





**STATE OF MONTANA
MONTANA TRANSPORTATION COMMISSION
DEPARTMENT OF TRANSPORTATION**

Policy No. POL 9.01.016	Subject: RIGHT OF PUBLIC PARTICIPATION POLICY
Signature: <i>Signatures on File</i>	
<div style="margin-bottom: 20px;">  <hr style="border: 0; border-top: 1px solid black; margin: 2px 0;"/> Montana Transportation Commission Chairperson </div> <div>  <hr style="border: 0; border-top: 1px solid black; margin: 2px 0;"/> Michael T. Tooley Director </div>	Effective Date: 8/29/2019

1 PURPOSE

- 1.1 The purpose of this policy is to secure to the people of Montana their constitutional right to be afforded reasonable opportunity to participate in the operation of the Transportation Commission (Commission) prior to final decisions of the Commission. *See* Mont. Code Ann. § 2-3-101.

2 DEFINITIONS

- 2.1 **Meeting** - The convening of a quorum of the Commission membership, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the Commission has supervision, control, jurisdiction or advisory power. *See*, Mont. Code Ann. §2-3-202.

3 SCOPE (PERSONS AFFECTED)

- 3.1 This policy applies to all Transportation Commission members and all Montana Department of Transportation (MDT) staff involved in scheduling, planning or assisting with Commission business.

4 POLICY

- 4.1 The Montana Transportation Commission adopts and incorporates by reference the Attorney General’s right of participation procedural rules Mont. Admin. R. 1.3.101 and 1.3.102.
- 4.2 The Commission shall notify the public of Commission meetings by posting public meeting agendas, including times, dates, and locations of meetings online at https://www.mdt.mt.gov/pubinvolve/trans_comm/.

- 4.3 The Commission and staff shall provide adequate notice and assist public participation before a final Commission action is taken that is of significant interest to the public. *See* Mont. Code Ann. § 2-3-103(1).
- 4.4 A Commission meeting agenda must include an item allowing public comment on any public matter within the Commissions' jurisdiction that is not on the agenda of the meeting.
- 4.5 Public comment received at a meeting must be incorporated into the official minutes of the meeting. *See*, Mont. Code Ann. §§ 2-3-103, 2-3-212.
- 4.6 The Commission may not act on any matter discussed at a meeting unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter.
- 4.7 A Commission meeting subject to the open meeting laws occurs whether it is conducted in person, by telephone conference call, by videoconferencing, or by any electronic means. *See*, Mont. Code Ann. § 2-3-202.
 - 4.7.1 All public participation requirements apply to a meeting in any form.
- 4.8 Public participation procedures--including a typical notice period, public comment agenda item and public opportunity to submit views before Commission decisions--may be waived when a Commission decision must be made to: deal with an emergency situation affecting the public health, welfare or safety; maintain or protect the interests of the Commission; or conduct a ministerial act. *See*, Mont. Code Ann. §2-3-112.
- 4.9 The Commission may not conduct official business via electronic means, including voting or group discussions about the work and operations of the Commission, unless in compliance with open meeting and public record laws, including record retention schedules and public notice and opportunity to be heard. *See*, Mont. Code Ann. §§2-3-202, 2-6-1003.
 - 4.9.1 Individual electronic exchanges between Commission members are subject to public information request and public records retention statutory requirements. *See*, Mont. Code Ann. §§2-6-1002, 2-6-1003.
 - 4.9.2 Commission staff may use electronic means to conduct administrative acts on behalf of the Commission, such as distribution of information, without use of public participation processes. *See*, Mont. Code Ann. §2-3-112.
- 4.10 The Commission shall keep appropriate minutes of all public meetings and make the minutes available for inspection by the public, in accordance with Mont. Code Ann. §2-3-212.
- 4.11 The public may examine and obtain a copy of all Commission records under Montana's Public Records statutes at Mont. Code Ann. Title 2, Chapter 6, via MDT's public information request process and Public Information Policy No. POL 1.02.006. *See*, Mont. Code Ann. §2-6-1006.

5 CLOSING

- 5.1 Questions concerning this policy should be directed to the MDT Legal Services.

6 REFERENCES:

- 6.1 *Mont. Const. art. II, § 8.*
- 6.2 *Mont. Code Ann. §2-3-101*
- 6.3 *Mont. Code Ann §2-3-103*
- 6.4 *Mont. Code Ann §2-3-112*
- 6.5 *Mont. Code Ann §2-3-202*
- 6.6 *Mont. Code Ann §2-3-212*
- 6.7 *Mont. Code Ann §2-6-1002*
- 6.8 *Mont. Code Ann §2-6-1003*
- 6.9 *Mont. Code Ann §2-6-1006*
- 6.10 *Mont. Admin. R. 1.3.101*
- 6.11 *Mont. Admin. R. 1.3.102*

7 ADDITIONAL DOCUMENTS

7.1 Not Applicable

8 KEYWORDS

8.1 Not Applicable

REVISION HISTORY

DATE OF REVISION	REVISION # OF POLICY	REASON FOR MODIFICATION	AUTHOR OF REVISION
August 29, 2019	New Policy	New Policy	Valerie Wilson, Professional Services Division Administrator