



**RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION**

**(Adopting the White Mountain Apache Tribe Motor Vehicle Use Policy)**

- WHEREAS,** pursuant to Article IV, Section 1(a) and 1(s) of the Constitution of the White Mountain Apache Tribe, *inter alia*, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe; and
- WHEREAS,** the Legal Department has come before the Tribal Council this day to propose a Motor Vehicle Use Policy ("MVUP"), as attached and incorporated by this reference; and
- WHEREAS,** the MVUP is intended for all Tribal government and enterprise employees who have been assigned, have access to, or drive motor vehicles owned by the White Mountain Apache Tribe; and
- WHEREAS,** the MVUP has been designed to protect the Tribe's interests and properties, reduce potential motor vehicle liability, comply with requirements of other governmental entities, and ensure that all Tribal employees are aware of appropriate and inappropriate uses of the Tribe's motor vehicles; and
- WHEREAS,** the Tribal Council has reviewed and discussed the proposed Motor Vehicle Use Policy and concludes that its adoption would greatly assist the White Mountain Apache Tribe by reducing potential liability from inappropriate use of Tribal motor vehicles; and
- WHEREAS,** the Tribal Council finds it in the best interest of the White Mountain Apache Tribe to adopt the proposed Tribal Motor Vehicle Use Policy, effective immediately.

**BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the Tribal Motor Vehicle Use Policy, as attached and incorporated herein.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Chairman, or in his absence the Vice-Chairman, to require that all Department Heads and Enterprise Directors become familiar with the MVUP and shall be responsible for ensuring that all subordinate managers and employees adhere to and enforce the terms and conditions of the MVUP.

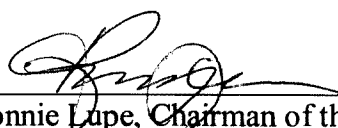
**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event of an emergency, members of the Tribal Council may authorize an agent of the Tribe to use their assigned vehicle for the purpose of conducting necessary business.

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall govern.

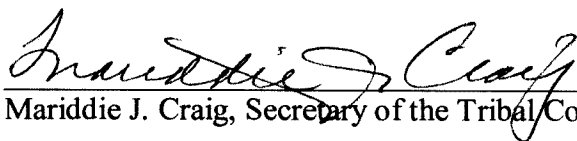
**Resolution No. 02-2011-48**

**BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Chairman, or in his absence, the Vice Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **FEBRUARY 23, 2011** duly adopted by a vote of **FIVE** for and **FOUR** against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (b), (h), (i), (s), (t), and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



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Ronnie Lupe, Chairman of the Tribal Council



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Mariddie J. Craig, Secretary of the Tribal Council

# WHITE MOUNTAIN APACHE TRIBE

## Motor Vehicle Use Policy

### I. Definitions

- A. Employee. All permanent, temporary, intermittent, interns, or those with a valid Form "E" on file.
- B. Motor Vehicle. A Tribally owned, rented or leased motor vehicle and/or privately owned, rented or leased motor vehicle, with a gross vehicle weight (GVW) of less than 26,000 pounds, designed to transport less than 15 people, and which does not haul hazardous materials or tow vehicles with a GVW of 10,000 pounds or more (e.g. sedans, light trucks, sports utility vehicles [SUVs] and all terrain vehicles [ATVs]).
- C. Motor Vehicle Operator. An employee who drives a motor vehicle, including commercial vehicles, in the performance of their duties and responsibilities.
- D. Commercial Operator. An employee who operates a commercial vehicle and is required to possess a Commercial Driver's License (CDL) with a valid endorsement and Health Card.
- E. Commercial Motor Vehicle. A vehicle having a GVW rating of more than 26,000 pounds, a vehicle towing a trailer weighing 10,000 pounds or more, a vehicle hauling hazardous material which requires display signs noting the hazardous material content of the vehicle, a vehicle designed to transport 15 or more people including the driver, or a school bus. Operators of these vehicles must have a valid CDL.

### II. Driver Qualifications

An employee may be authorized to drive on WMAT business if he or she satisfies the following requirements:

- A. Be 18 years of age or older;
- B. Has a valid Arizona driver's license;
- C. Has the requisite experience needed to drive the type of vehicle being assigned or used;
- D. Has no convictions or uncontested citations within the three-year period immediately preceding submittal of permission for the Tribe to request their Motor Vehicle Operator's License and Driving Record, for Reckless Driving, Driving While Intoxicated (DWI), Driving Under the Influence (DUI), or Leaving the Scene of an Accident;
- E. Has not demonstrated a pattern of unsafe driving or behaviors (e.g. drug or alcohol abuse, unusual aggression, etc.) that would cause a supervisor to question the likelihood that the individual will drive safely and prudently while on WMAT business; and
- F. Possesses a current Motor Vehicle Operators Authorization from his/her supervisor.

### **III. Roles and Responsibilities**

- A. The WMAT Tribal Chairman, Vice-Chairperson, members of the Tribal Council, Human Resources Director, Tribal Fleet Manager, and other persons so directed by the Tribal Council are responsible for carrying out all the requirements laid out in this Tribal Vehicle Policy.
- B. Managers, Supervisors, and Directors shall:
  1. Carefully consider whether duties and responsibilities assigned to an employee require the operation of a Tribally-owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or privately-owned or privately-leased motor vehicle in the performance of official or contractual duties, responsibilities or activities, including duties of record and other assigned or historically reserved for positions or activities;
  2. Ensure that each WMAT Motor Vehicle Operator under their supervision possesses a valid driver's license that indicates State authorization to operate the class of vehicle required in the performance of duties. This responsibility is met by ensuring each employee completes the annual Authorization Process described in Section V of this Vehicle Policy, which includes a requirement to conduct an annual review of the employee's current license and a current motor vehicle driving record. If at any time the supervisor has a concern with an employee's driving record, he or she will initiate a review of the employee's driving record. Failure to meet this responsibility may result in disciplinary action against the supervising agent;
  3. Based on available information, ensure no authorization is given to individuals with restricted driving privileges (i.e., home to work licenses);
  4. Ensure that no Motor Vehicle Operator is permitted to operate a Tribally owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle and/or privately owned or leased motor vehicle in the performance of official duties while:
    - (a) intoxicated by ingesting controlled substances or consuming intoxicating beverages, including any impairment resulting from the use of prescription or over-the-counter drugs; or
    - (b) impaired by a medical or physical condition or other factor that affects his/her motor skills, reaction time, or concentration;
  5. Immediately terminate driving privileges for a Motor Vehicle Operator who is:
    - a. Arrested for, charged with, or convicted of Reckless Driving, Driving While Intoxicated (DWI), or Driving Under the Influence (DUI);
    - b. Arrested for, charged with, or convicted of a criminal offense related to a traffic incident involving alcohol or drugs, including but not limited to vehicular homicide, vehicular manslaughter, or endangerment;

- c. Disqualified from holding a State driver's license, including restriction, suspension, revocation, or cancellation of a State driver's license for the type and class of vehicle operated;
    - d. Upon request, fails to provide a valid CDL medical certificate;
  6. Take appropriate action when a Motor Vehicle Operator:
    - a. Is convicted for operating a motor vehicle under the intoxicating influence of alcohol, narcotics, or pathogenic drugs;
    - b. Is convicted of leaving the scene of an accident without making his or her identity known as required by the provisions ARS § 28 or out of state equivalent, as may be from time to time amended;
    - c. Is not qualified to operate a Tribally owned or leased vehicle safely because of a physical or medical condition;
    - d. No longer possesses an Arizona license by revocation or suspension;
    - e. Fails to report incidences noted in (4) above to his or her supervisor; and
    - f. Behavior is inconsistent with safe and prudent operations of a motor vehicle;
  7. Where appropriate, recommend treatment programs to employees whose performance appears impaired by controlled or uncontrolled drugs and alcohol; and
  8. Take appropriate steps to investigate allegations of employee alcohol or drug abuse problems or a history of unsafe driving, regardless of whether or not the employee has ever been charged with an offense. Supervisors, may at their discretion, consider a pattern of unsafe driving acts as a factor in determining whether an employee meets driver qualifications.
    - a. Example: An employee is convicted of DWI or other unsafe driving practices over a one year period, with DWI arrest longer than three years preceding their request to use a Tribal vehicle.

C. The Personnel Department will:

1. Receive and process Motor Vehicle Operator License and Driving Record forms. Department or Enterprise Managers are responsible for all employees under their supervision.
2. Conduct the annual evaluation of the applicant's driving record.
3. Document any conflicts or concerns with respect to employee driving qualifications.

D. Employees, generally, have a responsibility to inform supervisors of operator incidences or behaviors that would be considered covered by this policy or represent unsafe driving

behavior. All employees share an affirmative duty to ensure that our vehicles are used properly by responsible individuals who have a high regard for both personal and public safety while operating a government vehicle. Employees may report any suspected violations to the WMAT Personnel Department: (928) 338-2429.

#### IV. Motor Vehicle Operator Requirements

Motor Vehicle Operators shall:

- A. Use tribal vehicles for Official business only;
- B. Wear their seatbelts at all times;
- C. Not smoke any form of substance or use any tobacco product when operating the vehicle;
- D. Comply with State, Local, and Tribal traffic laws and the lawful instruction of emergency and law enforcement personnel;
- E. Abstain from ingesting controlled or uncontrolled drugs and alcohol or other medications that caution against operating a motor vehicle when taken, to avoid being impaired;
- F. Not transport intoxicating beverages, controlled substances, or any passenger who is in possession of alcohol or controlled substances without prior written approval of an immediate supervisor.
  - 1. **Exception:** Social services, emergency response and law enforcement personnel who are obligated by law and/or required to carry out duties as an employee of the Tribe;
- G. Not transport unauthorized passengers in a Tribally owned or leased motor vehicle without a signed waiver from the passenger indemnifying the Tribe of liability;
- H. Report to his/her supervisor regarding any medical or physical condition, including the use of controlled substances, prescription or over-the counter drugs, which may impair the driver from the safe operation of a motor vehicle;
- I. Notify their supervisor if the State driving privileges are restricted, suspended, revoked or cancelled or if they are otherwise disqualified from holding a license. Employees are also responsible for reporting any situation that may alter their authorization or ability to operate a motor vehicle, such as legal or court ordered suspension of driving privileges or any medical condition that may limit or impair employees ability to operate a motor vehicle;
- J. Report all incidents involving a Tribally owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle or a privately owned or leased motor vehicle that occurs during the performance of official duties as a tribal employee;
- K. Report all on-duty incidents involving a Tribally owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or a privately owned or leased motor vehicle that could result in a violation, citation, charge, arrest, warrant, or civil action;

- L. Report all on-duty incidents involving a Tribally owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle or a privately owned or leased motor vehicle and:
  - 1. the use of controlled substances or intoxicating beverages;
  - 2. impairment resulting from prescription or over-the-counter drugs, illness, or medical condition; or
  - 3. any other factors that impair concentration, motor skills or reaction time.
- M. Report any restriction, suspension, revocation, or cancellation of their driver's license, for any length of time or any disqualification from holding a State, commercial, or international operator driver's license; and
- N. Notify supervisors of these incidents no later than the following business day after their occurrence. Failure to inform the supervisor of any such incidents may subject employees to disciplinary action.
- O. Pursuant to Tribal Council Resolution No. 05-2010-103, all vehicles driven by members of the Governing body are considered Tribal Property and shall be returned to the Tribe at the end of an elected term of office.

## V. **Texting while Driving**

**Section 1. Policy.** The Tribal Government can and should demonstrate leadership in reducing the dangers of text messaging while driving. Recent deadly crashes involving drivers distracted by text messaging while behind the wheel highlight a growing danger on our roads. Text messaging causes drivers to take their eyes off the road and at least one hand off the steering wheel, endangering both themselves and others. Every day, Tribal employees drive Government-owned, Government-leased, or Government-rented vehicles (collectively, GOV) or privately-owned vehicles (POV) on official Government business, and some Tribal employees use Government-supplied electronic devices to text or e-mail while driving. A Tribal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment will help save lives, reduce injuries, and set an example for State and local governments, private employers, and individual drivers. Extending this policy to cover Tribal contractors is designed to promote economy and efficiency in Tribal procurement. Tribal contractors and contractor employees who refrain from the unsafe practice of text messaging while driving in connection with Government business are less likely to experience disruptions to their operations that would adversely impact Tribal procurement.

**Sec. 2. Text Messaging While Driving by Tribal Employees.** Tribal employees shall not engage in text messaging (a) when driving GOV, or when driving POV while on official Government business, or (b) when using electronic equipment supplied by the Government while driving.

**Sec. 3. Scope of Order.** (a) All Departments and Enterprises of the Tribe are directed to take appropriate action within the scope of their existing programs to further the policies of this order and to implement section 2 of this order. This includes, but is not limited to, considering new rules and programs, and reevaluating existing programs to prohibit text messaging while driving, and conducting education, awareness, and other outreach for Tribal employees about the safety risks associated with texting while driving. These initiatives should encourage voluntary compliance with the agency's text messaging policy while off duty.

(b) Agency heads may exempt from the requirements of this order, in whole or in part, certain employees, devices, or vehicles in their respective agencies that are engaged in or used for protective, law enforcement, or national security responsibilities or on the basis of other emergency conditions.

**Sec. 4. Text Messaging While Driving by Government Contractors, Subcontractors, and Recipients and Subrecipients.** Each Tribal agency, in procurement contracts, grants, and cooperative agreements, and other grants to the extent authorized by applicable statutory authority, entered into after the date of this order, shall encourage contractors, subcontractors, and recipients and subrecipients to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or GOV, or while driving POV when on official Government business or when performing any work for or on behalf of the Government. Agencies should also encourage Tribal contractors, subcontractors, and grant recipients and subrecipients as described in this section to conduct initiatives of the type described in section 3(a) of this order.

**Sec. 5. Coordination.** The Tribal Fleet Manager, shall provide leadership and guidance to the heads of Tribal Departments or Enterprises to assist them with any action pursuant to this order.

**Sec. 6. Definitions.**

(a) "Texting" or "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

(b) "Driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light or stop sign, or otherwise. It does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

**VI. Authorization Procedures**

- A. All employees whose job requires operation of a motor vehicle must annually request authorization to operate a motor vehicle in carrying out the duties of their positions.
- B. All employees must annually submit permission to their supervisor for the WMAT to request their motor vehicle record.
- C. Supervisors shall review form for accuracy and completeness, and forward to the appropriate office for the receipt of application.
- D. The Personnel Office shall review submitted forms and request a copy of the applicant's driving record from the relevant DMV office(s) and the Tribal Court where employees primarily operate motor vehicles within Tribal jurisdiction.



- E. Upon a receipt of a favorable review of the driving records, the responsible party in the Personnel office will sign and state, certifying that the individual meets his WMAT driver qualification.
- F. With the Personnel Office's certification, the supervisor may issue a Motor Vehicle Operator authorization form. The form will be valid for a period of one year.
- G. If based on the Personnel Office's report that the applicant is not qualified, the Fleet Manager may not re-issue and shall revoke a Motor Vehicle Operator Authorization form, pending re-qualification.
- H. Supervisors are reminded that they may be personally liable if they authorize an employee to operate a motor vehicle on government business if an employee is determined not to be qualified by virtue of failing to meet qualification standards.

**VII. Failure to Report Incidents Involving Motor Vehicles**

Failure of the motor vehicle operator to report such incidents of traffic citations or accident violations to the supervisor as soon as possible after the occurrence, but no later than the next business day may result in disciplinary or other adverse action.

**VIII. Department Policies**

Individual Tribal departments or Enterprises may adopt their own Motor Vehicle Policies so long as they meet the minimum standards set forth in this policy, as determined by the Fleet Manager.

I, \_\_\_\_\_, an employee of the White Mountain Apache Tribe, have received and read the WMAT Motor Vehicle Use Policy and agree to comply with all of the provision contained therein. I understand that I may be subject to immediate loss of my Tribal driving privileges if I am found in violation of any part of this policy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Department/Enterprise

\_\_\_\_\_  
Director/Manager

\_\_\_\_\_  
Date