

Motor Vehicle Operation Policy for the BIA

and

Executive Order No. 13513

Federal Leadership on Reducing Text Messaging While Driving



THE ASSOCIATE DEPUTY SECRETARY OF THE INTERIOR
WASHINGTON, DC 20240

MAY - 3 2006

Memorandum

To: Deputy Assistant Secretaries
Director, Bureau of Indian Affairs
Director, Office of Indian Education Programs
All Central Office Directors
All Regional Directors
All Education Line Officers

From: Associate Deputy Secretary

James E. Cason

Subject: Motor Vehicle Operation Policy

In compliance with the requirements of 5 CFR 930 and the Department's Motor Vehicle Safety Policy, 485 DM 16, this Motor Vehicle Operation Policy (Policy) is to establish clear responsibilities for employees, supervisors, and managers, and to promote the safe and prudent operations of motor vehicles while performing assigned duties in support of Indian Affairs (IA). This Policy supersedes the New Motor Vehicle Operation Policy for the Bureau of Indian Affairs (BIA) signed by the Assistant Secretary – Indian Affairs on March 19, 2004.

I. Definitions

- A. Employee. All permanent, temporary, intermittent, and contract employees; interns; student teachers; and administratively determined (AD) emergency workers as defined in 5 U.S.C. 2105.
- B. Motor Vehicle. A Government 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 motor 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).
- 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 Indian Affairs business if he or she satisfies the following requirements:

- A. Be 18 years of age or older;
- B. Has a valid State 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 their submittal of GSA Form 3607, 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 Indian Affairs business; and
- F. Possesses current Motor Vehicle Operators Authorization from his/her supervisor.

III. Roles and Responsibilities

- A. Deputy Assistant Secretaries, BIA Director, Deputy Directors and Regional Directors, and Director, Office of Indian Education Programs (OIEP) are responsible for carrying out the requirements of this policy within their areas of responsibility.
- B. Managers, supervisors, contracting officers and awarding officials must:
 - 1. Carefully consider whether duties and responsibilities assigned to an employee require the operation of a government-owned or government-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 duties assigned or historically assigned to such positions or activities;
 - 2. Ensure that each IA 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 7 of this memorandum, 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 supervisor;

3. Ensure that all term contracts and commercial contracts under their administration, at the time of contract renewal, include certification from the contractors certifying that they will self-administer and ensure compliance with the requirements of this policy;
4. Based on available information, ensure no authorization is given to individuals with restricted driving privileges (i.e., home to work licenses);
5. Ensure that no Motor Vehicle Operator is permitted to operate a government 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;
6. 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;
 - e. Not in possession of a current IA/BIA/OIEP Motor Vehicle Operator Authorization Card;
7. As directed in 5 CFR 930.113, 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;
 - c. Is not qualified to operate a Government owned or leased vehicle safely because of a physical or medical condition;
 - d. No longer possesses a State license by revocation or suspension;
 - e. Fails to report incidences noted in paragraph 6 above to his or her supervisor; and
 - f. Exhibits behaviors inconsistent with the safe and prudent operation of a motor vehicle;
8. Where appropriate, recommend the Employee Assistance Program (EAP) and other programs to employees whose performance appears impaired by the use of controlled substances, prescription drugs, or intoxicating beverages; and
 9. Take appropriate actions to investigate allegations of employee's alcohol or drug abuse problem 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. (For example, an employee is convicted of DWI or other unsafe driving practices over a 10-year period, with DWI arrest longer than three-years preceding their submittal of GSA Form 3607, Motor Vehicle Operator's License and Driving Record).

C. The Division of Safety and Risk Management will

1. Receive and process Motor Vehicle Operator License and Driving Record forms (GSA Form 3607) for their service area.
 - a. The Division of Safety and Risk Management is responsible for Central Office West Programs in Albuquerque, NM; Lakewood, CO; Boise, ID (NIFC). The Division is also responsible for Office of Law Enforcement Services (OLES) and Office of Indian Education Programs (OIEP) Central Office West;
 - b. The Central Office East Collateral Duty Safety Officer is responsible for Central Office East Programs in Washington, DC; Reston, VA; and Herndon, VA; and
 - c. Regional Safety Managers are responsible for all regional programs, including OIEP within the region.

2. Conduct the annual evaluation of the applicant's driving record.
 3. Return GSA Form 3607 with certification to the supervisor after processing.
 4. Document any conflicts or concerns with respect to an employee's driving qualifications.
- D. Employees, generally, have 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 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 Indian Affairs Motor Vehicle Hotline: (505) 563-5460.

IV. Operator Requirements

Motor Vehicle Operators must:

- A. Comply with State, local and tribal traffic laws and the lawful instruction of emergency and law enforcement personnel;
- B. Abstain from ingesting controlled substances, intoxicating beverages, prescription drugs or other medications that caution against operating a motor vehicle when taken, to avoid being impaired;
- C. Not transport intoxicating beverages, controlled substances, or any passenger who is in possession of intoxicating beverages or controlled substances without written approval of immediate supervisor. Exceptions to this prohibition are allowed for social services, emergency, and law enforcement personnel whose duties and responsibilities require otherwise;
- D. Not transport unauthorized passengers in a Government owned or leased motor vehicle;
- E. Report to his/her supervisor 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;
- F. Successfully complete motor vehicle safety training at least every three years;
- G. Notify their supervisor if their State driving privileges are restricted, suspended, revoked, or canceled, or if they have been 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 any legal or court ordered suspension of driving privileges or any limiting medical condition;

- H. Report all incidents involving a Government owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or a privately owned or leased motor vehicle that occur during the performance of their official duties;

Report all on-duty incidents involving a Government 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;

- J. Report all incidents involving a Government owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or privately owned or leased motor vehicle and the use of controlled substances or intoxicating beverages; impairment resulting from prescription or over-the-counter drugs, illness, or medical condition; or other factors that impair concentration, motor skills or reaction time;
- K. 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's license; and
- L. Notify supervisors of these incidents no later than the following business day after their occurrence. Failure to inform the supervisor of any such situation may subject employees to disciplinary action.

V. Authorization Procedures

- A. All employees and term contract 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 and term contract employees must annually submit to their supervisor GSA Form 3607, Motor Vehicle Operator's License and Driving Record to renewal. In completing the form, individuals will provide a response to all questions (Section II) and certify that their statements are true and correct to the best of their knowledge (Section III).
- C. Supervisors will review the GSA Form 3607 for accuracy and completeness, complete and sign Section IV – Supervisory Review, and forward to the appropriate safety office for the receipt of application for their regions.
- D. The appropriate safety office will review the submitted forms and request a copy of the applicant's driving record from the appropriate State motor vehicle office(s) and if appropriate and where feasible, the tribal court where employees primarily operate motor vehicles within that tribal jurisdiction.

- B. Upon a receipt of a favorable review of the driving record, the safety officer will complete Section V – Certification of Eligibility and Authorization, sign and date, certifying that the individual meets his IA driver qualifications.
- F. With the safety officer's certification, the supervisor may issue a Motor Vehicle Operator authorization Card (Attachment 2). The Card will be issued for a period of five years.
- G. Based on the safety officer's report that the applicant is not qualified, the supervisor will not issue or will revoke a Motor Vehicle Operator Authorization Card. 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.

VI. 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.

Attachments

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

October 1, 2009

EXECUTIVE ORDER

FEDERAL LEADERSHIP ON REDUCING TEXT MESSAGING WHILE DRIVING

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7902(c) of title 5, United States Code, and the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 et seq., and in order to demonstrate Federal leadership in improving safety on our roads and highways and to enhance the efficiency of Federal contracting, it is hereby ordered as follows:

Section 1. Policy. With nearly 3 million civilian employees, the Federal 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, Federal employees drive Government-owned, Government-leased, or Government-rented vehicles (collectively, GOV) or privately-owned vehicles (POV) on official Government business, and some Federal employees use Government-supplied electronic devices to text or e-mail while driving. A Federal 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 Federal contractors is designed to promote economy and efficiency in Federal procurement. Federal 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 Federal procurement.

Sec. 2. Text Messaging While Driving by Federal Employees. Federal 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 agencies of the executive branch 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 Federal 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) Within 90 days of the date of this order, each agency is directed, consistent with all applicable laws and regulations: (i) to take appropriate measures to implement this order, (ii) to adopt measures to ensure compliance with section 2 of this order, including through appropriate disciplinary actions, and (iii) to notify the Secretary of Transportation of the measures it undertakes hereunder.

(c) 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 Federal 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 Federal 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 Secretary of Transportation, in consultation with the Administrator of General Services and the Director of the Office of Personnel Management, shall provide leadership and guidance to the heads of executive branch agencies to assist them with any action pursuant to this order.

Sec. 6. Definitions.

(a) The term "agency" as used in this order means an executive agency, as defined in 5 U.S.C. 105, except for the Government Accountability Office.

(b) "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.

(c) "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.

Sec. 7. General Provisions.

- (a) Nothing in this order shall be construed to impair or otherwise affect or alter:
- (i) Authority granted by law or Executive Order to an agency, or the head thereof;
 - (ii) Powers and duties of the heads of the various departments and agencies pursuant to the Highway Safety Act of 1966, as amended, 23 U.S.C. 402 and 403, section 19 of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. 668, sections 7901 and 7902 of title 5, United States Code, or the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 101 et seq.;
 - (iii) Rights, duties, or procedures under the National Labor Relations Act, 29 U.S.C. 151 et seq.; or
 - (iv) Functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.
- (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,

October 1, 2009.