenarios to ensure continued internal equity and compliance with legislated pay equity standards.

When market conditions indicate a reduction to the classification mid-point, pay for individuals occupying that classification will not be reduced. If the employee is 75% or above the salary grade scale, the pay will be held in place and red-lined until the marked data corresponds with the subject pay rate.

A 5% PERS salary adjustment is calculated in the employee's compensation, as MW provides this increase to employees to help off-set the required employee's 6% PERS contribution. The 5% PERS adjustment is calculated in the employee's salary, which falls within the wage range for the position.

Once the salary study is completed, including any recommended salary changes made within the study and with the General Manager and Commissioners approval, a compensation change will take effect. Compensation changes are to be effective July 1st of the year. A copy of the official salary survey report will then be made available to all non-bargaining unit employees.

This market-based method also incorporates a pay-for-performance element, merit pay. Merit increases directly related to an employee's annual review. The review period shall be July 1st through June 30th, with any approved increases effective on July 1st of the year.

As a standard rule of the market-pay method, COLA's will not be paid. However, structural adjustments may be applied to the entire pay range structure or a subset of a specific job classification within a category, in response to economic indicators, including but not limited

to CPI indices, regional and national economic conditions, or industry sector trends. Structural adjustments may also be used to off-set inflationary factors to help maintain market-pace.

In addition, the General Manager may also approve a discretionary bonus. A discretionary bonus is at the sole discretion of the employer, the amount is determined by employer, it does not change the employee's compensation level, and to which no expectation is set by the employer for payment of a discretionary bonus. A discretionary bonus is discretionary.

For introductory employees, the employee will receive compensation as detailed in job offer letter, applied as outlined in policy. When the employee successfully completes the introductory period, the employee will receive any structural adjustment applied during the current year, which regular employees received. If there was not a structural adjustment during the introductory period and merit/discretionary only applied, the employee will receive a one percent (1%) increase to compensation, upon successful completion of introductory period. The employee would then roll into the current year's cycle for compensation increases, as detailed in policy.

3.4.2 Training and Continuing Education

In addition to on-the-job training, the Commission may make available in-service training that may improve skills related to their work for the Commission. These in-service trainings will typically occur during normal business hours and will typically be voluntary (although occasionally some in-service training may be mandated). The costs of all in-service training are paid by the Commission, and all in-service training time is paid time, for both voluntary and mandatory in-service training.

The same is true of any external training mandated by the Commission: if an employee is required by the Commission to undertake training or education that occurs outside regular working hours, the Commission will pay all costs, including mileage, and all time in attendance time is paid time, for non-exempt employees.

If travel is required to attend mandatory external training or continuing education, see the related sections in this Personnel Manual for information about when travel time is compensable, as well as lodging and other travel costs.

Finally, if any training, certification, or continuing education is required for job performance by law or ordinance, the Commission may choose to pay some or all of the costs of the training, in the General Manager's sole discretion, but the time spent in the training or courses is not required to be compensable/paid time. Such training must occur outside the employee's normally scheduled working hours, unless otherwise instructed by the employee's supervisor.

3.5 Cell Phone Requirement and Allowance

Certain key employees are required to maintain a cell phone for work, to ensure availability. For any such employee, a monthly cell phone allowance will be added to his or her compensation, in an amount to be determined annually by the General Manager.

Each affected employee may be required to submit a copy of his or her cell phone bill annually by the end of January 31, or more often if requested, to demonstrate continued compliance with the requirement to maintain a cell phone for work.

As stated elsewhere in this Manual, MW reserves the right to and will monitor all work-related communications, including cell phone records, text messages, and emails accessed on cell phones. Employees should have no expectation of privacy in any work-related telephone call, text message, or email sent to or received from any MW co-worker, supervisor, customer, vendor, or other business contact.

If the employee's cell phone number changes, he or she must immediately notify his or her supervisor.

Due to Multi-Factor Applications (MFA) use, employees with non-work issued cell phones will receive a monthly stipend, as determined by the General Manager.

3.6 Overtime

Overtime is defined as work performed by a non-exempt employee in excess of 40 hours in one work week. The "work week" shall be defined as the seven (7) consecutive 24-hour periods running from Sunday at 12:01 am through Saturday at midnight. When overtime work is performed by non-exempt employees, overtime shall be paid at one and one-half (1-1/2) times the employee's regular rate of pay.

Employees must normally have advance approval from or a request from their supervisor to perform overtime work.

The Commission will attempt to ensure that employees have at least a 4-hour rest period between shifts involving overtime.

The following time does not count as "hours worked" for purposes of determining when an employee has worked more than 40 hours in a work week, and is entitled to overtime pay or compensatory time:

- Holiday hours
- Vacation, sick leave, or other paid time off
- Unpaid time off (even if pre-authorized or mandated by law, such as jury duty or medical leave under OFLA)
- Time spent on standby, as stated below, until/unless the employee is called back to work

For non-exempt employees who are not members of the bargaining unit, time spent on after-hours standby is not paid time, and will not be included in the calculation of whether an employee has worked more than 40 hours per week.

Working time after a callback is, of course, paid time, and will be counted in determining the number of hours worked. Also, if time spent responding to calls or emails while on standby exceeds 15 minutes, individually or cumulatively in one standby shift, that time will also be counted in determining the number of hours worked).

Bargaining Unit employees should refer to the applicable Collective Bargaining Agreement regarding paid and unpaid standby, and compensation for standby time through overtime payment and/or compensatory time.

3.6.1 Compensatory Time

As an alternative to overtime pay, if desired by both the General Manager and employee, the employee may be allowed compensatory time off (“comp time”) at a rate of one and one-half (1 ½) hours of paid time off in lieu of overtime pay. As previously stated, employees must have advance approval from or a request from their supervisor to work overtime hours, regardless of whether the time will be compensated with overtime pay or comp time. Earned comp time is not allotted to an employee’s totals until the end of the pay period.

In general, if an employee wishes to flex his or her time in any specific work week, due to vacation, sick leave, or other absence, and working flex time would result in overtime hours that week, the employee’s request will be denied unless the Commission has a business need for the additional hours of work.

An employee may not accrue more than 240 hours of comp time. All unused comp time shall be paid as overtime at the end of every fiscal year, which ends June 30. An exception to this is that any employee may request to leave up to 24 compensatory hours on the books into the new fiscal year. Comp time paid at the end of the fiscal year shall be calculated at the regular rate earned by the employee as of June 30th and will be disbursed with the July 5th payroll.

3.6.2 Payroll Deductions

No deductions other than those listed below will be made from the employee's paycheck. Deductions for personal items not required by law, such as health insurance premiums or credit union fees, must be authorized in a writing signed and dated by the employee, in advance.

3.6.2.1 Social Security, State and Federal Income Tax and Workers Compensation

The Water Commission is required by law to make certain deductions from paychecks. The required deductions include federal and state income tax and social security, and any other required tax. The employee's share of Worker's Compensation is also deducted.

3.6.2.2 Public Employees Retirement System Contributions

Employees shall have withheld from salary the full amount of the employee's contribution to the Oregon State Public Employees Retirement System as authorized by ORS 238.200.

3.6.2.3 125 Cafeteria Plan

Employees may authorize deductions for this plan during the open enrollment period. Deductions will be made from each pay period. Changes to this deduction during the enrollment year can only be made due to a qualifying family event. A cafeteria plan is commonly referred to as a Flexible Spending Account. Full explanation of the program is available from the HR Department.

3.6.2.4 Insurance Premiums and Miscellaneous Deductions

Employees may also have deductions for union dues, medical plan premium share, dependent and additional life insurance premiums, and other contributions, subject to the requirement for a signed and dated authorization, as noted above.

SECTION 4

EMPLOYEE BENEFITS

4 EMPLOYEE BENEFITS

4.1 Vacation

4.1.1 Vacation Benefits

Regular full-time employees are eligible for vacation. Seasonal employees, leased workers, retirees and temporary/limited duration employees do not qualify for vacation benefits.

Vacation accrues semi-monthly. At the end of each pay period, the vacation earned for the pay period is credited to each employee's account, and the amount of vacation used is charged. Employee vacation balances are available via the third-party payroll processing company (Netchex).

Each full-time employee earns vacation in accordance with years of continuous service as follows:

VACATION EARNED

<u>Years of Service</u>	<u>Hours per Year</u>	<u>Days per Year</u>
Through end of first 3 years	96	12
4 through 9 years	112	14
9 through 14 years	136	17
14 through 19 years	152	19
19+ years	176	22

2) In addition to the vacation identified above, each exempt Water Management Team Member shall earn an additional three (3) days of vacation per year. A WMT member shall also earn either an additional two (2) days for Acting In Charge (AIC) coverage or an additional five (5) days for Standby coverage, depending on WMT member's position. These supplemental hours are subject to Maximum Accumulation outlined in section 4.1.2.2.

3) In addition to the vacation identified above, each regular full-time, non-union, employee who is on the official standby list, shall earn up to an additional five (5) days of vacation per year, based on specific position coverage. This vacation is earned to compensate the employee for the responsibility and availability of being on call after hours. The additional vacation hours accrue with each payroll period. Supplemental hours are subject to Maximum Accumulation outlined in section 4.1.2.2.

4) Under exceptional circumstances, the General Manager and HR Manager may grant a discretionary vacation benefit.

4.1.2 Accumulation of Vacation

4.1.2.1 Initial Vacation Time

Vacation time begins to accrue from the day an employee starts to work. Vacation time earned during a pay period may not be used until the following pay period.

4.1.2.2 Maximum Accumulation

The maximum accrual is as follows for employees hired before January 1, 2020:

<u>Years of Service</u>	<u>Regular Max Hrs.</u>	<u>Supplemental Max. Hrs.</u>
Through first 4 years	288	368
5 through 9 years	336	416
10 through 14 years	408	488
15 through 19 years	456	536
20 years and thereafter	528	608

After accruing the maximum amount of vacation no further vacation will accrue until the employee has used some of the vacation and reduced the total to below the maximum allowable. Includes all additional vacation categories where supplemental hours are provided; for example, Management, Standby /AIC or other categories, which are referred to in above chart as Supplemental Max Hours.

For employees hired after January 1, 2020, credits may accumulate to a maximum of two (2) years credit (2 years of vacation leave total).

For employees hired on or after 1/1/2020, the maximum accrual is as follows:

<u>Years of Service</u>	<u>Regular Max Hrs.</u>	<u>Supplemental Max. Hrs.</u>
Through first 4 years	192	272
5 through 9 years	224	304
10 through 14 years	272	352
15 through 19 years	304	388
20 years and thereafter	352	432

4.1.2.3 Computing Continuous Service for Vacation Credit

Continuous service for the purpose of determining the amount of vacation earned per year shall be unbroken service. Time spent by an employee on military leave of absence, Oregon paid sick leave, family and medical leave under OFLA/FMLA, Paid Leave Oregon, or other leave protected by law is not considered a break in service. In some circumstances, an authorized personal leave without pay may not be considered a break in service, usually depending on the length of the leave.

4.1.3 Payment for Accumulated Vacation Upon Termination

Upon separation from employment, an employee will be paid for accrued, unused vacation credit. Upon retirement, an employee will be paid for accrued, unused vacation credit unless the majority of current employees over age 55 have voted to have accrued unused vacation credit for retirees be placed in the VEBA plan. See the section on VEBA in this Manual.

4.1.4 Scheduling Vacation

Employees must have the approval of the employee's supervisor to take vacation time off except when vacation is used for a reason qualifying under FMLA/OFLA, which is subject to its own approval process (see applicable policy in this Manual). Supervisors will attempt to permit vacation at the times desired by the employee so long as the employee's absence does not hinder the proper functioning of the utility, in the sole discretion of the utility. This requires that as much advance notice as possible be given of requested vacation times.

Employees must give at least two weeks' notice for all planned vacations and other foreseeable events, and as much advance notice as possible for other events.

In the event of conflicts in scheduling vacation, and all other things being equal, length of service will be given preference.

Because of the heavier maintenance and construction workload of the utility during specific months of the year (summer season - April through September or shoulder season – spring through the fall), employees, other than administrative or information/customer service employees whose work load does not vary, will not be permitted to take more than 10 days of vacation each year during these seasons, unless there are some extremely unusual or special circumstances, and then only with the approval of the General Manager.

4.1.5 Other Leaves

4.1.5.1 Authorized Absence Without Pay

There may be times when you want or need to take time off for a reason not protected by law, but you have exhausted all paid vacation and other leave. Examples include taking time off for a seminar or other personal enrichment activity, time off to wind up the affairs of a relative who has passed away (after you have exhausted all bereavement leave provided by law and Commission policy), taking vacation after an extended medical leave or family leave (during which you used up not only all available sick leave but also all available vacation), or additional time off to care for a family member who is ill or disabled (after you have exhausted all available time under OFLAFMLA and/or Paid Leave Oregon).

An employee may be granted leave without pay for personal reasons of up to two weeks per year, provided that the requesting employee has no accrued vacation and with the advance approval of the employee's supervisor and human resources. Employee time off benefits (including but not limited to VEBA, vacation accrual, sick leave accrual, personal holiday accrual, etc.) will not accrue during this period. Supervisor approval will be based on whether or not the proper functioning of the organization may be hindered by the employee's absence.

This section does not apply to leave provided as a disability accommodation or any other leave protected by law.

4.1.5.2 Absence for Jury Duty

Employees may be granted time off with pay when lawfully summoned to serve as a juror. The Commission continues pay for all regular full-time who are on jury duty, and all benefits will continue while on jury duty. If receiving regular pay while serving as a juror, any compensation paid for the jury duty shall be kept by the employee.

Employees must provide a copy of the summons to HR.

In the event the employee is released early, the employee should check with his or her supervisor to determine whether he or she should report to work for the remainder of the shift.

4.1.5.3 Absence for Attendance at Court Appearances

When an employee is required to appear in court or when such court case involves the Water Commission or the City of Medford, the necessary time off with pay will be granted. If receiving regular pay while serving as a witness, any witness fees or other compensation for court appearance shall be kept by the employee.

When the court case is one which does not involve the Commission or the City of Medford, and the employee is required to appear in court, the employee may take the necessary time off as regular vacation time, personal holiday, compensatory time off, or, with the approval of the General Manager. If no paid time is available, the time off may be considered as authorized absence without pay.

4.1.5.4 Unauthorized Absence Without Pay

Any unauthorized absence from work will be deemed absence without pay and may be grounds for dismissal. Three (3) consecutive working days of such absence is considered to be a resignation, unless there are extenuating circumstances. In the event there are extenuating circumstances justifying the absence, management may, in its sole discretion, retroactively authorize the absences as leave with or without pay.

4.1.6 Miscellaneous

4.1.6.1 Paid Leave Benefits and Leave Without Pay

Employees will accrue paid time off benefits during use of accrued time off benefits, such as vacation, all types of sick leave, personal days, etc.

Employees will not accrue paid time off benefits during any period of leave without pay (LWOP).

4.1.6.2 Holidays Occurring Within Vacation Period

Paid holidays will not be charged against accumulated vacation time should the holidays occur during the vacation period.

4.1.6.3 Pay In Lieu of Vacation

At the employee's option, pay at the employee's regular rate may be substituted for accrued but unused vacation to the maximum of six (6) days per year. Such option shall be exercised by the employee during the first

week of November of each year based on the employee's accrued vacation as of the 31st of October, and the pay in lieu of vacation shall be paid at the regular November 20 pay day.

For employees who received supplemental vacation accrual (like the Water Management Team, Stand-by, AIC, or other additional earned vacation), at the employee's option, pay at the employee's regular rate may be substituted for accrued but unused vacation up to a maximum of eleven (11) days per year under the same procedure outlined above.

4.1.6.4 Donation of Vacation / Personal Holidays

Employees who have at least 80 hours of vacation and/or at least 8 hours of personal holiday, are eligible to donate vacation and/or personal holiday(s) to another employee, up to a maximum of 24 hours, for another employee's emergency circumstance, per HR verification. Donations are voluntary and can be given in 4-hour increments for Vacation and 8-hour increments for personal holiday(s).

Donations are confidential. Donated hours must be used by the receiving employee for the emergency circumstance, or they will be forfeited. The receiving employee must have exhausted all vacation, sick leave, personal holidays and compensatory time before requesting a leave donation from HR.

Donations of vocational leave may have tax consequences. The Commission cannot provide tax advice. Employees are encouraged to consult their own tax advisor.

4.2 Holidays

The following days have been designated as paid holidays for regular full-time employees:

New Year's Day	January 1
Martin Luther King, Jr. Day	3rd Monday in January
Presidents' Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day After Thanksgiving	4th Friday in November
Christmas Day	December 25
Personal Holiday (3)	Any workday(s) during calendar year

- 1) Whenever a holiday falls on a Saturday, the preceding Friday will be observed.
- 2) Whenever a holiday falls on a Sunday, the following Monday will be observed.
- 3) Regular full-time employees are eligible to use personal holidays beginning January 1st of each year. New regular full-time employees will receive one (1) personal day at hire, and an additional two (2) after their one year anniversary, then the following year rolling into regular prescribed personal holiday schedule.
- 4) Personal holidays MUST be used by December 31st of each year or forfeited (any employee hired from Dec. 16th – Dec. 31st will have an extension until Jan. 15th of the year).
- 5) ANY unused holidays (standard, or personal) are NOT paid out at termination.
- 6) Temporary or seasonal employees do not receive any paid holidays.
- 7) Future required holidays via State of Oregon regulations will be considered and counted as one of the provided personal holidays noted above.
- 8) Whenever a holiday falls on an employee's regularly scheduled day off, a regularly scheduled day (as approved by supervisor) within the same pay period will be observed as a holiday for that employee.
- 9) Whenever an employee works on a holiday, standard overtime pay rules will apply.
- 10) Veterans Day is not a designated holiday; however, the Commission will provide paid time off (by allowing employee to use Vacation, Comp Time, or a Personal Holiday, or unpaid time off for Veterans Day if the employee (1) meets the definition of "veteran" as defined by Oregon law and (2) requests the day off with at least three weeks' notice. The Commission will respond to the employee's request at least 14 days prior to Veterans Day. If the Commission determines that providing time off on this date would cause significant economic or operational disruption or undue hardship, the Commission will discuss the issue with the employee and allow the employee another day off, either paid or unpaid, in honor of their military service prior to the next Veterans Day.
- 11) Juneteenth is not a designated holiday; however, the Commission will provide time off (allowing employee to use Vacation, Comp Time, Personal Holiday or Leave Without Pay) for Juneteenth, as defined by State of Oregon. Juneteenth is recognized on June 19th of each year.

4.3 Paid Leave Oregon, Oregon Sick Leave, FMLA/OFLA and Additional Sick Leave

Effective July 2024, this policy has been updated to include Paid Leave Oregon’s changes in association with Oregon Family Leave Act (OFLA). Specific criteria, rules and requirements are in place for each type of leave, with many sections intersecting with other leave categories. No retaliation applies to all protected leave categories. Categories defined in this section are:

- Paid Leave Oregon (updated 07/2024)
- Oregon Sick Leave
- FMLA
- OFLA (updated 07/2024)
- Additional Sick Leave (*unprotected*)
- Employer Procedure (updated 10/2024)

Definitions:

- A. “FMLA Leave Year” – means a rolling 12-month period measured forward from the date of an employee’s first use of FMLA leave.
- B. “OFLA and Oregon Paid Leave Benefit Year” – means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date leave begins.
- C. Oregon Sick Leave – 40 hours of paid sick leave will be provided for employees, following the Oregon Sick Time Law. Medford Water will frontload 40 hours annually in January.
- D. Additional Sick Leave – Medford Water also provides employees with additional sick leave beyond what is required by law, as set forth in this manual. Employees will accrue up to an additional 56 hours of sick leave. This is non-protected leave.
- E. “Family Member” – varies as listed in the chart below:
 - For Oregon Paid Leave and OFLA only, family member also includes same-gender relationships.

Oregon Paid Leave / Oregon Sick Leave / Additional Sick Leave	Oregon Family Leave Act OFLA / Oregon Sick Leave / Additional Sick Leave	Family Medical Leave Act FMLA / Oregon Sick Leave / Additional Sick Leave
1. Spouse or domestic partner 2. Child or grandchild 3. Parent or parent-in-law 4. Grandparent or grandparent-in-law 5. Sibling or stepsibling 6. Spouse or domestic partner of: • Child or grandchild • Parent or parent-in-law • Grandparent or grandparent-in-law • Sibling or stepsibling 7. Individual related by blood or affinity	1. Spouse or domestic partner 2. Child or grandchild 3. Parent or parent-in-law 4. Grandparent or grandparent-in-law 5. Sibling or stepsibling 6. Spouse or domestic partner of: • Child or grandchild • Parent or parent-in-law • Grandparent or grandparent-in-law • Sibling or stepsibling 7. Individual related by blood or affinity	1. Spouse 2. Child 3. Parent; in loco parentis 4. Military related leave for spouse, child of any age or parent and next of kin

- F. “Spouse” – means husband or wife.
- G. “Domestic Partner” – for Oregon Paid Leave and OFLA only, Domestic Partnership is defined as a civil contract entered into between two individuals (same gender or opposite gender) who are at least 18 years of age, and at least one of whom is a resident of Oregon.
 - Proof of registration from a county office is required for qualification of domestic partnerships.

- H. “Child” – means a biological, adopted, foster child, stepchild, legal ward, or a child with whom the employee is or was in a relationship of “in loco parentis” who is under 18 years of age or 18 years of age or older and incapable of self-care because of a mental or physical impairment.
- I. “Parent/Grandparent” – means biological, custodial, non-custodial, adoptive, step or foster father or mother, or any other individual who stood "in loco parentis" to the employee when employee was a minor.
- J. “Sibling” – means biological, adoptive, stepbrother or sister.
- K. “Individual related by blood or affinity” - means an individual whose close association with the employee is equivalent of a family relationship.
 - An employee who uses leave for an individual related by blood or affinity may be required to attest in writing that the employee and family member have a significant personal bond, similar to a family relationship.
- L. “Serious Health Condition” – means an illness, injury, impairment, or a physical or mental condition which requires:
 1. Overnight hospitalization, including the period of incapacity or subsequent treatment in connection with overnight care.
 2. Inpatient care in a hospital, hospice, or residential medical care facility.
 3. Continuing treatment (for a chronic or long-term condition) under the care or supervision of a health care provider.
 4. Chronic conditions (e.g., asthma, epilepsy, etc.) that continue over an extended period of time and may cause episodic rather than a continuing period of incapacity and conditions that are not usually incapacitating but would result in a period of incapacity for more than three (3) consecutive calendar days.
 5. Any period of disability due to pregnancy, or period of absence for prenatal care.
 6. Any period of absence for the donation of a body part, organ or tissue, including preoperative or diagnostic services, surgery, post-operative treatment and recovery.

Reasons for Leave:

Eligible employees may take Oregon Paid Leave, Oregon Sick Leave, OFLA, FMLA and Additional Sick Leave for the following reasons:

Oregon Paid Leave / Oregon Sick Leave / Additional Sick Leave	Oregon Family Leave Act OFLA / Oregon Sick Leave / Additional Sick Leave	Family Medical Leave Act FMLA / Oregon Sick Leave / Additional Sick Leave
1. Family leave (parental/bonding) 2. Own serious health condition 3. Care of a family member with serious health condition 4. Safe leave	1. Sick Child (regardless of serious health condition) 2. Bereavement 3. Pregnancy disability 4. Military Family	1. Parental / bonding 2. Own serious health condition 3. Care of family member with a serious health condition 4. Military caregiver 5. Qualifying exigency 6. Workers Compensation injury/illness

- A. Family / Parental / Bonding leave is to attend the birth or give birth to a child and to care for the employee's newborn, newly adopted or newly placed foster child under 18 years of age. This leave only applies to birthing or non-birthing parents when completed within 12 months of the birth, adoption, or placement of child.

FMLA allows time to effectuate the legal process required for placement of a foster child or the adoption of a child; Oregon Paid leave will include time beginning 1/1/25. In the interim, OFLA temporarily allows for two (2) weeks of coverage through 12/31/24.

- B. Serious Health Condition leave is taken:
1. To provide care for a qualified family member with a serious health condition; or
 2. To recover from or seek treatment for a serious health condition that renders employee unable to perform at least one essential function of employee's job.
- C. Pregnancy Disability leave is taken for limitations related to pregnancy, childbirth, or related medical condition, including but not limited to lactation. Please refer to Pregnant Workers Fairness Act for more detailed information.
- D. Sick Child leave is the care of a child for any illness, injury, or condition that requires home care (including both a serious health condition and non-serious health condition), where the child is under 18 years of age, or over 18 years of age and incapable of self-care because of a physical or mental impairment. Medical certification may be required for employees who have taken more than three (3) days of sick child leave during an OFLA leave year.

Sick child leave does not allow an employee to take leave for a child's routine medical or dental appointments and is not available if another family member is willing and able to care for the child.

- E. Home care – means care of a sick child (as defined above) and during school closures caused by public health emergencies.
- F. Qualifying Exigency leave (military family non-medical Leave) is used when a spouse, child, or parent of the employee is on active duty in the Armed Forces, the National Guard or military reserve pending deployment and during leave from deployment. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing financial and legal arrangements, and attending counseling sessions.
- G. Military Caregiver leave is to care for an injured recovering service member who is the employee's spouse, child, parent, or next of kin.
- H. Oregon Military Family leave (OMFLA) is leave for a spouse or registered domestic partner of a member of the Armed Forces, the National Guard or military reserve who has been called to active duty or notified of impending call to active duty, or who has been deployed.

- I. Bereavement leave is to make funeral arrangements, attend the funeral, or to grieve a family member who has passed away. Up to two (2) weeks of unpaid leave is allowed per family member not to exceed four (4) weeks per leave year. This leave must be completed within 60 days of the date when the employee learned of the death.

- J. Safe leave is for survivors of sexual assault, domestic violence, harassment, or stalking and allows time to seek legal or law enforcement assistance, medical treatment or to recover from injuries, to obtain counseling or other services from a victim services provider, and to relocate or take steps to secure an existing home to ensure the health and safety of the employees or the employee’s minor child or dependent. Please refer to AR 219 Safe Leave for Victims of Domestic Violence for more detailed information.

Coverage and Eligibility:

Paid Leave Oregon	OFLA	FMLA	Oregon Paid Sick
Required wages for employee to be eligible for leave:			
\$1,000 in wages the previous year with Oregon employer	N/A	N/A	N/A
Required time worked before taking leave and before job protection starts:			
There is no work time requirement for PLO benefits, but must have worked 90 days	180 days	12 months - can be nonconsecutive. Includes prior service, if break of service was less than 7 years	There is no work time requirement for benefit, but leave cannot be taken until the 91st day of employment
Required hours worked for employee to be eligible for leave:			
N/A	Worked average of at least 25 hours per week for 6 months (180 days). For Military leave, weekly average wage requirement is 20 hours, regardless of employment duration.	Worked at least 1,250 hours during 12-month period, immediately preceding leave.	1 hour for every 30 hours worked, or a max of 40 hours per year.

Leave time available to employee:			
In a benefit year, employees may be eligible for:	In a benefit year, employees may be eligible for 12 weeks of home care for sick child or bereavement leave.	In a leave year, employees may be eligible for 12 weeks of leave.	In a leave year, employees are eligible for a maximum of 40 hours of sick leave.
a. 12 weeks of paid leave		Military caregiver's leave allows a maximum combined total of 26 weeks of all types of FMLA in one leave year.	
b. Up to two (2) added weeks for complications related to pregnancy.	Bereavement leave is further limited to: a. 2 weeks max per family member b. 4 weeks max per leave year		Able to be used in one hour increments for medical appointments or other sick related reasons.
	Pregnancy disability provides 12 additional weeks of leave.		
	Military Family leave allows up to 14 days of leave per deployment.		

Intermittent or Reduced Scheduled Leave:

Qualified leaves for an employee or qualified family member may be granted on an intermittent or reduced-schedule basis. Medford Water will grant intermittent or reduced-schedule leave if a health care provider certifies it is medically necessary.

For OFLA/FMLA, intermittent use may be in ¼-hour increments. Oregon Paid Leave may be taken, and benefits may be claimed in increments that are equivalent to one workday or one work week.

For FMLA leave, MW has sole discretion to temporarily transfer you to another job with equivalent pay and benefits to better accommodate your intermittent or reduced-schedule leave. For OFLA leave, MW may transfer the employee with the employee’s consent.

Oregon Paid Leave Insurance:

Employees may be entitled to paid family, medical or safe leave benefits *under Medford Water’s equivalent plan with The Hartford* (not with the State of Oregon). For more information on the plan and how to file a claim, please visit the Hartford online or call (888) 301-5615 for assistance and to file a claim.

While on leave, employees will be paid a percentage of wages only; benefit amounts will depend on what was earned in the prior year compared to the statewide average weekly wage. Employees may use a portion of other MW accrued paid leave (sick leave, comp time, personal holiday, and vacation) in addition to Oregon Paid Leave benefits.

In any week in which an employee is eligible to receive workers' compensation time loss benefits or unemployment benefits, the employee is disqualified from receiving Oregon Paid Leave benefits.

Use of Paid Leave Accruals:

Employees *may* use a portion of their accrued paid leave along with Oregon Paid Leave benefits. However, accrued leave must be used when OFLA/FMLA is utilized without Oregon Paid Leave.

When accrued leave is used, except for OFLA bereavement and Qualifying Exigency leave, employees shall use sick leave first, if available. When sick leave is exhausted, then other forms of paid leave will be used. Paid leave will be used until the paid leave is exhausted.

The use of vacation and any other paid leave does not extend the number of weeks of leave to which you are entitled under the OFLA and/or FMLA.

Employee Notice Requirements:

Employees must notify Medford Water of the request for leave at least 30 days prior to the beginning of a foreseeable need. When the need for leave is not foreseeable, or its approximate timing is uncertain (adoption placement, medical emergency), notice is required as soon as is practical given the circumstances. In this situation you (or your representative if you are incapacitated), must notify your immediate supervisor as promptly as available means of communication allow.

If you are seeking OMFLA leave, you must provide notice of the intent to take leave within five (5) business days of receiving official notice of an impending call or order to active duty, or for a leave from deployment, or as soon as practicable when official notice is provided less than five (5) days from commencement of leave.

If you need to extend your leave, you must request an extension in writing before your OFLA/FMLA leave ends. Give your request directly to the Human Resources Department.

If you give written notice of intent not to return to work from OFLA/FMLA leave, you are entitled to complete the approved leave, providing that the original need for leave still exists. You remain entitled to all rights and protections of law including, but not limited to, the use of accrued leave and health benefits. However, under this circumstance, the Medford Water is relieved from job restoration obligations.

If you are absent from work and do not comply with the procedures in this policy, we will apply our usual attendance policy rules. An unexcused absence may result in disciplinary action, up to and including discharge.

Medical Certification Requirement:

Leave requests for an employee's or qualifying family member's serious health condition or for an employee who has taken more than three (3) days of sick child leave during an OFLA leave year or under Oregon Sick Leave, when more than three (3) consecutive days of leave, requires written medical certification from a health care provider as soon as possible, but no later than 15 calendar days following a request for certification from Human Resources.

Certification of a serious health condition shall include the date when the condition began, its expected duration and a brief statement of treatment.

- For medical leave of an employee's own medical condition, the certification must also include a statement that you are unable to perform work of any kind or a statement that you are unable to perform the essential functions of the position.
- For a family member who is seriously ill, the certification must include a statement that the patient/family member requires assistance and that your presence would be beneficial.

All documentation related to the employee's or family member's medical condition will be held in confidence and maintained in the employee's medical records file.

On the 366th day, you will be required to re-certify a serious health condition.

Employees requesting Qualifying Exigency leave must request leave in writing including a copy of the military member's active-duty orders.

Effect on Benefits:

Check with the Human Resources department to resolve any questions regarding the continuation of health care benefits.

a) Continuation of medical insurance for qualified leave

You will continue to receive group employee benefits while on a qualified leave, provided you continue to pay your share of health care and/or voluntary benefit costs you would ordinarily pay if you were on the job. If you are on paid leave, the costs will be deducted from your pay. Otherwise, it is the employee's responsibility to make payments each month. Failure to pay your share of the insurance premiums on a timely basis may result in the loss of group health insurance coverage.

b) Changes in Coverage

Employee contribution amounts are subject to any changes in rates that occur while the employee is on leave.

c) Termination of Coverage

If an employee's required contribution for any coverage is more than 45 days late, Medford Water may terminate the employee's insurance coverage upon at least 15 days written notice. If MW pays any required employee contributions missed by the employee while on leave, employee will be required to reimburse MW for such payments upon return from leave. MW may recover its share of the premium through deductions from any amount owed to the employee, such as unpaid wages, etc. any deductions will be made in compliance with state and federal law.

d) Reduced Schedule

If an employee returns to work following the expiration of OFLA/FMLA on a reduced schedule, the employee must work the minimum required hours set by the insurance provider to remain on the group health plan; otherwise, the employee will be offered COBRA and will be required to pay full cost of the insurance premium to retain insurance coverage.

Job Protection:

Except where a position is eliminated due to business reasons, the employee will be reinstated to the same job or a job with equivalent pay, benefits, and working conditions upon return from Paid Leave Oregon, OFLA, FMLA or/and Oregon Sick Leave. The employees' rights upon reinstatement are the same as they would have been had the employee not been on leave.

If the employee fails to return at the end of the qualified leave, the employee loses any right to reinstatement under Paid Leave Oregon, OFLA, FMLA and/or Oregon Sick Leave. Reemployment in such case will be based upon other applicable laws. Reinstatement to employment may be delayed until the employee provides the required fitness for duty form, if absence due to own medical condition.

Return to Work:

Employees are expected to return to work as soon as medically able, as determined by a health care provider or, in the case of parental leave, as approved in advance.

You may be required to periodically provide notice regarding your intent to return to work upon the conclusion of your approved leave.

If you do not return to work at the end of your scheduled leave or call in within three workdays of your agreed-upon return date from leave, we will assume that you have voluntarily resigned.

Violation of any provision of this policy, including failure to notify Medford Water of the need for leave, failure to maintain contact, failure to provide medical certification, etc. may result in discipline.

4.4 Commission's Sick Leave Program (PLO, Oregon Sick Leave, FMLA/OFLA, Additional Sick Leave):

- Paid Leave Oregon:
 - By December 1st of each year, employee is able to select either employee deductions (pre-tax) or sick leave reductions (from Additional Sick Leave).
 - If an Equivalent Plan (EP), employees will pay 60% of EP costs via employee deductions or will pay full EP costs via annual sick leave reductions.
 - If State Plan, employees will pay 60% of 1% of salary for employee deductions or if sick leave reductions, sick leave will be reduced for full cost of State Plan.
 - Employees are able to draw up to 35% of sick leave for PLO claims.
 - Denied Claims – If an employee's PLO claim has been denied and appealed with a denial the end result, employees will have up to five calendar days to request sick leave for balance, if employee has enough sick leave.
 - PLO may not be used in cases of Workers Compensation and/or Unemployment.
 - It is the employee's responsibility to understand how PLO use affects their PERS retirement calculations. More information can be found on PERS website.
 - Oregon Sick Leave, OFLA and/or FMLA may run congruent with PLO (depending on each individual situation). Contact HR for information if 4 or more days of PLO.
- Oregon Sick Leave:
 - 40 hours of sick leave will be frontloaded each January. Ability to take in one (1) hour increments for medical/health related appointments.
- FMLA/OFLA:
 - On day 4 of sick leave, contact HR for information/processing (see FMLA/OFLA section).
- No Retaliation for Protected Leave:
 - Applies to PLO, Oregon Sick Leave and FMLA/OFLA.
- Additional Sick Leave:
 - The remaining sick leave hours will be accrued throughout the year. Ability to use for any eligible sick leave reason.

4.5 Health Insurance Program, VEBA, and Other Insurances

The Commission makes available to all regular full time employees medical, dental, vision and prescription insurance. Coverage is also available for spouses, domestic partners, and certain dependents. During onboarding, employees will enroll in health benefits, which will be effective the first of the month following employment. An Open Enrollment period will be provided annually. The Commission's intent is to have all employees (non-union and union) the same employer provided coverage. The cost of the insurance coverage will be shared by both the Commission and employees. Please see HR for questions.

Effective 1/1/2023, the monthly employee cost share may increase, if the total premium cost (Medical, Dental, Vision and RX) exceeds the current baseline amount. Any future increases (see current employee cost share in table below), would be split with employer 50/50, up to a maximum of 10% of total premium for employees;

2022 Current Employee Healthcare Monthly Cost(s)-Baseline:	
Employee	\$39.40
Employee + Child	\$72.58
Employee + Children	\$99.17
Employee + Spouse	\$82.97
Employee + Family	\$114.38

The Commission shall try to maintain medical, vision, and dental plans at current benefit levels, but with the changes in the health care industry this may not be possible.

4.5.1 Life Insurance Policy for the Employee

Employees are automatically covered by a \$50,000 Group Life and Accidental Death and Dismemberment insurance policy. The policy premium is paid by the Commission and covers the employee only.

You may purchase additional insurance for yourself, your spouse and dependents. If you are interested in additional coverage or further information, contact the HR Department.

4.5.2 Disability Insurance Plan

Each new full-time employee is automatically covered for disability insurance on the first day of the first full month of employment. This policy premium is paid by the Water Commission and covers the employee only. The amount of coverage is 66-2/3% of your monthly base salary up to a maximum benefit of \$6,000 per month. Disability insurance payments usually commence 90 days after the onset of the disability or end of the use of accumulated sick leave for the disability, whichever is longer. More information is available from the HR Department.

4.5.3 Workers' Compensation Insurance

All employees of the Commission are covered by workers' compensation insurance. A payroll deduction is made from the employee's wages for such insurance.

In the event of an on-the-job injury or work-related illness, employees must do the following:

- (1) Report all injuries - however slight - to your supervisor immediately.
- (2) Get first aid, and if necessary, go to your doctor or hospital. Your supervisor will arrange for transportation if you are unable to safely travel to a doctor or hospital and will call 911 if necessary.
- (3) Fill out the Workers' Compensation form (Form 801) which will initiate a workers' compensation claim. In order to be valid, these forms must be filed promptly with our workers' compensation insurer. These forms are available either at the hospital or doctor's office, or from the HR Department. If a claim is filed and approved, medical costs and partial payment for wages due to time off (if any) will be provided by the Commission's workers compensation insurer.
- (4) Even if you indicate you do not want to seek medical attention or file a claim, the Commission has an obligation to track all injuries and report specific types of incidents to its insurer and/or OSHA, so you must report all incidents to your supervisor, as stated in paragraph (1), above.

4.5.3.1 Workers' Compensation / Early Return-To-Work Procedures/Reinstatement

In order to minimize serious disability due to on-the-job injuries and to reduce workers' compensation costs, Medford Water Commission has developed procedures to deal with claims that result in missing work ("time loss claims") by offering light duty work, whenever the worker is released to work with temporary restrictions. A temporary light duty job offer will be made if there is available work that is suitable to the worker's temporary medical restrictions. Light duty offers must be approved by the worker's treating healthcare provider.

Employees who have an accepted claim have the right to light duty (if available), and to reinstatement after being released to work with no restrictions, for a period of up to three (3) years after the injury or illness, provided one of the intervening factors provided by Oregon law has not occurred first.

If you are on timeloss rather than light duty, you will be required to check in periodically with your status and expected return-to-work dates. When you are released to return to work, you will have a limited period of time to demand reinstatement.

On-the-job injuries and occupational diseases will be handled by a team consisting of the injured worker, his or her supervisor, HR, the Commission General Manager, the insurance company, and the injured worker's healthcare provider. The team approach is the most effective method for achieving a return to productive work at the earliest opportunity.

4.5.4 Section 125 Cafeteria Plan (Flexible Spending/Dependent Care Account)

Employees may contribute through payroll deduction to a pre-tax Medical Reimbursement Account and/or Dependent Care Reimbursement Account. The Flexible Spending program is administered by a third party. The plan year runs January 1st through December 31st. Open enrollment for the new plan year is conducted during the health care open enrollment window, and enrollment is effective the following January 1st. New employees may sign up for the flexible spending program during the first 30 days of employment.

4.5.5 Voluntary Employee Beneficiary Association (HRA VEBA)

The Board of Water Commissioners passed Resolution No. 1068 on June 5, 2002 authorizing the establishment of a Medical Savings Account/Voluntary Employees' Beneficiary Association (HRA/VEBA) Plan, effective July 1, 2002, said trust conforming to the requirements of Internal Revenue code Section 501 (C)(9), and implementing regulations adopted by the Internal Revenue Service. As part of the health insurance benefit for full-time (forty hours per week) staff, the Commission shall contribute, each month, \$150 to each employee's account in the HRA VEBA Trust (except during LWOP events of greater than half the month). Funds contributed by the Commission on an employee's behalf are considered vested in the employee's name upon deposit by the trust administrator and are available to each such employee pursuant to the provisions of the VEBA Trust agreement.

In addition, the Commission shall establish a provision to allow unused vacation leave cash-out at retirement to be contributed to the employee's HRA/VEBA Trust account. All HRA/VEBA eligible full-time staff who could be eligible for retirement (55 years of age or 50-55 with 30 years of PERS eligible service) shall vote annually to determine if unused vacation leave cash-out at retirement shall be contributed to their HRA/VEBA Trust account. (Staff must be eligible for retirement during the effective year to be eligible to vote.) This provision shall be adopted annually by a simple majority vote (50% plus one) of the voting group. Only returned ballots shall be counted. The vote shall take place in June and shall become effective the first day of July and shall remain in effect for a one-year period.

4.4.6 Cash Out of Sick Leave to HRA VEBA

Medford Water Commission shall establish a provision to allow OPSRP employees 24 hours of unused sick leave cash-out per year, to be contributed to the employee's HRA/VEBA Trust account. Employees must have at least 80 hours of sick leave available to be eligible to participate in the cash-out and vote. All HRA/VEBA eligible OPSRP staff shall vote annually to determine if the cash-out shall be contributed to their HRA/VEBA Trust accounts. This provision shall be adopted annually by a simple majority vote (50% plus one) of the voting group. Only returned ballots shall be counted. The vote shall take place the first week in November and shall become effective to HRA/VEBA by December 31st of each year.

4.6 Retiree Insurance Coverage

Retirees and their spouse/domestic partner, and dependents may be eligible for continued health insurance coverage, under ORS 243.303. Retiree insurance coverage is separate and distinct from continuation coverage under COBRA, which is addressed separately below.

4.7 Continuation of Insurance

Under COBRA, if your group coverage health insurance is going to end, you and your dependents may be eligible for continuation coverage. The insured is solely responsible for paying all COBRA premiums; the Commission does not pay COBRA premiums. Contact HR if your health insurance coverage is going to end, such as by termination of your employment with the Commission.

o Employee Required to Notify Commission of Any Change of Status

Under the law, the employee or a family member has the responsibility to inform Commission of a divorce, legal separation, or a child losing dependent status under eligibility or coverage definitions/rules.

4.8 Retirement Funds

4.8.1 Public Employees Retirement System

All full-time regular employees of the Medford Water Commission become members of the Public Employees Retirement System (PERS) or the Oregon Public Service Retirement Plan (OPSRP) of the State of Oregon after completing six (6) months of service with the Commission. HR will provide information about the penitent plan to eligible employees.

The plan also carries important disability and life insurance benefits. Detailed information is available upon request or you may log into the PERS web site at <http://www.oregon.gov/PERS>.

As referred to in Section 3, Compensation; Medford Water will provide each employee 5% of employee's salary to help off-set the employee's required 6% portion of PERS. The 5% is included during the job offer process.

4.8.2 Deferred Compensation Plans

Each Employee may enroll in the Commission's deferred compensation program (MissionSquare Retirement) established under Section 457 of the Internal Revenue Code, and may defer compensation, subject to the maximum annual contribution amount set by the Internal Revenue Code. This plan is available to Commission employees through a payroll deduction option. The Commission has one legacy 457 Plan through Empower Retirement. Employees previously enrolled in Empower Retirement are able to continue contributions through payroll deduction, however, no new enrollment is permitted. Contact the HR Department for more information on how to take advantage of these programs.

4.9 Business Travel; Expense Reports

4.9.1 Purpose

This policy supersedes MW’s Administrative Policy: Training Travel Time and Expenses. The purpose of this policy is to ensure employees understand when travel is compensable and to establish procedures for the proper expenditure of public funds, the authorization and approval of employee travel expenses, and the required documentation and audit trail for all travel expenses for travel required by MW for business purposes.

All employees must obtain prior approval for travel from their supervisor or manager.

4.9.2 Travel Time

When a regular non-exempt employee is required by the Commission to travel for work (other than ordinary commuting to and from work), the time is either compensable (paid working time) or non-compensable, depending on the circumstances. The Oregon Bureau of Labor & Industries (BOLI) provides a chart with the following information:

Category	Definition	Compensable travel time?
Portal-to-portal travel	Normal home-to-work / work-to-home travel at the beginning and end of one workday.	No
Travel between worksites	Travel in the course of a day’s work from one job site to another.	Yes
Special one-day assignment	Employee is sent on a one-day assignment to a city more than 30 miles from the employee’s fixed official workstation.	Yes
Overnight travel	Travel that keeps an employee away from home overnight.	Yes, whenever travel cuts across an employee’s regular work hours, *or the employer is the driver. No, if the employee is a passenger <i>and</i> travel fall outside of regular work hours.

* The “normal work hours” rule applies seven days per week. That is, if an employee’s normal schedule is 8:30 am to 5:00 pm Monday through Friday, and is required to travel between 8:30 and 5:00 on Saturday, travel time will be compensable.

Bargaining Unit employees may have additional compensation rights related to travel time and should check the applicable Collective Bargaining Agreement.

4.9.3 Planning Business Travel

Training and travel arrangements, including hotel reservations, airline reservations, car rentals and conference registrations may be made through the supervisor, , administration staff, or by the staff member who will be traveling, using a purchasing card (“P-card”). A Training/Travel Request form should be submitted to the supervisor for review and approval.

Travel out of town may be by personal vehicle, commission vehicle, or public carrier. Public air carrier is strongly encouraged for trips over 300 miles one way, when the use of a vehicle will result in substantial loss of Commission time, or when the public carrier is less expensive to the Commission than the use of a personal vehicle. If driving is selected for trips over 300 miles one way, the cost of a round trip ticket must be obtained before the travel takes place and submitted and approved with the Travel and Training Request Form. The reimbursement is limited to the less expensive cost of travel.

Travel routes must be the most direct and normally traveled route, or by the least expensive itinerary. The routes and mileage will be determined using MapQuest or Google Maps, or a similar program. If employees travel by an indirect route or more expensive route for personal reasons, they are responsible for any additional costs.

4.9.4 Mileage

Mileage reimbursement must be submitted on a Commission approved form.

The deadline for submitting the report to payroll is the end of the pay period during which travel was completed.

4.9.5 Cash Advances for Travel

When possible, employees and commissioners should pay all expenses for a trip, obtain a receipt, and request reimbursement on a travel expense report. A cash advance to cover the costs of a trip may be requested, with supervisor approval. Any advance received must be accounted for on the travel expense report. Employees must request a Per Diem form from HR, and submit two weeks prior to travel. The supervisor must approve Per Diem and travel request.

4.9.6 Authorized Expenses

Expenses to be paid by the Commission include reasonable and necessary transportation, lodging, meals, local transportation and incidental expenses (internet fees, etc.) required to transact Commission business. Receipts must be kept for all expenses and attached to the travel expense report.

4.9.6.1 Lodging

Where lodging is selected by the employee or commissioner, lodging that is clean, comfortable, and in a safe area should be selected, but also economical, consistent with the fact that all Commission employees are stewards of public funds. Lodging should be paid by the employee or commissioners and the receipt attached to the travel expense report.

4.9.6.2 Meals

A daily per diem is provided for meals and incidentals. The per diem is set by the General Services Administration (GSA) by city and county in which the travel and hotel stay take place. The following website lists the per diem rates by city, <http://www.gsa.gov/portal/content/104877>.

To determine the county in which travel takes place, please visit the following website, <http://www.naco.org/Counties/Pages/CitySearch.aspx>. If the city or county to which the employee is traveling is not listed, the rate for the City of Portland, Oregon will apply. Meals provided by the hotel, training or conference will not be included on the per diem form or in the per diem rates. The per diem will be 50% of the daily rate for the first and last day of a multi-day conference and for conferences, meetings or training which do not require an overnight stay.

For the first and last day of required travel, the Commission shall pay for meals only if the employee or commissioner reasonably needs to travel during normal meal hours (7:00 am to 8:00 am, Noon to 1:00 pm, and 5:00 pm to 6:00 pm). If traveling for a conference or other event where meals are included in the costs, no reimbursement will be provided.

The Commission will not reimburse the cost of alcoholic beverages.

4.9.6.3 Local Transportation

Reasonable transportation for costs of taxis, buses, and airport transport etc. will be reimbursed with receipts.

4.9.6.4 Conference Registration Fees

Whenever an employee is required or permitted to attend a conference, the Commission will pay the registration fees.

See the related sections in this Manual regarding travel costs and paid travel time.

Spouses and family members may attend conferences at their own expense. Any additional costs, such as the spouse's and family members' meals and room costs for more than the employee, must be paid by the employee.

4.9.6.5 Qualifying Entertainment

Generally, entertainment expenses are not paid for by the Commission with the exception of entertainment directly related to a conference, such as entertainment events scheduled as part of the main conference.

4.9.6.6 Travel Expense Report

In order to receive reimbursement, a division head must personally approve all employee expense reports, and the General Manager must approve division head expense reports. The Finance Department is responsible for verification that the report is completed correctly with all necessary backup, and that it has the necessary approval of the division head or General Manager. The travel expense report shall be submitted to the Finance Department within two weeks of the trip.

4.9.6.7 Tie in with Vacation

Employees wishing to use vacation with conferences may, with proper authorization. Any additional expenses incurred because of the vacation will be paid by the employee.

4.9.6.8 Frequent Flyer Miles/Bonus Points

Frequent flyer miles, “bonus points,” or similar travel compensations earned while an employee is traveling for the Commission, at Commission expense, will belong to the employee.

4.9.6.9 Wages via Direct Deposit

For convenience, The Commission provides a direct deposit option for all employees. Employees may opt out, in writing, to the payroll department.

SECTION 5

RISK MANAGEMENT

&

SAFETY PROGRAM

5 RISK MANAGEMENT - SAFETY PROGRAM POLICY

5.1 Employee Safety

Safety is a critical component of every employee's job, regardless of position, status, rank, or seniority. There is a right way to do every job, and that is the safe way. If you have any questions related to safety and your position, reach out to your supervisor and/or a safety committee member.

The Commission has established a risk management - safety program policy that includes a Safety Manual, and a Safety Committee.

It is the responsibility of management to provide safe working conditions, tools, and equipment. It is the responsibility of supervisors to ensure all safety policies and procedures are followed. And it is the responsibility of all employees to review and be familiar with the Safety Manual, follow all safety policies and procedures, and to immediately report any unsafe working conditions, and address them if it is reasonable to safely do so.

5.2 Safety Committee

A Safety Committee has been established that complies with Oregon OSHA laws. The Safety Committee, which consists of employees selected by management and non-management employees, meets monthly to establish regular inspections, establish and distribute reporting procedures, review accident and incident reports, make recommendations to maintain and improve workplace health and safety, update the safety manual, and other duties as required by law and/or necessary to ensure a safe and healthful workplace.

5.3 Safety Equipment

All employees performing duties and/or working in areas where safety equipment is needed will be provided initial training and periodic refresher training, if appropriate.

It is the responsibility of each Water Commission employee to wear such protective equipment to protect themselves from injury as may be required by the particular task being performed. Protective equipment includes such things as safety glasses, hearing protection, goggles, hard hats, safety shoes, gloves and welding hoods, and clothing for protection from welding.

The Commission will ensure all necessary and legally required equipment is available for use. It is each individual's responsibility to see that he/she uses the necessary protective equipment and adheres to all State and Federal safety regulations.

If your protective equipment becomes lost or broken, the loss should be immediately reported to the employee's supervisor so that he/she can see that a replacement is obtained.

5.4 Clothing and Safety Equipment Allowance

Any protective clothing or safety wear specifically required by law for an employee in the work required of him or her by the Commission shall be provided by the Commission.

The Commission will also furnish rain gear and rubber boots for maintenance and construction employees. If the Commission determines coveralls and/or uniforms are appropriate, the Commission may also furnish coveralls and/or uniforms consisting of shirt, pants/shorts, hat, and jacket. When such clothing is provided by the Commission, employees must wear at the time and in the manner required by the Commission. No employee shall wear or use any such protective clothing or safety wear provided by the Commission anywhere except on the job, except that employees may wear Commission-provided clothing when traveling to work from home and from work to home, if they wish.

SECTION 6

DISCIPLINE AND DISCHARGE

6 DISCIPLINE AND DISCHARGE

6.1 At Will Employment; Just Cause

As stated elsewhere in this Manual, regular full-time are employed at-will during their probationary period. All other employees remain at-will during the entirety of their employment relationship with MW. As also stated elsewhere in this Manual, “at-will” means an employee may resign at any time for any reason, with or without notice, or may be disciplined or terminated, with or without advance notice or appeal rights, for any reason not specifically prohibited by law.

For all employees other than those employed at-will, the employee’s supervisor will initiate progressive discipline, up to and including termination of employment, when the supervisor believes in good faith that there is just cause to do so.

“Just cause” generally refers to reasonable justification for discipline. The term looks to the following questions:

- 1) Is there sufficient evidence that the employee engaged in the conduct as stated?
- 2) Was the employee aware that the conduct s/he engaged in was prohibited by policy and/or law, and could lead to discipline? That is, is there an MW policy prohibiting the conduct, a prior written warning notifying the employee that s/he needed to change his/her behavior, mention of the issue in prior performance evaluation, etc.?
 - i) Note that some actions are so egregious, illegal, or wrong (based on common sense) that the lack of a policy or prior warning will not affect the “just cause” inquiry
- 3) Is the proposed discipline appropriate under the circumstances?
 - i) Does the discipline take into account the employee’s history (including prior incidents, longevity with MW, general performance, severity of the incident, prior coaching and/or discipline)? Is the level of progressive discipline consistent with the severity of the incident?
- 4) Is the discipline consistent with what has been given to other employees in similar circumstances?
- 5) Were there mitigating circumstances?

Bargaining Unit employees are subject to the policies and procedures stated in this Manual and this Section 6 but may have additional or different rights during the progressive discipline and appeal process, as stated in the applicable Collective Bargaining Agreement and/or as provided in applicable law.

6.2 Progressive Discipline

The goal of progressive discipline is to improve performance and support an employee's success with MW, if possible, therefore a supervisor will usually start with the lowest level of discipline, and only move to higher levels of discipline if the lower level(s) are not effective.

However, nothing in this policy requires the supervisor to follow any or all of these steps, or to follow the steps in sequence. Some conduct is serious enough that a higher-level discipline (including immediate termination) may be warranted at the first offense. In addition, there may be multiple types of misconduct or poor performance which, if addressed in isolation in the progressive disciplinary sequence, would not result in an effective or reasonable supervisory response.

Progressive discipline may include the following steps:

- 1) Documented verbal coaching or warning. (*Coaching and verbal warnings should be documented.*)
- 2) First or Second Level Written Warning, with or without a Performance Improvement Plan
- 3) Final Written Warning, with or without a Performance Improvement Plan
- 4) Suspension, with or without pay
- 5) Demotion
- 6) Termination of employment

In addition, supervisors will make an effort to note strengths and areas for improvement in employee performance evaluations, with or without Performance Improvement Plans, to ensure that employees are aware of ongoing issues and have every opportunity to succeed.

6.3 Disciplinary Procedure - Investigative Meeting

If a supervisor observes poor performance, violation of policy, insubordination, misconduct, or other acts or failures to act that affect or may affect the orderly, efficient, and safe operation of MW's services to the public, the supervisor may decide to issue discipline.

*A supervisor may provide coaching or give a verbal warning, transfer, adjust duties and/or schedule, issue a First or Second Level Written Warning, or take other ordinary supervisory action without following any specific procedural steps; supervisors are expected to coordinate with HR for all performance actions, however there are no procedural rights related to verbal coaching or other ordinary supervisory decisions. **The process listed in this Section 6 applies only to: Final Written Warning, Suspension, Demotion, or Termination.***

If a supervisor decides to issue a Final Written Warning or higher-level discipline, the supervisor will consult with HR and the General Manager, and will then follow these steps:

- 1) To the extent possible, **within ten (10) business days** after the supervisor observes an incident, receives a report, recognizes a pattern of problematic behavior, or otherwise becomes aware that the applicable discipline may be necessary or appropriate, the supervisor will notify the employee, in writing. The notice will generally describe the issue and will schedule an investigative meeting to discuss.
- 2) To the extent possible, **within ten (10) days after issuing the notice**, the supervisor and HR (and, if appropriate, the General Manager) will meet with the employee. During the meeting, the supervisor will explain the issues, and employee will have an informal opportunity to present information. The supervisor will not make any decision during the meeting about whether or not to issue discipline, and what level of discipline to issue. Bargaining Unit employees may request to have a Union Steward present, subject to the restrictions imposed by the CBA and applicable law.

6.4 Pre-Disciplinary Hearing

If the supervisor decides to move forward with a final written warning, suspension, demotion, or termination, the process shall be as follows:

- 1) To the extent possible, **within five (5) business days after the investigative meeting**, HR shall issue a written Notice of Proposed Discipline to the employee. The Notice will state: the conduct and/or performance deficiency at issue, including the date(s) of occurrence and other relevant details; the policy violated, if applicable; the history of coaching or discipline, if any; the type of discipline and the effective date; whether a Performance Improvement Plan will be offered; and the employee's right to a hearing, with the deadline for requesting a hearing.
- 2) If the employee decides to request a hearing, the Request for Hearing must be submitted, in writing, to HR, **within five (5) business days of the date the notice of the decision was provided to the employee**. The Request for Hearing must include a brief statement outlining why the employee believes the decision was unfair and/or unreasonable.

If no Request for Hearing is received by the deadline, MW will make a determination based on the information available.

- 3) If a Request for Hearing is submitted, HR and the employee will agree on a date for the hearing as soon as possible, but **no later than 20 calendar days after the employee's Request for Hearing was received**, unless an extension of time is provided.
- 4) The hearing shall be to a panel consisting of: HR, the General Manager, and a supervisor other than the employee's own supervisor.
- 5) MW will bear the burden of proof to demonstrate the proposed disciplinary action is reasonable, consistent with business necessity and past practices, and fair under the circumstances.

- 6) The employee's supervisor and the employee may bring documents and witnesses to the hearing, if desired.
- 7) The employee may be represented by counsel, at his or her own cost, if desired.
- 8) Each party may question the other party's witnesses, if desired.
- 9) The Commission's decision shall be in writing, shall explain the basis for the decision, and shall be presented to the employee **within five (5) business days after the hearing**, unless an extension of time is granted.

MW's determination on the matter shall be its final decision.

6.5 Leave of Absence While Disciplinary Proceedings are Pending

Normally, an employee will continue to perform his or her duties while discipline is pending. However, when serious discipline is under consideration, it may be uncomfortable for the employee to be present in the workplace. In addition, occasionally the nature of the alleged misconduct is so severe (such as alleged theft or sexual harassment) that MW may wish to remove the employee from service, pending final resolution of the proceedings.

In the event a leave of absence is imposed, the leave may be paid or unpaid, depending on the circumstances. If unpaid, the employee will continue to be entitled to all ordinary benefits (health insurance, etc.) until the final determination has been made under this section. In the event the investigation determines the allegations were unfounded, no misconduct occurred, and/or no discipline is imposed, an employee who was on unpaid leave will receive back pay covering the period of unpaid leave, if any.

6.6 Deadlines

MW will make every effort to observe the deadlines in Section 6, however the deadlines may be extended unilaterally by HR or by mutual agreement if necessary due to either the supervisor's or the employee's pre-scheduled vacation or protected leave, or for other compelling reasons.

If an extension is necessary, the extension will be as short as possible, to ensure speedy resolution to the issues.

6.7 Final Decision

Bargaining Unit employees who disagree with MW's final determination must follow the arbitration processes provided under the applicable CBA and Oregon law.

For all other employees, the decision outlined above is final after the hearing.

Nothing in this policy is intended to interfere or does interfere with an employee's right to seek legal recourse for discipline or termination that the employee believes was discriminatory or otherwise undertaken in violation of applicable laws.

SECTION 7

EMPLOYEE CONCERNS

7 EMPLOYEE CONCERNS

An employee who has a concern or complaint about a specific policy, a supervisory scheduling decision or work assignment, a co-worker's behavior, etc. may respectfully raise concerns directly with the person involved, if the employee is comfortable doing so.

If the employee is uncomfortable discussing the situation directly with the person involved, or if discussion has not resolved the issue, the employee may elevate his or her concerns up the "chain of command," that is, to the supervisor, manager, and finally, to the General Manager.

Concerns about the General Manager should generally be provided to the Chair of the Board of Commissioners, in writing. The Board of Commissioners does not exercise a supervisory role over other personnel matters, and those issues should not typically be submitted to the Board.

Human Resources can be a good sounding board for concerns, can identify resources and options for resolution, and can facilitate any conversations, upon request.

This policy relates generally to interpersonal disputes, dissatisfaction with supervisory style or decisions, and similar non-legal concerns. See Section 6 regarding complaining about or appealing discipline or discharge decisions.

Please be aware that if at any time a concern is expressed that rises to the level of unlawful discrimination, harassment, or other illegal behavior, MW is legally obligated to investigate and take action to ensure a workplace free of such unlawful conduct. See the policy prohibiting Discrimination and Harassment, and the policy regarding Reporting Unlawful or Illegal Conduct, for more information.

SECTION 8

USE OF COMMISSION- OWNED EQUIPMENT

8 USE OF COMMISSION-OWNED EQUIPMENT

Except as provided below, MW's equipment is to be used only for Commission purposes. Equipment is not available for personal use by employees, for free or on a rental basis.

8.1 Vehicles and other Road Equipment

Employees on standby who are provided a designated vehicle are permitted to take the vehicle home and use it on a twenty-four-hour basis during their assigned week of standby duty. Employees are prohibited from transporting members of their families and/or friends in Commission-owned vehicles.

Employees who are assigned vehicles and permitted to take them home after hours so that they will be immediately available, are to drive the vehicles directly to and from their residences or, during a backup standby or on call emergency. No Commission vehicle may be used for personal uses whether during or outside of working hours, except that minor in-route stops of a personal nature are allowed, on the way to and from work. It is not a requirement to have the assigned vehicle with you at all times during backup standby or on call status. Employees are prohibited from transporting members of their families and/or friends in Commission-owned vehicles.

The Big Butte Springs (BBS) operator is provided a designated vehicle which is permitted to be used, as per the employee job description, on a 24/7-year-round basis. The assigned vehicle is to be with the employee at all times. Employee is discouraged from transporting members of their family in Commission-owned vehicles. Use of Commission-owned vehicles for this type of action is restricted to those rare cases wherein no other transportation is feasibly available.

8.2 Commercial Driver's License

A Commercial Driver's License (CDL) Oregon Driver's License is required for some personnel, as outlined in their Job Description and required by applicable law.

In the event any such employee loses his or her CDL on a temporary or permanent basis, MW will suspend the employee from all duties requiring driving or operating heavy machinery, and may take one or more of the following actions:

- Temporarily suspend the employee from all duties, and place the employee on paid or unpaid leave;
- Temporarily reassign the employee to non-driving duties, to the extent such duties are available, and the employee is qualified to perform the duties of the other position;
- Temporarily place the employee on a reduced schedule consistent with his or her non-driving duties;

- Permanently transfer the employee to a position that does not require a CDL, if such a position is available and the employee is qualified to perform the duties of the other position; or
- Terminate the employee's employment.

The General Manager, in consultation with HR, reserves the right to determine which action or actions best serve(s) the interests of the department or workgroup and MW as a whole. Note that suspension, transfer, and even termination may not be disciplinary in nature, if an employee loses his or her CDL due to medical incapacity, for example.

Any action that is disciplinary in nature shall be subject to the Discipline policies outlined in this Manual, and to the terms of the CBA, if applicable.

MW shall pay all costs to obtain and maintain the basic CDL. All other endorsements above the basic shall be paid by the employee.

8.3 Policy on Use of Commission Information and Communication Systems

8.3.1 Purpose, Scope, and Definitions

For purposes of this policy, Commission "Systems" include: MW desktop and laptop computers, iPad, etc.; mainframes; servers; MW cell phones, regular phones, pagers, fax machines, and all related numbers and accounts; MW email accounts; and MW websites and social media accounts.

For purposes of this policy, Commission "Information" is defined as MW data, documents, drafts, emails, notes, apps, designs, voicemail, text messages, call history, photos, faxes, internet browsing history and downloads, authorized posts on Commission websites and social media, and all other information created, stored, downloaded, sent or received on the Commission's Systems.

This policy establishes procedures and guidelines regarding the Information and Systems of the Commission.

All Commission Systems and Information are the property of the Commission. In addition, all email and other Information constitute a public record except under certain circumstances. **MW has the right to and may monitor and access all MW Information and usage of MW Systems. Therefore, employees should have no expectation of privacy in any Information they create, send, receive, or save on MW Systems.**

This policy applies to all use of MW Information, regardless of the location or ownership of the equipment being used. For example, if an employee works from home on an MW laptop, or responds to an MW email, or uses a private PC and modem connection at home to access the Internet via a service provided by the Commission, or communicates remotely using a Commission email account, this policy applies.

This policy applies to all Commission employees, elected officials, and volunteers using Commission Systems. Such individuals are referred to as “users” of the Systems, in this policy. Volunteers, contractors, and other users who are not employees will be provided with a copy of this policy or a similar policy, to ensure they are aware of their obligations.

All users of the Commission’s Systems should be aware that they are subject to the Oregon Government Standards and Practices Laws. In general, these laws prohibit any elected official, employee or volunteer from using their position with the Commission to obtain financial benefit or avoid financial detriment for themselves or for a family member.

The law and associated policy on use of the Internet, email, cell phones and voicemail are continually evolving. Accordingly, review of the Commission’s policies will occur with regularity, and changes shall be made as required.

8.3.2 General Principles

MW provides its Systems to users to support the Commission’s business and serve its customers. MW will take reasonable measures to ensure that inappropriate sites are not accessed by Commission users, reduce distractions, maximize productivity, and otherwise ensure that MW employees are conducting themselves as public servants and stewards of public funds.

In addition, the smooth operation of the network relies upon the proper conduct of the end users. Users are individually accountable for their own behavior. This includes users accepting the responsibilities for ensuring that virus and other damaging programs are not downloaded from the Internet, and that files and other materials downloaded from the Internet are promptly reviewed and deleted to ensure that network and individual computer capacity is not exceeded. It also includes using the Internet for business related purposes in a way that enhances personal productivity, improves services to the community, and conforms to all existing Commission policies and relevant laws.

These guidelines are provided so that users are aware of their responsibilities. In general, this requires efficient, ethical and legal utilization of the network resources.

If an MW employee violates any of these provisions, his or her access may be terminated, and he or she may be subject to discipline, up to and including termination.

8.3.3 Network Etiquette

Communications with customers, co-workers, and others should be professional and courteous. That is especially true when communicating in writing, such as via email. Users should remember that even deleted emails, voicemails, and other Information may remain on the Systems. Users of MW Systems are expected to abide by all existing Commission policies and are also expected to abide by generally accepted rules of network etiquette, including but not limited to the following:

- 1) Be polite to customers, co-workers, vendors, and everyone with whom you come into contact in our role as a Commission employee. If a customer becomes rude or abusive, report the problem to your supervisor.

- 2) Use appropriate language. Do not swear, use vulgarities or any other inappropriate language.
- 3) Be sensitive to cultural differences, different sense of humor, and different audiences. When in doubt, err on the side of caution.
- 4) Do not reveal your personal contact information or those of your colleagues (except as permitted for union activities, if necessary).
- 5) Do not use the network in such a way that you would disrupt the use of the network by other users.
- 6) Subscriptions to email listservs must be pre-approved by the Information Services (IS) department and should be limited to listservs related to your work function.
- 7) Email listservs must be monitored daily and deleted from the personal email directory to avoid excessive use of file server hard-disk space.
- 8) Do not read another person's email unless authorized to do so or share another person's information unless requested or authorized by the owner of the information.
- 9) Observe professional writing norms and standards: use "Mr./Ms. with customers or people you don't know; use complete sentences; and check for correct grammar and spelling.
- 10) Avoid using text messages, especially with customers. Text messages tend to be unprofessionally written, and do not create an adequate record to protect you and the Commission, in the case of a dispute.

8.3.4 Prohibited Uses

Commission employees and elected officials serve the public, and must demonstrate strict adherence to ethical standards, and compliance with applicable laws. In addition, as stated above, most Information on Commission Systems is a public record. Therefore, certain conduct on Commission Systems is strictly prohibited, as outlined below.

- 1) Users shall not use the Systems to knowingly transmit communications that are violent or threatening, that constitute or include extortion, or that constitute electronic "harassment" as that term is defined by Oregon law.
- 1) Users shall not use the Systems to knowingly transmit, retrieve, access, display or store Information which is or may be considered offensive or which are derogatory based on race, age, gender, sexual orientation, religious beliefs, national origin, disability, or other protected class, or which otherwise would violate our policies prohibiting discrimination and harassment.
- 2) Users shall not use the Systems to knowingly transmit, retrieve, access, display or store Information that is sexually explicit.

- 3) Any use of the Commission's Systems for personal gain or profit-making is strictly prohibited. An example of prohibited "personal gain" is on-line stock trading or subscribing to a financial newsletter for delivery via the employee's MW email.
- 4) No publishing is allowed if the content or purpose is personal.
- 5) No personal soliciting is allowed. Examples of personal soliciting would include inviting co-workers to buy your child's Girl Scout cookies, or to contribute to a charitable Fun Run. This policy is not intended to and does not interfere with the right of employees to use MW Systems to communicate with union representatives, or to communicate with each other regarding labor issues.
- 6) Pursuant to Oregon law, the Commission's Systems may not be used for campaign-related purposes. No Commission employee, elected official, or volunteer may use any website, email, phones, computers, etc. for campaign-related purposes. Campaign-related purposes include, but are not limited to, the following: statements in support or opposition to any candidate or ballot measure; requests for campaign funds or references to any solicitations of campaign funds; and references to the campaign schedule or activities of any candidate.
- 7) Personal communications to group "Bulletin Boards" or "Chat Rooms" is prohibited.
- 8) The representation of yourself as someone else, real or fictional, or a message sent anonymously is prohibited.
- 9) Hacking is prohibited. Hacking is the unauthorized attempt to enter or entry into any other computer.
- 10) Downloading software or any information which requires storage on Commission equipment not related to your assigned job responsibilities is prohibited.
- 11) Internet games and personal games may not be used.
- 12) Chain letters and "pyramid" schemes are illegal and may not be transmitted through email.
- 13) Users may not download Information that is trademarked, copyrighted, patented, or otherwise proprietary to a third party and which you and/or the Commission is not authorized to download or use. Users must comply with all software licensing laws.
- 14) Unauthorized disclosure or use of confidential information without authorization is strictly prohibited. Examples of prohibited disclosure or use include disclosing the home address or financial information of a customer or disclosing a co-worker's confidential medical information.
- 15) Vandalism is prohibited. Vandalism is defined as any malicious attempt to harm, modify, or destroy computer hardware, data of another user, or any of the other networks that are

connected to the Commission. This includes, but is not limited to, the uploading or creation of computer viruses.

16) Users shall not intentionally seek information on, obtain copies of, or modify files, other data, or passwords belonging to other users, or misrepresent other users on the network.

17) Users shall not attempt to gain unauthorized access to areas of the Systems to which they do not have authorized access.

The list above is not intended to be exhaustive. Any other use prohibited by Federal, State, or local law is also prohibited by Commission policy.

8.3.5 Personal Use of MW Systems

MW Systems are for official Commission business only. As stated elsewhere in this policy, the only exception is that union communications and other labor related communications may occur on MW Systems during an employee's non-working time.

8.3.6 Security

Security on any computer system is a high priority, especially when the system involves many users. If you observe a problem with the Systems, immediately notify the Information Services Department. Do not demonstrate the problem to other users. Downloading of information onto network hard drives is prohibited unless first approved by the Information Services department. All files must be downloaded to the user's local C drive. Any user identified as a security risk or having a history of problems with other computer systems may be denied access.

Users are expected to handle account privileges in a responsible manner and to follow Commission procedures for the security of their data as well as that of the system. For systems which rely upon password protection, users must select strong passwords and periodically change them. IT will notify all users of the schedule for revising passwords.

8.3.7 Consequences for Violation of Policy

In the event of a violation of these policies, Commission management may: close or transfer the user's Commission email account; request the Information Services Department to deny, revoke, or suspend computer use; and/or impose disciplinary action, up to and including termination.

In the event of a violation of law, the Commission may also seek legal remedy, including injunctive relief, and/or may report the action to law enforcement.

SECTION 9

DRUG AND ALCOHOL FREE WORKPLACE

9 DRUG AND ALCOHOL-FREE WORKPLACE

9.1 Purpose

MW recognizes that working while impaired by alcohol or drugs of any kind may reduce productivity and jeopardize the safety of co-workers and the safety of the public we serve. In addition, MW is obligated to comply with ORS 654 (Oregon's Occupational Safety and Health Act), the Department of Transportation's drug and alcohol testing regulations under the Federal Motor Carrier Safety Administration, Oregon laws related to employees who are assigned work requiring a commercial driver's license, and other relevant state and federal laws regarding drug and alcohol testing and workplace safety.

The Commission is committed to ensuring a safe workplace, and to be a good steward of public funds. All employees, contractors, and any others who represent or work with MW must maintain the same commitment to a workplace free of the effects of drugs and alcohol.

9.2 Applicability and Notice

The policies in this Section 9 state the rights and obligations of all Commission employees, including employees who operate commercial motor vehicles or who are otherwise required to hold a commercial driver's license, as established by the Department of Transportation ("DOT") regulations and applicable Oregon law.

DOT regulations establish additional rules for all employees covered by the regulations, and those policies must be stated separately, those procedures must be conducted separately, and those records must be maintained separately, from non-DOT policies, procedures, and records.

The applicable collective bargaining agreement ("CBA") also creates additional drug and alcohol testing rights and obligations for bargaining unit members covered by the CBA, and those are incorporated in this Section 9, as well, for ease of reference.

Finally, MW has identified certain positions that are not subject to DOT regulations or the CBA, but which may nevertheless have a significant impact on public safety ("Safety Sensitive Positions"), and those positions are also subject to additional drug and alcohol testing policies.

Where a policy or procedure applies only to employees covered by DOT regulations, employees covered by the applicable CBA, and/or Safety Sensitive Positions, that is indicated below.

All job postings will generally describe MW's drug and alcohol testing policies and will ensure applicants are aware when a position is subject to drug and alcohol testing. Every applicant will receive a copy of these policies when receiving a contingent job offer that requires a pre-employment drug and alcohol test. The applicant will be required to acknowledge receipt, and acknowledge that: they understand the job offer is contingent on passing the test; and that they understand the consequences of a failed test, refusing to test, or attempting to falsify a test result.

All employees will receive this Personnel Manual containing these policies at hire. Any employee who is hired into, or transfers or is promoted into, a Safety Sensitive Position, Bargaining Unit position, or position covered by DOT regulations, will receive a separate copy of these policies at hire, transfer, or promotion, and will be required to sign acknowledgement of receipt. Employees will also be provided access to the policies when instructed to take a drug and/or alcohol test, and will be required to acknowledge receipt, and acknowledge that they understand the consequences of a failed test, refusing to test, or attempting to falsify a test result.

9.3 Definitions

For purposes of these Drug and Alcohol-Free Workplace policies, the following terms shall have the following meanings, unless specifically stated otherwise.

Alcohol	Any alcoholic beverage liquor as defined in ORS 471.001 and/or applicable federal regulations
Bargaining Unit (“BU”) Member	An employee covered by the applicable CBA, as soon as coverage begins. Any and all policies listed in this Personnel Manual, and any revisions, changes, or new policies issued from time to time, that are specific to BU Members, have been the subject of bargaining with the applicable Union(s) prior to implementation, and the policies are stated in this Manual for ease of reference only.
Commercial Motor Vehicle (“CMV”)	<p>A motor vehicle: with a gross combination weight or weight rating (GVWR) of at least 26,001 pounds, alone or inclusive of one or more towed units with a GVWR more than 10,000 pounds; that is designed to transport 16 or more passengers, including the driver, or; a vehicle of any size used to transport materials covered by the Hazardous Materials Transportation Act.</p> <p>Any employee who operates a CMV is required by law to have a Commercial Driver’s License (CDL). Most federal regulations applicable to those who regularly operate a CMV also apply to supervisors of such employees, if they are or may be called upon to operate a CMV.</p>
Commission Property	Commission Property includes all premises, worksites, facilities, parking lots, garages, work places, storage facilities, pump stations, reservoir sites, MW vehicles, pipeline locations, and treatment plant(s), including property assigned to or used by employees, such as desks, lockers, and any storage containers.
Controlled Substances	<p>For purposes of DOT regulations, “Controlled Substances” refers <i>only</i> to the following: (a) Marijuana metabolites; (b) Cocaine metabolites; (c) Amphetamines; (d) Opiate metabolites; (e) Phencyclidine (PCP).</p> <p><i>Note that MW does not exempt cannabis, until/unless otherwise required by law.</i></p>

	MW reserves the right to, and may, test for other substances not defined as Controlled Substances under DOT regulations, however all such testing will occur separately.
Covered Employee	An individual employed by MW who is required by law to hold a CDL to perform the Safety Sensitive Functions listed on his or her job description. Where a policy does not specifically refer to “Covered Employees,” the policy is generally applicable to all MW employees, including Covered Employees.
Designated Employer Recipient (“DER”)	The Designated Employer Recipient is the authorized person at MW who receives drug and alcohol test results, either from the MRO (for Covered Employees and DOT tests), or directly from the Medical Facility (for non-Covered Employees, and/or non-DOT tests). The HR Manager is the DER for MW.
Drug	Any substance (other than alcohol) that has or may have mind- or function-altering effects. This term specifically includes Controlled Substances as defined in these policies/DOT regulations, additional substances included in other Schedules of the federal Controlled Substances Act, all substances that are illegal for non-medical personnel to possess under federal and/or Oregon law (including cannabis), prescription medications, and/or over-the-counter medications. “Drug” also includes substances that are not normally considered drugs, but which are ingested with the intended effect of altering mental functions (such as “huffing”).
Illegal Drug	Any Drug which, when possessed by non-medical personnel, may subject an individual to criminal penalties under federal and/or Oregon law, <i>including cannabis</i> .
Impaired or Under the Influence	Employees will be considered Impaired/Under the Influence, in violation of these policies and applicable laws, when a confirmed drug or alcohol test, verified by the applicable MRO, indicates: <ul style="list-style-type: none"> - any detectable level of Controlled Substance, and/or - a blood alcohol content (“BAC”) of 0.04 or greater. <p>DOT regulations limit testing and consequences to the above standards, for Covered Employees. However, MW is authorized to and does impose additional requirements on all employees (including Covered Employees), as long as all testing and records are separate.</p> <p>In general, an employee will be considered Impaired/Under the Influence if the employee’s motor skills, senses (<i>i.e.</i> sight, hearing, balance, reaction, reflex) and/or judgment are negatively affected by the use of alcohol and/or Drugs.</p>

Medical Facility	Hospital, clinic, physician's office or laboratory where testing samples can be collected according to recognized professional standards. MW uses only Medical Facilities certified to provide testing compliant with federal regulations.
Medical Review Officer (MRO)	A Medical Review Officer is a physician licensed to work in Oregon who has been trained and qualified in (a) collection procedures; (b) chain of custody, reporting, and recordkeeping; (c) interpretation of drug and validity tests results; (d) the role and responsibilities of the MRO in the DOT drug and alcohol testing program; and (e) the interaction with other participants in the program.
On-Duty/ Working Time	For purposes of these policies, On-Duty/Working Time generally refers to the time between when the employee reports for his/her work shift or is required to be in readiness to work and when he or she leaves at the end of the shift. On-Duty/Working time also includes: waiting at the scene of an accident that occurred during while working; time spent repairing a MW vehicle, obtaining assistance for or waiting with a disabled MW vehicle; <i>and time at social or educational events which an employee attends in his or her capacity as an MW employee.</i>
Possess	“Possess” refers to when an employee has items that may violate these policies on his or her person (including in clothing pockets or elsewhere), in his or her personal belongings (including backpack, purse, wallet, briefcase, etc.), in his or her personal vehicle, and/or stored in Commission equipment such as desks or MW vehicles.
Post-Accident Test	For Covered Employees, a test for alcohol and/or Controlled Substances will be ordered whenever there is an accident that occurred while the employee was performing a Safety Sensitive Function (with some exceptions, noted in the applicable policy below), if the accident meets the DOT criteria. For all employees, a Post-Accident Test for alcohol and/or drugs will be ordered whenever there is an accident during On-Duty/Working Time that meets the criteria in the policy below, if a Trained Supervisor has reason to believe Drugs and/or alcohol contributed to the accident. Non-DOT testing is conducted separately from DOT testing, and all DOT records are maintained separately.
Pre-Employment Test	A test of potential Covered Employees for Controlled Substances and alcohol that occurs after a conditional job offer has been relayed to an applicant for a position involving Safety Sensitive Functions. Bargaining Unit Members and Safety Sensitive Positions are also subject to Pre-Employment Testing; however, the tests are conducted separately, and the records are maintained separately, from DOT tests and records.

Random Test	<p>A test for Controlled Substances and/or alcohol that is based on a random selection from a pool of Covered Employees that has been established in compliance with applicable DOT regulations.</p> <p>MW also imposes random drug and alcohol testing on Bargaining Unit Members and employees in Safety Sensitive Positions, however the pool from which the random selection is made is separate from the DOT pool, the tests are conducted separately, and the records are maintained separately.</p>
Reasonable Suspicion Test	<p>Per DOT regulations, a Reasonable Suspicion Test for Covered Employees refers to alcohol and/or Controlled Substances testing based on a Trained Supervisor's determination that an employee appears to be Impaired/Under the Influence just before, during, or after performing Safety Sensitive Functions. The supervisor's determination must be based on his or her own specific, contemporaneous, articulable observations.</p> <p>For all employees, a drug and/or alcohol test may be required whenever a Trained Supervisor determines there is evidence that the employee is Impaired/Under the Influence during On-Duty/Working Time. All such tests will be conducted separately from DOT tests, and all related records will be maintained separately from DOT records.</p>
Refusal to Test	<p>Refusal to Test refers to an express refusal to submit to a drug and/or alcohol test when ordered to do so, and per DOT regulations and MW policies is also defined to include:</p> <ul style="list-style-type: none"> a) A refusal to provide a urine sample for a drug test; b) Failure to provide a urine sample, or failure to provide sufficient urine for a sample, without a valid medical explanation; c) Refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the breath testing process in a way that prevents the completion of the test; d) Tampering with or attempting to adulterate the urine specimen or collection procedure; and e) Not reporting to the collection site when instructed to do so, within the time required.
Safety Sensitive Function	<p>As defined by federal regulations, "Safety Sensitive Function" work includes all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:</p> <ul style="list-style-type: none"> (1) All time at an employer's or customer's facility or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;

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- (2) All time inspecting or servicing a CMV;
 - (3) All time spent at the driving controls of a CMV in operation;
 - (4) All time, other than driving time, in or upon any CMV (except time spent resting in a sleeper berth);
 - (5) All time loading or unloading a CMV, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded; and
 - (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled CMV.

Safety Sensitive Position	<p>MW defines certain positions that are not covered by the CBA and/or DOT regulations as “Safety Sensitive Positions” if a momentary lapse in attention could result in serious injury to co-workers or members of the public. Employees in Safety Sensitive Positions are subject to additional drug and alcohol testing consistent with DOT regulations.</p> <p>Examples of Safety Sensitive Positions include backhoe or crane operators, and Water Treatment Plant Operators, and BBS Operators. The list of Safety Sensitive Positions is reviewed periodically by HR and the Water Management Team and may be updated as needed. Any employee may review the list of Safety Sensitive Positions, upon request.</p>
Substance Abuse Professional (“SAP”)	<p>A counselor, healthcare practitioner, or treatment provider who is licensed to provide evaluation in compliance with DOT regulations, and who makes recommendations concerning education, treatment, follow-up testing, and aftercare.</p>
Trained Supervisor	<p>An MW employee who has been assigned supervisory authority over an employee, including the authority to require the employee to report for an alcohol and/or drug test, and who has received the training required by Department of Transportation regulations.</p>
Verified Positive Test	<p>A test for alcohol and/or Controlled Substances that indicates the employee is Impaired/Under the Influence, as defined in these policies and applicable law, that has been confirmed by a second test of the same sample, and that has been verified by the MRO.</p>
Workplace	<p>“Workplace” means any and all Commission Property, and any place in which an employee is performing services for the Commission or is otherwise On-Duty/Working. As noted in the definition of On-Duty/Working, under certain circumstances these policies apply outside the normal MW facilities and outside regular working hours.</p>

9.4 Prohibited Conduct; Drug Testing Policy Applicable to All Employees

All MW employees must comply with the policies in this Section.

All MW employees are subject to alcohol and drug testing based on Reasonable Suspicion, and Post-Accident testing.

1) Working while Impaired Prohibited. No employee may be Impaired/Under the influence of Drugs or alcohol while On-Duty/Working.

MW holds all employees to the DOT standards related to alcohol and Controlled Substances as a minimum threshold, but reserves the right to test for additional substances, if the applicable Medical Facility provides for such additional tests. MW also reserves the right to take appropriate employment action, even in the absence of a Verified Positive Test for Controlled Substances and/or a BAC of 0.04 or greater, if there are other indicia of impairment and a member of the Water Management Team determines that it is necessary to remove an employee from the workplace to ensure safe and effective operations.

Such action will not necessarily be disciplinary in nature and may include substitution of Safety Sensitive Functions and/or temporary reassignment, depending on the circumstances. For instance, an employee who is Impaired/Under the Influence of prescribed medication but was unaware the medication would affect his or her ability to work may need temporary adjustment of duties but will not be subject to discipline.

For Covered Employees, any non-DOT tests will occur separately from DOT tests, and the test results will not be maintained with DOT records or otherwise affect a Covered Employee's status per DOT regulations

2) Using Drugs or Alcohol Prohibited; Exceptions. No employee may use Drugs or alcohol while On-Duty/Working. Partial exceptions:

a) Alcohol at Social Functions. Where alcohol is served at work-related functions (such as conferences or parties), moderate consumption of alcohol by employees who are of legal drinking age is acceptable. However, employees must avoid becoming Impaired/Under the Influence, must comply with all Commission policies including policies related to confidential information, and policies prohibiting discrimination and harassment. Employees who must return to work after the event should not drink if the odor of alcohol or the fact of alcohol consumption is likely to impair the public perception of safety and/or public confidence and trust in the employee, even if he or she is not Impaired/Under the Influence.

Specific rules apply to Bargaining Unit Members, CDL-holders, and employees in Safety Sensitive positions, as noted below.

b) Prescribed and Over-the-Counter Drugs. An employee is not prohibited from taking prescribed or over-the-counter drugs to treat medical conditions. However, an employee using any medication that may affect his or her ability to safely perform assigned duties must report any restrictions to his or her supervisor before reporting to

work or beginning any Safety Sensitive Functions. It is the employee's responsibility to determine whether a medication may affect the employee's ability to work safely, after consultation with his/her healthcare provider, if necessary or appropriate.

The use of medications as part of a prescribed medical treatment program is not grounds for disciplinary action, however, failure to report restrictions may subject an employee to disciplinary action.

In the event MW reasonably believes an employee is presently unable to perform the essential functions of his or her position, due to the use of medication, HR may require the employee to submit to a Fitness for Duty exam with his or her healthcare provider, consistent with applicable law.

3) Illegal Drugs Prohibited. No employee shall Possess, manufacture, sell, offer for sale, purchase, obtain, or distribute Illegal Drugs while On-Duty/Working, or in the Workplace.

4) Reporting Off Duty Use if Called Back to Work. If an employee who is off duty and is not on paid standby is called back to work and is Impaired/Under the Influence of Drugs and/or alcohol, the employee shall advise his/her supervisor, and another employee will be utilized. Employees are not subject to discipline for such an event and any information reported to the supervisor will remain confidential. Employees on paid standby, however, are prohibited from using Drugs or alcohol during that paid time, except for medications (but see the previous section about medical restrictions).

5) Drug and Alcohol Testing. Based on Reasonable Suspicion or following an accident that occurs during On-Duty/Working Time in which a Trained Supervisor has reason to believe that Drugs and/or alcohol was/were a contributing factor, an employee shall be directed to immediately report to a Medical Facility for a drug and/or alcohol test.

Covered Employees must follow DOT regulations regarding Reasonable Suspicion and Post-Accident testing (see applicable policies, below).

All employees must report to the Medical Facility immediately, unless unable to do so due to the need to seek medical care, lack of transportation, or other related reason. If an employee is unable to report for testing immediately after an accident, he or she must remain available for post-accident testing for at least 32 hours after the accident.

To ensure public safety, MW reserves the right to remove an employee from all Safety Sensitive Functions until it is clear the employee is not Impaired/Under the Influence and can safely perform his or her duties, even in the absence of a Verified Positive Test. If there are no non-Safety Sensitive Functions the employee can perform, or if the Trained Supervisor determines the employee is significantly Impaired/Under the Influence, MW may instruct the employee to go home on paid suspension, until a test can be performed, or pending the results of any tests.

MW will typically apply only DOT-regulated testing procedures and employment actions to Covered Employees. Those regulations prohibit removal from Safety Sensitive Functions until

after there has been a Verified Positive Test. However, DOT regulations also allow an employer to take action under separate authority, so long as the procedures are conducted separately, and the records are maintained separately. Therefore, if a Trained Supervisor determines that it is likely a Covered Employee is Impaired/Under the Influence while On-Duty/Working, but there is no Verified Positive Test, MW may remove the employee from Safety Sensitive Functions under its own authority. This may occur if, for example, the MRO has not yet had time to provide a Verified Positive Test result, the test was inconclusive, or the Medical Facility and/or DOT regulations do not provide for testing for the Drug that may be causing impairment.

As stated above, in the event an employee is removed from Safety Sensitive Functions and there are no non-Safety Sensitive Function duties that the employee may perform, the employee may be sent home on paid suspension, pending the results of the tests.

The Reasonable Suspicion and Post-Accident Testing policies in this Section are in addition to and separate from the rights and obligations for Covered Employees. No action taken under this policy as to any Covered Employee shall affect the Covered Employee's DOT records or eligibility for DOT-covered employment, and all non-DOT testing shall occur separately from DOT testing.

6) Reasonable Suspicion Testing

When determining that Reasonable Suspicion exists to test for non-Covered Employees, or for Covered Employees where the DOT criteria are not met, a Trained Supervisor may base the determination on the supervisor's own observations, or may base the determination on credible, substantiated reports that an employee is Impaired/Under the Influence while On-Duty/Working, such as the following:

- Slurred speech, apparent confusion, emotional outbursts or disruptive behavior, bloodshot eyes, and/or poor motor coordination, in the absence of other explanations for the behavior, and in conjunction with other indicia that alcohol or Drug use cause the behavior;
- Substantial loss of productivity at work, in conjunction with other indicia that alcohol or Drug use caused the loss of productivity;
- Repeated unexplained tardiness or absences from work, in conjunction with other indicia that alcohol or Drug use caused the tardiness or absences;
- Behavior that causes an on-the-job accident, in conjunction with other indicia that alcohol or Drug use caused the accident, if the accident resulted in death, injury requiring medical care, and/or property damage that was more than minor;
- Odor of alcohol or marijuana while On-Duty/Working;
- Unsafe handling of equipment or tools, in conjunction with other indicia that alcohol or Drug use caused the behavior; and/or
- Actual observation of alcohol or Drug use while On-Duty/Working.

Supervisors will document the basis of the Reasonable Suspicion determination at the time the determination is made.

7) Post-Accident Testing

Employees will be required to submit to Post-Accident Testing whenever the accident that occurred during On-Duty/Working Time resulted in death to any person, injury to any person that requires medical care, or anything other than minor property damage, and a Trained Supervisor reasonably believes there is evidence alcohol and/or drugs contributed to the accident.

9.5 Consequences for Violation of MW's Drug and Alcohol-Free Workplace Policies; Last Chance Agreements

A non-Covered Employee who has a confirmed positive test for any Controlled Substance or any other Drug that has been the subject of a test ordered by MW, or a confirmed BAC level at or above 0.04, will be suspended without pay for 24 hours.

In addition, any Non-Covered Employee who violates any of these policies, including Refusal to Test, Possessing Illegal Drugs, or other policies: (a) will not be allowed to perform any Safety Sensitive Functions until/unless MW management is satisfied that the employee is not Impaired/Under the Influence and can perform those functions safely; and (b) may be subject to additional discipline, up to and including termination of employment.

As stated below, when MW receives a Verified Positive Test as to a Covered Employee, the employee's employment may be terminated, or MW may, in its sole discretion, allow the employee to return to work, but only if he or she has been evaluated by a Substance Abuse Professional, follows the SAP's recommended treatment plan, has passed a drug and/or alcohol test, and is subject to additional Return to Duty tests. If it appears a non-Covered Employee is struggling with addiction or otherwise could benefit from treatment, MW may offer the same option.

In summary, if an employee who is not a Covered Employee fails a drug or alcohol test, or otherwise violates any of these policies, MW may take whichever of the following steps is considered appropriate to the circumstances:

- (1) The employee may be subject to discipline (in addition to the 24-hour suspension);
- (2) The employee's employment with MW may be terminated; or
- (3) The employee may be offered continued employment under a Last Chance Agreement that includes, at a minimum:
 - (a) A requirement that the employee pass a drug and alcohol test before returning to work, demonstrating that the employee is not Impaired/Under the Influence of any Drugs, and has a BAC of 0.02 or lower;

- (b) Agreement by the employee to submit to follow-up testing for at least the next twelve (12) months but no more than sixty (60) months, after returning to work;
- (c) Agreement by the employee to undergo an evaluation by an SAP, and comply with the SAP's recommended education and treatment plan;
- (d) A requirement that the SAP submit a written report to HR, certifying that the employee has complied with the recommended education and treatment plan, and outlining any recommended follow-up treatment and testing plan after the employee returns to work;
- (e) Notice that a failed drug or alcohol test at any time in the future will result in immediate termination of employment, with no investigative meeting or hearing; and
- (f) Notice that only one Last Chance Agreement is available to any employee.

Note that an employee who is participating in addiction treatment has a right to use all available paid leave (starting with sick leave), and to use all available medical leave under OFLA and/or FMLA, for treatment. Medical benefits may cover some of the costs for this treatment. Any costs accrued that are not covered by insurance are the sole responsibility of the employee.

9.6 General Drug Testing Provisions

MW uses a certified Medical Facility that follows chain of custody, confirmatory retesting, and other state and federal requirements. All positive tests are subjected to a second, confirmatory test on the same sample.

MW utilizes an MRO to review all drug and alcohol test results, including both DOT tests and non-DOT tests.

Covered Employees are subject to specific provisions under DOT regulations, as outlined below. For all other employees, the Medical Facility will send the results directly to HR.

Applicants may request test results from the Medical Facility or from HR.

9.6.1 Retesting at Employee's Request

An applicant who has failed a drug or alcohol test, may, at his or her expense, seek retesting of the original sample. Such a request must be made in writing to MW's Human Resources Department within 30 days of the date of notification of the original test results. The applicant may request that another Medical Facility conduct the test, subject to approval by MW. Accepted chain-of-custody procedures must be followed: at no time shall the applicant receive the original sample to transfer or hold until the retest may be conducted. If the retest gives a negative result, the applicant will be deemed to have passed the test. In such cases, applicants shall not be entitled to any position filled in the interim or to any other benefit except retention on an eligibility list.

9.6.2 Confidentiality

Samples will be tested by a licensed Medical Facility meeting the requirements of applicable state and federal law. All results are provided to Human Resources, who is MW's Designated Employer Recipient ("DER").

All non-DOT test results will be maintained with an employee's confidential medical files, separately from his or her personnel file, and only authorized supervisory personnel with a need to know will have access.

For Covered Employees, DOT test results and other DOT records are subject to additional restrictions, and are maintained in separate files, as outlined below.

9.6.3 Refusal to Test/Tampering with the Test Specimen

1) As stated in the Definitions section of these policies, refusal to submit to a drug and/or alcohol test when instructed to do so is a violation of these policies and will result in discipline, up to and including termination. As also stated in the Definitions section, Refusal to Test includes a) refusal to provide a urine sample for a drug test; (b) failure to provide a urine sample, or failure to provide sufficient urine for a sample, without a valid medical explanation; (c) refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the breath testing process in a way that prevents the completion of the test; (d) tampering with or attempting to adulterate the urine specimen or collection procedure; and (e) not reporting to the collection site when instructed to do so, within the time required.

2) Covered Employees must follow specific DOT regulations, outlined below. All other employees will be subject to the Consequences policies listed above.

3) If MW has evidence that a non-Covered Employee intentionally tampered with the test results, that employee will usually not be offered a Last Chance Agreement, and will normally be barred from applying for or working with MW for a period of at least twelve (12) months.

9.7 Management Responsibility/Drug Free Awareness Program

Management is responsible for (1) providing Reasonable Suspicion training to all supervisory personnel, and (2) establishing an educational program for all employees to make employees aware of a) the dangers of drug abuse in the workplace; b) MW's Drug and Alcohol Free Workplace policies, and consequences for violations of the policies; c) available drug and alcohol counseling, rehabilitation, and employee assistance programs.

The training for supervisors will include, at a minimum, at least one (1) hour of training on alcohol misuse, and at least one (1) additional hour of training on Controlled Substances use, including the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of Controlled Substances, to assist in determining when there is Reasonable Suspicion to require an alcohol and/or drug test

9.8 Voluntary Disclosure

When an employee voluntarily self-identifies the existence of a drug or alcohol problem, MW will provide a list of licensed Substance Abuse Professionals, as well as information about MW's Employee Assistance Program provider.

MW will not take any adverse employment action based on the disclosure alone.

If the disclosure occurs in conjunction with performance issues or counseling, or being Impaired/Under the Influence during On-Duty/Working Time, MW will not impose discipline so long as:

- 1) The employee discloses the problem prior to engaging in Safety Sensitive Functions (if any are normally assigned to the employee);
- 2) The employee did not disclose the problem to avoid testing (for instance, disclosure did not occur right after being instructed to take a Reasonable Suspicion or Post-Accident test); and
- 3) The employee complies with the follow-up requirements listed below.

After voluntarily disclosing the problem, any Covered Employee, Bargaining Unit Member, or employee in a Safety Sensitive Position will not be allowed to perform Safety Sensitive Functions until: (a) the employee has been evaluated by a Substance Abuse Professional and has successfully completed education or treatment requirements recommended by the SAP; and (b) the employee has tested negative for Controlled Substances, and/or tested with a BAC of less than 0.02.

Any employee who is evaluated by an SAP under this Section must agree to submit to any follow-up treatment and testing recommended by the SAP.

Employees seeking evaluation and treatment have a right to use all available paid time off, beginning with sick leave, and all available medical leave under OFLA and/or FMLA will be applied.

The supervisor to whom a voluntary disclosure has been made will document the conversation. An employee's disclosure under this Section is a confidential medical record and may not be disclosed to anyone except to supervisory or management employees with a need to know, to the applicable federal agency (as to Covered Employees), or as otherwise required by law.

Alcohol and drug dependency are recognized disabilities protected under the ADA and Oregon disability laws. Participation in addiction treatment is also protected by such laws. No employee will be subject to discipline or retaliation because of disclosure of addiction and/or treatment.

However, no law requires an employer to permit or ignore violation of reasonable policies, including a prohibition on working while under the influence of drugs and/or alcohol.

Voluntary disclosure under this policy will not relieve an employee of the obligation to meet work standards or comply with work policies. An employee who has voluntarily disclosed a problem with misuse of alcohol or use of Drugs will continue to be subject to Reasonable Suspicion Testing, Post-Accident Testing, discipline for a confirmed positive test, and discipline for attendance issues related to Drugs and/or alcohol.

9.9 Bargaining Unit Members; Safety Sensitive Positions.

Under the applicable Collective Bargaining Agreement, Bargaining Unit members are subject to the same drug and alcohol policies as employees covered by Department of Transportation regulations, outlined in Section 9.10, including: Pre-Employment testing, Random testing, Reasonable Suspicion testing, Critical Incident testing, Stand Down provisions, MRO verification, referral to a Substance Abuse Professional, and Confidentiality.

In addition, MW has identified several Safety Sensitive positions where even a momentary lapse in judgment could lead to substantial injury to others. Employees in these Safety Sensitive positions are subject to the policies and procedures applicable to all MW employees, and in addition are subject to the following drug and alcohol testing applicable to employees covered by the Department of Transportation regulations, as outlined in Section 9.10: Pre-Employment Testing, and Random testing.

Drug test results for BU Members and employees in Safety Sensitive Positions are not maintained with DOT records, and neither BU Members nor employees in Safety Sensitive Positions are part of the Covered Employee Random Testing pool, per DOT regulations.

9.10 Commercial Motor Vehicle Drivers/Covered Employees

Federal law imposes specific restrictions and obligations on employees who operate or may be called upon to operate Commercial Motor Vehicles (“Covered Employees”), and on their employers. The law requires that these policies be stated separately and requires that all related records be maintained separately.

Under Department of Transportation and related regulations, Covered Employees are required to submit to Pre-Employment Testing, Random Testing, Reasonable Suspicion Testing, Post-Accident Testing, and Return to Duty Testing.

MW pays the costs of all drug and alcohol testing required by law, including confirmatory tests. Follow-up testing or re-testing that occurs at the request of the employee is usually at the employee’s cost.

DOT-regulated employers are also required to provide educational materials to employees, provide training to supervisors, obtain DOT test records from past employers of each Covered Employee who is hired or promoted into a position involving Safety Sensitive Functions, conduct drug testing according to strict DOT regulations, maintain applicable drug test results according to specific confidentiality provisions, and relay certain information to the applicable federal agency (“the Clearinghouse”). In the event a Covered Employee’s employment with MW ends, and he or she seeks employment performing Safety Sensitive

Functions with another employer, MW must also relay his or her DOT records to the prospective employer, upon request.

9.10.1 Specific Prohibitions Related to Covered Employees

The following conduct is prohibited and will result in discipline, up to and including termination:

- 1) Reporting for duty or remaining on duty requiring the performance of Safety-Sensitive Functions while having a Blood Alcohol Concentration level of 0.04 or greater;
- 2) Performing Safety Sensitive Functions within 4 hours of using alcohol;
- 3) Using alcohol while performing Safety Sensitive Functions;
- 4) Reporting for duty or remaining on duty requiring the performance of Safety Sensitive Functions when the employee used any Controlled Substance, except if the use is pursuant to the instructions of a licensed healthcare provider who has advised the employee that the substance will not adversely affect the employee's ability to safely operate a CMV. The employee may be required to furnish the healthcare providers certification to that effect, to HR.
- 5) Reporting for duty or remaining on duty requiring the performance of Safety Sensitive Functions after a test demonstrating that the employee was Impaired/Under the Influence of Controlled Substances while On-Duty/Working;
- 6) Refusal to Submit to any alcohol or Controlled Substances test required by these policies. See Definitions Section for the types of conduct that constitute "Refusal to Submit."
- 7) Consuming alcohol during the eight hours immediately following an accident, or until the employee undergoes a post-accident alcohol test and is released from duty, whichever occurs first.

9.10.2 Pre-Employment Testing – Covered Employees

An offer of employment, or an offer of promotion or transfer, for any position performing Safety Sensitive Functions will be contingent on passing a drug and alcohol test. Specifically, the offer will be contingent upon receipt by MW of test results from a Medical Facility that:

(a) there is no detectable level of any Controlled Substances and (b) the applicant or employee's BAC for alcohol is below 0.04.

Refusal to Test will disqualify the applicant for the position or promotion. A list of the Controlled Substances in the drug screen will be furnished upon request.

A Verified Positive Test will disqualify the applicant for any position with Safety Sensitive Functions for a period of six (6) months from the date of the test.

This policy shall be distributed to all new employees at the time of appointment and basic information about this program shall be made available to applicants for MW jobs or positions through the job announcement.

9.10.3 Random Tests – Covered Employees

Random Testing for alcohol will be administered just prior to an employee performing a Safety Sensitive Function, while the employee is performing a Safety Sensitive Function, or just after the employee has stopped performing a Safety Sensitive Function. Random Testing for Controlled Substances may be administered at any time.

MW's Random Testing program complies with all requirements of applicable federal law, including the following:

- 1) The selection process is a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with Covered Employees' Social Security numbers, payroll identification numbers, or other identifying numbers.

Note that because the selection process is truly random, each employee has an equal chance of being selected for each test, which means that some employees may be tested more than once in a year, while others will not be tested at all.

- 2) In order to ensure random selection, MW must determine the average number of Covered Employees in a given year. That number is determined by adding together the total number of Covered Employees eligible for testing during each testing period and dividing that total by the number of Random Testing periods.
- 3) Only Covered Employees are in the Random Testing pool.
- 4) The random selection rates will comply with the minimum rates set by the Department of Transportation for the operation of vehicles covered by the Federal Motor Carrier Safety Administration (FMCSA).
- 5) Random testing will be unannounced and dates for testing reasonably spread throughout the calendar year.

When an employee is selected for random testing, his/her supervisor will ensure that the employee's duties are covered. The employee will then receive a written note indicating the time and location he/she is to report for testing.

Upon receiving instruction to report for Random Testing, the employee shall proceed to the test site immediately. Failure to report immediately shall be considered Refusal to Test.

9.10.4 Reasonable Suspicion Testing – Covered Employees

Covered Employees will be required to submit to Reasonable Suspicion Testing under the following circumstances:

Alcohol testing – based on the specific, contemporaneous, articulable observations of a Trained Supervisor concerning the appearance, behavior, speech or body odors of the employee that indicate current alcohol impairment; and/or

Controlled substance testing – based on the specific, contemporaneous, articulable observations of a Trained Supervisor concerning the appearance, behavior, speech or body odors of the employee that indicate current impairment by Controlled Substances. The observations may include indications of the chronic and withdrawal effects of controlled substances.

Reasonable Suspicion Testing is permissible only when the Trained Supervisor has made the observation during, immediately before, or immediately after the performance of Safety Sensitive Functions.

A Reasonable Suspicion test for alcohol should be administered within two (2) hours of the observation, but no later than eight (8) hours after the observation. If a Trained Supervisor has determined that Reasonable Suspicion exists, but a test has not been administered within 2 hours, or no test has been administered after 8 hours, MW shall create and retain a record of the reasons for the delay or the failure to obtain a test.

DOT regulations do not impose a time limit for Reasonable Suspicion Testing for Controlled Substances. However, since the purpose of all testing is safety, it is MW's policy to arrange for Reasonable Suspicion Testing for Controlled Substances as soon as possible after the Trained Supervisor has made the observation.

Testing occurs at a Medical Facility; MW employees do not administer tests, including breathalyzer tests. In the event that changes, in no event shall the direct supervisor or the Trained Supervisor who made the observation conduct the breathalyzer test.

Employees who are required to submit to Reasonable Suspicion testing are prohibited from transporting themselves to the Medical Facility. A supervisor or management employee will arrange for transportation.

If a Trained Supervisor has determined Reasonable Suspicion exists, but for some reason an alcohol test cannot be conducted within the time allowed, or a Controlled Substances Test cannot be timely conducted, the Covered Employee is still prohibited from reporting for duty while Impaired/Under the Influence. Pursuant to federal law, MW will not allow a Covered Employee to perform Safety Sensitive Functions until:

- 1) An alcohol test is administered and the employee measures less than 0.02; or
- 2) 24 hours have elapsed since the Reasonable Suspicion observation.

In the absence of a timely alcohol or Controlled Substances Test, no disciplinary action will be taken against an employee, except that he or she will be removed from performing Safety Sensitive Functions for the period stated above, and the Reasonable Suspicion determination will become part of the employee's DOT file.

A written record shall be made of any Reasonable Suspicion determination, within 24 hours of the observed behavior, or before the results of the alcohol or drug test are released, whichever is earlier.

To ensure that supervisors are trained to make Reasonable Suspicion determinations, supervisors with the authority to demand Reasonable Suspicion Testing will attend at least one hour of training on alcohol misuse and at least one hour of training on Controlled Substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of Controlled Substances.

9.10.5 Post-Accident Tests – Covered Employees

A Covered Employee who is involved in an accident while engaged in Safety Sensitive Functions shall be subject to drug and/or alcohol testing under the following conditions:

For alcohol –

- (1) if the accident resulted in the loss of human life; and/or
- (2) if the driver receives a Moving Vehicle citation within 8 hours of the accident and the accident involved (i) bodily injury to any person requiring medical treatment away from the scene of the accident; or (ii) disabling damage to one or more vehicles, requiring that the vehicle(s) be towed away.

For Controlled Substances –

- (1) if the accident resulted in the loss of human life; and/or
- (2) if the driver receives a Moving Vehicle citation within 32 hours of the accident, and the accident involved (i) bodily injury to any person requiring medical treatment away from the scene of the accident; or (ii) disabling damage to one or more vehicles, requiring that the vehicle(s) be towed away.

A Covered Employee subject to Post-Accident Testing shall remain available for alcohol testing for up to 8 hours after the accident, and for Controlled Substances testing for up to 32 hours after the accident. A Covered Employee who is not readily available may be deemed to have engaged in a Refusal to Test, in violation of these policies.

However, nothing in this section shall be construed to require the delay of necessary medical attention for injured persons following an accident or prohibit the driver from leaving the scene of an accident if necessary, to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

MW will attempt to obtain a Post-Accident alcohol and drug testing as soon as possible after the accident and will order both tests to occur at the same time, where possible and permissible. Post-Accident Testing is subject to the following additional restrictions:

1) MW will attempt to obtain an alcohol test within two (2) hours following an accident. If no such testing occurs within that time, MW document the reasons no such test occurred, and will continue to attempt to have the employee tested, for a period of an additional six (6) hours. No alcohol test may be administered more than eight (8) hours following the time of the accident.

2) A Post-Accident Controlled Substances test must be conducted within 32 hours following the accident.

3) If MW is unable to obtain an alcohol and/or Controlled Substances test within the requisite time period, MW will create and retain a record as to the reason the tests were not conducted.

The results of a breath or blood test for the use of alcohol, and/or the results of a urine test for Controlled Substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local testing requirements, and the results of the tests are obtained by the employer.

The Post-Accident Testing requirements do not apply to (1) an accident/injury involving only boarding or alighting from a stationary motor vehicle; or (2) an accident/injury involving only the loading or unloading of cargo; or (3) an accident/injury occurring in the course of operating a passenger vehicle, unless it is transporting persons for hire, or hazardous materials.

9.10.6 Return to Duty Testing – Covered Employees

A Covered Employee who has failed an alcohol or drug test must submit to a Return to Duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a Controlled Substances test in order to return to work. The type of test administered is based on whether the violation was drug or alcohol related.

After returning to work, Covered Employees will be required to submit to unscheduled follow-up testing, for a period of at least twelve (12) months but no more than sixty (60) months. Employees must submit to at least six (6) tests in the first 12 months. Refusal to Test during this period may result in immediate dismissal from employment. Follow-up testing is separate from the Random Testing obligation.

The Substance Abuse Professional (SAP) may terminate the need for follow-up testing at any time after the first 6 tests have been administered, if he or she determines that such testing is no longer necessary. Follow-up alcohol testing may only be administered when the employee is performing Safety Sensitive Functions, just prior to performing such functions, or just after the functions have been completed.

9.10.7 General Drug and Alcohol Testing Procedures – Covered Employees

Employees must report for testing immediately after being instructed to do so, or as soon as possible after an accident, for Post-Accident Testing. An employee who has been instructed to

submit to Reasonable Suspicion testing will be provided transportation to the Medical Facility and may not transport himself or herself.

As stated above, MW utilizes a certified MRO to review the chain of custody and test results.

- 1) If there is a confirmed negative test, the MRO will verify that result to HR.
- 2) If the test is dilute or otherwise insufficient, or shows signs of tampering, the MRO will instruct HR to order a new test. The new test must be conducted under observation.
- 3) If there is a confirmed positive test, or a confirmed adulterated, substituted, or invalid test, the MRO will review the documentation and chain of custody. If the MRO determines the test results are invalid, the MRO will cancel the test results and relay that information to HR, with an order to immediately retest.
- 4) If the MRO receives a confirmed positive test, or a confirmed adulterated, substituted, or invalid test, and determines that the test results are valid, the following procedures will apply:
 - a) The MRO will contact or attempt to contact the employee within 24 hours. If the MRO is unable to make contact, the MRO will ask HR to contact the employee and instruct the employee to contact the MRO.
 - b) After a confidential in-person or telephone interview with the employee, the MRO will relay verification of the confirmed drug and alcohol tests to HR, along with any medical information relevant to Safety Sensitive Functions.
 - c) If the employee expressly refuses to provide an interview, fails to contact the MRO within 72 hours after HR has relayed instructions to contact the MRO, or neither HR nor the MRO has been able to reach the employee within ten (10) days of the test results, the MRO may verify the results to HR without an employee interview.

An employee who has a Verified Positive Test result will be immediately removed (“Stand Down”) from all Safety Sensitive Functions, and additional discipline may follow, up to and including termination of employment.

Under DOT regulations MW may order a Covered Employee to Stand Down from Safety Sensitive Functions, pending the results of a Reasonable Suspicion Test, or in the absence of a Verified Positive Test ordered on a Reasonable Suspicion basis, so long as the action is not disciplinary in nature and the employee suffers no loss of pay.

MW reserves the right to and may remove an employee from Safety Sensitive Functions pursuant to its obligation to protect public safety and ensure a safe workplace, even in the absence of a Verified Positive Test result, or before receiving a Verified Positive Test result. Any such action that is outside DOT regulations would occur under MW’s own authority and would not be recorded with DOT records or otherwise affect the employee’s DOT status.

9.10.8 Referral to Substance Abuse Professional – Covered Employees

When a Covered Employee has a Verified Positive Test or violates any of the prohibitions applicable to Covered Employees, MW is not required to allow the employee to return to working in any position involving Safety Sensitive Functions. MW may, in its sole discretion, discipline (including demotion), transfer, or terminate a Covered Employee with a Verified Positive Test or other violation of the applicable policies.

However, if management decides to allow a Covered Employee to continue working after a Verified Positive Test, the following steps must be in place in order for the Covered Employee to return to work in any position that includes Safety Sensitive Functions, per DOT regulations:

- 1) The employee must be referred to a Substance Abuse Professional (SAP) for evaluation, must complete the evaluation, and must follow the SAP's recommendations for education and treatment, and aftercare. HR will provide a list of all local SAPs that are acceptable to MW, with contact information.
- 2) The SAP must certify that the employee has been evaluated and provide a written report, with recommendations for education, treatment, and testing, to HR.
- 3) The SAP must conduct a follow-up evaluation to determine whether the employee has successfully complied with the SAP's recommended education and treatment, and must provide another written report to HR.
 - a. If the SAP concludes that the employee has not successfully complied with the SAP's recommended education and treatment plan, the employee may not return to work in any capacity involving Safety Sensitive Functions, and may be subject to discipline, according to MW's ordinary policies (see above).
 - b. If the SAP concludes that the employee has successfully complied with the SAP's recommended education and treatment plan, but recommends ongoing treatment even after returning to duty, the employee must comply with that recommendation, and MW is authorized to monitor and enforce those recommendations. Failure to comply with the follow-up plan will lead to removal from any Safety Sensitive Functions, as well as discipline, up to and including termination of employment.
- 4) The employee must pass a Return to Duty test that is negative for any Controlled Substance and is lower than 0.02 for alcohol.
- 5) After returning to work, the employee must submit to follow-up drug and/or alcohol testing for a period of at least 12 months (1 year), and up to 60 months (5 years), after returning to work. The follow-up testing must include at least 6 tests in the first 12 months, although the SAP may recommend more tests. The SAP may recommend discontinuing the testing at any time after the first 12 months.

- 6) A Verified Positive Return to Duty test, or any Verified Positive Test after returning to work, will lead to immediate termination, without an investigative meeting or hearing.
- 7) Any other violation of DOT regulations, after returning to work, or failure to follow the SAP's recommended plan, will also result in termination, however the employee will retain the right to an investigative meeting and hearing.

MW rather than the SAP determines when the employee may safely return to Safety Sensitive Functions, however MW will rely on the SAP's written reports and recommendations in making that determination.

Note that an employee who is receiving treatment from an SAP or otherwise participating in addiction treatment has a right to use all available paid leave (starting with sick leave), and to use all available medical leave under OFLA and/or FMLA, for treatment. Medical benefits may cover some of the costs for this treatment. Any costs accrued that are not covered by insurance are the sole responsibility of the employee.

9.10.9 Confidentiality – Covered Employees

MW is required to request all DOT records from a Covered Employee's prior employer(s) for the past three (3) years, if the employee at any time during that period worked in a Safety Sensitive Functions. MW is also required to provide its DOT records for any Covered Employee who leaves employment and is hired by another employer to perform Safety Sensitive Functions

All DOT test records, SAP reports, and other DOT records are confidential and may not be released to anyone other than:

- MW's Human Resources Manager, as the DER of MW;
- Prospective employers of former employees, upon written request by the employee, when the employee will be performing Safety Sensitive Functions with the new employer;
- Federal and state agencies, including the Federal Motor Carrier Safety Administration, and any state agency requiring such information related to state CDL-holders;
- A designated SAP for the employee;
- Pursuant to a legal demand for such information (such as in litigation, or an administrative agency claim). When information is released in response to a legal demand, written notice of the disclosure will be provided to the employee.

All DOT drug and alcohol tests must be conducted separately from non-DOT drug and alcohol tests; non-DOT tests may not be conducted on the same sample.

All DOT records are maintained separately from all other records related to a Covered Employee. Any non-DOT tests or records related to employment decisions that are based on authority other than DOT regulations will not be maintained with DOT records.

All DOT records must be retained for the period of time prescribed by DOT regulations. Covered Employees may request to view their own DOT records at any time.

9.11 Future Revision of Drug and Alcohol-Free Workplace Policy

The Commission may revise this policy when it deems appropriate. All employees will be notified of any changes, in advance of the effective date of such changes. Any changes which affect Bargaining Unit Members will generally occur after negotiation with the applicable Union, unless MW is relying on a reservation of Management Rights.

However, the Commission's efforts to maintain a drug- and alcohol-free workplace are not limited exclusively to this policy. The Commission may take other steps not outlined in these policies, if necessary, under the circumstances, to ensure a safe workplace and protect the safety of the public MW serves.

9.12 Contractors

It is the policy of MW that, in order to attain or maintain a contract with the Commission, each contractor shall agree to the policies outlined below. For purposes of these policies, the definitions stated in MW's Drug and Alcohol-Free Workplace policies apply.

While the contractor and/or its employees or agents are performing services for MW under the applicable contract(s), using Commission equipment, and/or on Commission property or public or private property where MW is present to perform work, the contractor and the contractor's employees or agents:

- 1) Shall not be Impaired/Under the Influence;
- 2) Shall not use, Possess, manufacture, sell, offer for sale, purchase, obtain, or distribute alcohol or Drugs. This prohibition does not apply to the possession of closed containers of alcohol in a contractor's (or contractor's employee's) personal vehicle parked in a Commission parking lot or on Commission property.
- 3) Each contractor must, prior to contract approval, provide to the Commission a copy of its Drug and Alcohol-Free Workplace Program or similar program, which must include drug-testing components equal to or greater than the Commission's Drug and Alcohol-Free Workplace Policy requirements for any employee or agent who will be performing Safety Sensitive Functions.

This policy, as it relates to contractors, shall be implemented by requiring appropriate contract provisions to be included in any contract between the Commission and a contractor, including contractor's employees and agents.

9.13 Drug and Alcohol-Free Workplace – Policy Distribution

The Drug and Alcohol-Free Workplace policies are published and distributed to each employee of the Commission as a part of the Commission’s “Personnel Manual,” and employees will be asked to acknowledge that they have received, read, understood and agree to abide by such policies.

SECTION 10
SECTION 11
SECTION 12

EFFECTIVE DATE
VIOLATION OF RULES & POLICIES
REPEAL

10 EFFECTIVE DATE / VIOLATIONS OF RULES & POLICIES/REPEAL

10.1 Effective Date of Policy

These rules shall become effective seven (7) days after being distributed to all Commission employees in the form of Personnel Manual and shall remain in full force and effect and shall terminate all prior practices.

10.2 Savings Clause

This policy is intended to conform to all applicable Federal and Oregon state statutes. If any part is now, or becomes in conflict with applicable laws, only that portion which is determined to be in violation shall become invalid.

10.3 Employee Agreements

Employment with the Medford Water Commission is based on the terms and conditions stated in this Manual, except that the relevant Collective Bargaining Agreement may establish additional terms, conditions, and/or rights for Bargaining Unit employees. In the event the terms of any individual employment agreement differ from or conflict with these policies, these policies will govern, unless otherwise expressly stated in the agreement.

11 VIOLATION OF POLICIES

Violation of any of the policies in this Manual may result in discipline, up to and including termination.

12 REPEAL

All former rules and policies are hereby repealed.

13 ACKNOWLEDGEMENT

By my signature below, I acknowledge that I have read the Medford Water Commission Personnel Manual, have had an opportunity to ask questions about the policies in the Manual, and that I agree to comply with the policies and procedures in the Manual, including but not limited to the Confidentiality policies, the policies prohibiting discrimination and harassment, all leave policies and the Drug and Alcohol-Free Workplace policy. If I have any additional questions, I will see my supervisor and/or human resources.

Printed Name

Date

Signature

A copy of this Acknowledgement page will be placed in your personnel file.