

	<p><b>Department of Administration</b></p> <p><b>State of Montana</b></p> <p><b>Issued by: The Risk Management &amp; Tort Defense Division</b></p> <p><b>Subject: Aircraft Insurance</b> The state's aircraft insurance coverage and program requirements.</p>	<p><b>Number: RMTDINS0801</b></p>
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## I. DESCRIPTION

In accordance with §2-9-101, MCA through §2-9-305, MCA, the Department of Administration, Risk Management & Tort Defense Division administers a comprehensive insurance plan in behalf of Montana state government. The division also defends and indemnifies state agencies and employees in any TORT claim for damages arising from the lawful discharge of official duties rendered or which should have been rendered in the course of employment and within the scope of duty. This document provides a broad overview of insurance coverage provided under the state property/casualty insurance plan as well as specific program requirements for state agencies that participate in the state's aircraft insurance program. This document does not amend, alter, or extend coverage provided under the state property/casualty insurance program or statute. Do not attempt to interpret coverage, limits, or exclusions and apply these to state activities without contacting the Risk Management & Tort Defense Division. Specific exclusions, limits, or conditions may apply.

## II. DEFINITIONS

**Aircraft** means any aircraft listed in the state Property/Casualty Insurance Information System that are submitted by the agency and shall include equipment installed in the aircraft and equipment temporarily removed from the aircraft until such time as replacement by a similar part.

**Charter** means used principally in the business of the state, including passengers or freight but excluding instruction of or rental to others.

**Commercial** means used principally in the business of the state, including instruction, passenger or freight carrying.

**Crew** means the pilot in command, co-pilot, flight engineer, flight attendant, or anyone else who is in, on, or boarding the aircraft to assist in operating the aircraft.

**Disappearance** means missing and not reported by 60 days after commencing the last known flight.

**Division** means the Risk Management & Tort Defense Division.

**Federal Aviation Administration** means the duly constituted authority of the United States of America having jurisdiction over civil aviation, or its duly constituted equivalent in any other country.

**In-Flight** means the time commencing with the actual take off of the aircraft and continuing thereafter until it has completed its landing roll, or if the aircraft is a rotorcraft, from the time the rotors start to revolve under power for the purpose of flight until they subsequently cease to revolve.

***In-Motion*** means while the aircraft is moving under its own power or the momentum generated therefrom or while it is in flight and, if the aircraft is a rotorcraft, any time that the rotors are rotating.

***Instruction and Rental*** means used principally in the business of the state, including business, student instruction, and rental to others.

***Medical Expense*** means expenses for necessary medical, surgical, x-ray, or dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services, but excluding monuments, head stones, or burial plots.

***Occurrence*** means an accident, including continuous or repeated exposure to conditions, which result in bodily injury or property damage during the policy period, neither expected nor intended from the standpoint of the state.

***Passenger*** means any person in, on, or boarding the aircraft for the purpose of riding or flying therein or alighting therefrom after a flight or attempted flight therein.

***Physical Damage*** means direct and accidental physical loss of or damage to the aircraft, hereinafter called loss, but does not include loss of use or any residual depreciation of value, if any, after repairs have been made.

***Premises*** means such portions of airports as are designated and used for the parking or storage of aircraft, including premises owned or leased for more than thirty days by the state.

***Property Damage*** means physical injury to or destruction of tangible property which occurs during the policy period, including loss of use thereof, at any time, resulting therefrom, or loss of use of tangible property which has not been physically injured or destroyed, provided such loss of use is caused by a covered occurrence.

### **III. INSURING AGREEMENT**

In accordance with 2-9-101, MCA through 2-9-305, MCA and subject to the terms, conditions, and exclusions in the state's excess commercial aircraft liability policy and statute, coverage is hereby provided for bodily injury or property damage to passengers and others and to physical damage losses to state aircraft while the aircraft is on official state business. This policy applies to insured events worldwide.

### **IV. EXTENSIONS OF COVERAGE**

The state's policy is extended to cover:

- A. **Legal Liability Coverage:** Bodily injury & property damage, including defense costs, which the state is legally obligated to pay others as a result of the negligent operation of an owned aircraft (10 seats or less) or non-owned aircraft (40 seats or less).
- B. **Physical Damage Coverage:** Physical damage for state-owned aircraft including disappearance and search & rescue efforts associated with recovery of the aircraft. Physical damage for non-owned aircraft up to 90 days for legal liability only. For an additional premium charge, non-owned aircraft may be insured for claims that do not arise from legal liability (i.e. arson, fire, flood, wind, hail, etc.) by contacting the Risk Management & Tort Defense Division.
- C. **Purposes of Use:** All uses in connection with the operation of the state except those specifically excluded in the state's aircraft policy.
- D. **Automatic Insurance for Increased Insured Value:** If the value of the aircraft increases due to modifications or additional equipment additional insurance coverage is provided for up to 30 days to a maximum additional value of \$1,423,400.
- E. **Newly Acquired Aircraft:** Automatic coverage for newly acquired aircraft for up to 30 days subject to a limit of \$1,500,000 and a maximum seating capacity of 10 seats. All other aircraft must be reported to the division immediately.
- F. **Hanger & Passenger Coverage:** Property damage to hangers and the contents of others in the care, custody, and/or control of the state to \$100,000 per occurrence. Passenger property damage to passenger's baggage not to exceed \$5,000.
- G. **Emergency or Unexpected Landing:** The costs to remove an insured aircraft from a place where it unexpectedly landed or due to an emergency to the nearest airport not to exceed 25% of the value of the aircraft.
- H. **Extra Expense for Renting Substitute Aircraft:** Up to \$10,000 per day or \$50,000 per occurrence for the costs associated with renting a substitute aircraft while an insured aircraft is being repaired. Note: Various limits, deductibles, and exclusions apply.
- I. **Extra Expense of Temporary Replacement Parts:** Up to \$5,000 per insured loss for the costs of temporary parts including installation, removal, and

- transport including parts that are damaged and are being repaired or parts that are destroyed and being permanently replaced.
- J. **Premises Medical:** Up to \$5,000 per person for each person for injuries caused by an occurrence and arising out of ownership, maintenance, or use of the premises.
  - K. **Products Liability:** Liability arising from the sale or relinquishment of an insured aircraft or its parts, furnishing aircraft to others, maintenance of aircraft, the provision of food and beverages in conjunction with the operation of the premises.
  - L. **Search and Rescue:** Up to \$250,000 for expenses associated with foaming to minimize loss or search and rescue operations requested by the state but only after government and military operations have ceased.
  - M. **Trip Interruption Expenses:** Up to \$500 each passenger, \$1,000 each occurrence for reasonable expenses associated with food, travel, and lodging arising from the interruption of a trip as a result of a covered loss.
  - N. **Cargo Liability:** Up to \$250,000 for damages that the state may become legally liable to pay under tariff documents, bills of lading, or shipping receipts for losses insured under the state's policy. Note: Various exclusions apply.
  - O. **Mechanic Tools:** Up to \$25,000 for state mechanic's tools damaged or destroyed by a covered loss.
  - P. **Terrorism:** Loss, damage, or injury arising from acts of terrorism as defined by the Terrorism Risk and Insurance Program Reauthorization Act.
  - Q. **War, Hijacking, Extortion, Other Perils:** Damages, liability, and expenses that arise from war, hijacking, extortion, and similar perils are covered.
  - R. **Conditions:** In order for full coverage to be in effect, state-owned aircraft must be reported to the Risk Management & Tort Defense Division immediately. Newly acquired aircraft are automatically covered up to 30 days subject to a policy limit of \$1,500,000. Non-owned aircraft are automatically covered up to 90 days for legal liability subject to a limit of \$13,000,000. Owned and non-owned aircraft used beyond 90 days must be reported in order for coverage to apply.

## **V. EXCLUSIONS**

The state's policy does not apply:

- A. If the pilot is not properly certified under current applicable Federal Air Regulations.
- B. If the airworthiness certificate of the aircraft is not in full force and effect.
- C. To any loss arising from war, invasions, revolution, or insurrection.
- D. To claims in consequence of noise pollution, pollution of any other kind, contamination, electrical interference, or interference with the use of property.
- E. To any obligation for which the state or any carrier may be held liable under any workers' compensation, unemployment, disability, or other insurance.
- F. To damages arising out of the use of chemicals dispersed by the aircraft.
- G. To loss or damage arising from capture, confiscation, seizure, arrest, restraint, or detention.
- H. To loss or damage which is due to wear and tear, excessive heat, deterioration, freezing, or mechanical breakdown.
- I. Conversion, embezzlement, secretion, or other forms of fraud.
- J. Aerial photographic or other equipment or accessories, not permanently installed as part of the aircraft, even if in the aircraft at the time of the loss.
- K. Coverage that arises from the use of aircraft in Mexico. State and university employees that operate aircraft are advised to purchase aircraft from local authorities in Mexico.

## **VI. AIRCRAFT USE AND TRANSPORT**

The purpose of these requirements is to limit the likelihood and the cost of accidents while at the same encouraging the safe and economical use of aircraft for appropriate state business. It is not intended that these guidelines restrict coverage provided under the state's commercial insurance policies. Rather, they are intended to assist pilots, crew, cargo, passengers, and agencies in managing risk.

- A. Only individuals who hold a private, commercial, or airline transport pilot certificate and are on official state business may pilot aircraft in behalf of the state. Agencies with questions should contact the Risk Management & Tort Defense Division.

- B. Pilots who carry passengers on state business are required to possess current pilot and medical certificates, have experience with Federal Aviation Administration Part 61 sub-part E and F, and meet or exceed the “pilot requirements” of this document.
- C. Student pilots are discouraged from piloting any aircraft on state business.
- D. The safe use of aircraft is encouraged whenever flying gives a clear economic benefit to the state.
- E. All cross-country flights require the filing of a VFR (Visual Flight Rule), IFR, or an agency approved flight plan.
- F. Pilots are responsible to comply with all FAA regulations and to keep their certificates, ratings, and records current.
- G. Aircraft may be operated from non-FAA approved landing areas should the mission require such activities.
- H. Only persons authorized in advance and in writing by their agency may pilot aircraft on state business. Agencies must keep a register of authorized pilots.
- I. All air cargo must conform to all applicable federal and state laws and rules. Hazardous cargo must be transported by the safest effective means of transportation, not necessarily the cheapest.
- J. Agencies may set more restrictive standards than the minimums contained in these requirements.

## **VII. PILOT REQUIREMENTS**

The following qualifications are recommended for any pilot seeking to operate a state owned or leased aircraft. Pilots should:

- A. Have a current FAA medical certificate.
- B. Have at least a Private Pilot certificate issued by FAA for the class and category of aircraft to be operated.
- C. Have satisfied FAA biennial flight requirements.
- D. Have registered their certificate with the Aeronautics Division.
- E. Have authorization from the agency to pilot aircraft on state business, and, if applicable, to carry passengers.
- F. To operate complex single-engine piston aircraft, a pilot must have at least 25 hours, pilot-in-command, in an aircraft with retractable gear, variable pitch

propeller, turbo-charged engine, pressurized cabin or a sign-off by the Division Administrator and Chief Pilot of the Division.

## **VIII. AIRCRAFT WORTHINESS**

Aircraft must be maintained in working order in compliance with annual inspection criteria and manufacturer's recommendations, or in compliance with a progressive maintenance program.

## **IX. PASSENGERS**

Passenger safety is primary in the use of an aircraft. No passenger should be asked to ride in an aircraft piloted by anyone other than a qualified and proficient pilot.

- A. Passengers must be state officers, employees, or agents on state business. They may also include state clients when necessary to the client's or public's health or safety or to the agency's mission.
- B. It is recommended that no more than two top management level employees of any agency fly in the same private aircraft.
- C. Passengers should be thoroughly briefed by the pilot before boarding so as not to approach or depart from and aircraft while the engines are running and to insure that each wears a seat belt and follows all safety directives.

## **X. AGENCY PILOT VERIFICATIONS**

It is required that the agency authorizing an employee to pilot an aircraft on state business on an annual basis:

- A. Confirm that the pilot has current medical certificates.
- B. Confirm that the pilot has met biennial flight review requirements.

## **XI. PROGRAM REQUIREMENTS**

- A. State agencies must list the aircraft and rotorcraft that they want insured as well as the stated value of the aircraft (i.e. the amount that the aircraft is insured to in the event of a loss), in the state Property/Casualty Insurance Information System, by January 15<sup>th</sup> of each fiscal year. Aircraft are insured only to their stated value and not at replacement cost. Updated pilot histories must also be filed and sent to the division periodically as requested.
- B. State agencies that desire hull (physical damage) coverage for non-owned aircraft shall report these aircraft to the Risk Management & Tort Defense Division and the aircraft must be listed on the state's aircraft insurance policy.



- C. Participating carriers shall be permitted to inspect the aircraft and any associated records at any time but are under no obligation to do so.
- D. The state's policy may be cancelled with 30 days notice. Should this occur, the Risk Management & Tort Defense Division would attempt to secure coverage from other carriers.

## **XII. SPECIAL SERVICES**

- A. State agencies that need coverage for something not mentioned or otherwise excluded herein are encouraged to contact the Risk Management & Tort Defense Division. The division or its brokers may be able to form a plan of self-insurance to assist your agency. Any plan must be consistent with §2-9-201, MCA. The division may have to obtain legislative approval for the plan. The division may be able to obtain commercial insurance to meet your needs.
- B. The Risk Management & Tort Defense Division may be able to help you develop a risk control plan that will remove or reduce your need for coverage.

## **XIII. REPORTING LOSSES**

The ***State Report of Incident Form*** should be used. State agencies must notify the Risk Management & Tort Defense Division of a claim or potential claim as soon as possible, preferably within 5 business days. Fatalities and personal injuries should be reported within 24 hours. Claims that are not reported within a reasonable period of time may be denied. Attach supporting information, such as:

- A. Evidence of state ownership or responsibility;
- B. Copy of any police or fire department report;
- C. Repair estimates, photographs, other data on cost of the damage;
- D. Information on any adverse party's insurance.

Sample forms may be found on the division's website under 'Claims.' You may photocopy them (front and back) as needed.

## **XIV. LIMITS**

Excess limits of \$10,000,000 per occurrence above the state's tort damage caps of \$750,000 per claim/\$1,500,000 per occurrence, are payable by the state's excess liability insurance carriers. Physical damage is limited to the lower of the cost to repair or replace the aircraft subject to the values reported by each agency.

## **XV. DEDUCTIBLES**

There is no aircraft liability deductible for state agencies. The Risk Management & Tort Defense Division pays the first \$750,000 per claim and \$1,500,000 per occurrence. A 5% of stated value deductible applies while-in-motion; \$1,000 while not in motion. The agency pays the first \$1,000 of each loss.

## **XVI. PREMIUMS**

Premiums must be promptly remitted by state agencies after receiving billing notices from the Risk Management & Tort Defense Division.