DMA Policy: 3-0210
Name: OVERTIME & NON-EXEMPT COMPENSATORY TIME
Reference: DOA Overtime & Nonexempt Compensatory Time Policy
Reference: FLSA (Fair Labor Standards Act) and Montana's Wage and Hour Laws

Approval Signature: _____

Effective Date: September 28, 2017

It is the policy of the Department of Military Affairs (DMA) to comply with the Federal Fair Labor Standards Act and the Montana Operations Manual (MOM) Overtime and Nonexempt Compensatory Time Policy. Nothing in this policy guarantees that a covered employee will be allowed to work hours which result in the payment of overtime compensation or the accrual of nonexempt compensatory time in lieu of overtime compensation. Firefighting positions have partial exemption from the overtime provisions found in Section 7 of the FLSA and title 29, CFR, Chapter V, Part 553 of the FLSA regulations.

Supervisory personnel are responsible for ensuring any hours worked causing an employee to accrue overtime and/or nonexempt compensatory hours are necessary in order to accomplish a departmental task, and that overtime expenditures can be paid within the approved budget and/or that the work unit will not be disrupted when an employee takes earned nonexempt compensatory time off.

Supervisors and employees will adjust the hours of the workweek whenever possible to avoid the accrual of overtime or compensatory time. Annual leave and/or compensatory leave may not be used to cause compensatory or overtime to be earned.

Each time an employee anticipates working beyond a 40 hour work week, they must request prior supervisory approval. .

Nonexempt employees authorized to work in excess of 40 hours per week must be compensated for the excess time worked in one of the following methods:
   a) Cash compensation of excess hours at one and one-half times their hourly rate; or,
   b) Upon mutual agreement of the employee and management, an employee may be allowed to accrue and use nonexempt compensatory time in lieu of cash compensation. This time will accrue at the rate of one and one-half hours for each excess hour worked.

Employees are given an election form to choose nonexempt compensatory time or overtime cash compensation at the time of hire or when employee is promoted to a new position. The signed election form is maintained in the payroll files. An employee may change his/her election once every 12 months. The accrual of nonexempt compensatory time or overtime must be recorded on each time sheet at the time it is earned.

Nonexempt compensatory time may not be accrued beyond 120 hours. Employees will receive overtime pay for any authorized overtime worked beyond the accrual limit. It is the responsibility of the employee and supervisor to ensure that earned nonexempt

compensatory time does not exceed the allowable limit.

Overtime and nonexempt compensatory time shall be recorded in 1/2 hour increments.

Overtime/nonexempt compensatory time is not earned until an employee has 40 hours in a pay status each week. Employees who have elected to receive overtime pay, the paid hours over 40 must be recorded with the appropriate overtime pay code on their timecard. Employees who have elected to receive nonexempt comp time, the compensatory hours must be recorded with the appropriate comp time earned code on their timecard.

Compensatory time off must be taken in minimum ½ hour increments. As with any leave request, employee must obtain prior approval from immediate supervisor.

When an employee is promoted to another position within the department, nonexempt compensatory time must be cashed out at the employee's current rate of pay prior to the transfer.

When an employee's FLSA status changes from nonexempt to exempt, the non-exempt compensatory time balance must be paid out at the employee's regular rate.

Nonexempt compensatory time may be transferred to the other agency or paid out at the current rate of pay when an employee terminates employment with the Department.

Employees covered under a union agreement must follow the terms of the union contract.