



**CDL OPERATORS
GUIDE TO
ALCOHOL AND DRUG
TESTING**

All rights reserved. No part of this work may reproduced or copied in any form by any means without the permission of NIRMA, unless by a NIRMA member county and for that county's official use.

© Copyright NIRMA 2012

Table of Contents

Introduction.....	2
Guide To Alcohol and Drug Testing.....	3
General Random Test Procedure.....	3
Alcohol.....	3
Drugs.....	4
Negative Test.....	4
Positive Test.....	4
What is a Safety Sensitive Function?.....	4
How Will This Affect County Employees?.....	4
How Will This Affect New County Employees?.....	5
What Conduct is Prohibited?.....	5
What Are the Testing Methods?.....	5
Alcohol.....	5
When Must I be Tested?.....	7
Pre-employment.....	7
Random.....	7
Post-accident.....	8
Reasonable Suspicion.....	8
Return-to-Duty.....	8
Follow-up Testing.....	9
What Are the Drug Testing Procedures.....	9
Test Procedures – Drugs.....	9
What Are the Consequences of Testing Positive?.....	10
What is Considered a Refusal to Take a Test?.....	10
What About Prescribed or Over-the-Counter (OTC) Medicines?.....	11
Medical Marijuana Use is Prohibited Under This Policy.....	11
What Are the Effects of Alcohol and Drugs?.....	11
What Can I do if I Think I Have a Problem With Drugs or Alcohol?.....	11
Any Moving Violation Must be Reported.....	11
Receipt of CDL Information.....	12

Introduction

The county has had a personnel policy concerning drug and alcohol use – The Drug Free Workplace Act - which applies to all county employees.

Congress passed the OMNIBUS TRANSPORTATION ACT of 1991 and the Department of Transportation has adopted rules and regulations pertaining to the act. The Act will affect those county employees who as part of their job must possess a commercial driver's license (CDL).

One of the responsibilities of the county board is to provide for a safe and healthy workplace for county employees. Therefore, the county board should have implemented the requirements of the Act no later than January 1, 1996.

Accordingly, this booklet is to provide you with information concerning the rules and regulations of the county drug and alcohol testing program as they relate to the OMNIBUS TRANSPORTATION ACT, a federal regulation of the Department of Transportation.

There are additional county personnel policies specifically dealing with the consequences of drug or alcohol use in violation of the DOT requirements and violation of this and other county drug and alcohol use policies and state statutes.

This booklet meets the Department of Transportation's requirements for driver education materials.

If you have any questions contact one of the following, as they have been designated as the alcohol and drug testing program administrators:

NAME: _____

PHONE: _____

NAME: _____

PHONE: _____

Guide to Alcohol and Drug Testing

(The county board reserves the right to change any county policy at any time and without prior notice unless otherwise subject to labor negotiations.)

General Random Procedure

- The county program administrator will be informed of employees to be randomly tested by the third party administrator.
- The employee(s) randomly selected are not to be advised prior to test.
- The employee(s) selected for the random test, upon being notified, will need to proceed directly to the collection site.
- The employee(s) is advised and provided with forms (these may also be available at the collection site) and then proceed to collection site.

Alcohol

- .02 bac but lower than .04 bac:
 - Relieved from duty, for minimum of one day;
 - Retested prior to returning to duty.
- .04 and above relieved from duty:
 - Referred to a substance abuse professional (SAP);
 - Subject to other county personnel policy;
 - Not to drive until approved by SAP and successfully completes the SAP program;
 - Retested prior to returning to duty.

Drugs

- The county program administrator is informed of employee(s) to be randomly tested.
- The employee(s) who is selected for the random test, upon being notified, will need to proceed directly to the collection site.
- Employees proceed to collection site:
 - Specimen collected and sent to lab.
 - Lab results sent to Medical Review Officer (MRO).

Negative Test

- Results forwarded to county.

Positive Test

- MRO will contact employee requesting medical information:
 - If employee can provide verifiable information concerning results, MRO may determine results are a false positive.
 - If employee cannot provide verifiable information, results are ruled positive.
- County is advised in writing:
 - County will refer employee to a substance abuse professional.
 - Implement other county personnel action as deemed necessary and required.

What is a Safety Sensitive Function?

A CDL driver would be performing safety sensitive functions when:

- On duty and waiting to be sent out or performing other county duties;
- Servicing a vehicle or performing a pre-trip inspection;
- Driving a motor vehicle which requires a CDL license;
- In such a vehicle; but not when sleeping or resting;
- Loading or unloading such a vehicle or supervising;
- Performing duties and services at the scene of an accident; or,
- Repairing, getting help, or waiting with a disabled vehicle.

The U.S. Department of Transportation (DOT) regulations specify that an employee with a CDL must not perform safety sensitive functions within four (4) hours of using alcohol and must not use alcohol or drugs when performing safety sensitive functions.

How Will This Affect County Employees

DOT requires certain drivers, those required to have a CDL, to undergo drug and alcohol testing. A CDL is required when:

- The gross combination weight rating of a vehicle is 26,001 or more pounds, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or,
- The gross vehicle weight rating is 26,001 pounds or more; or,

- The vehicle is designed to transport 16 or more passengers, including the driver; or,
- A vehicle of any size is used to transport hazardous materials which require the vehicle to be placarded. County vehicles are exempt from placarding requirements.

How Will This Affect New County Employees?

A new employee is defined as one who is applying for an employment opening. This could be a county employee with 15 months or 15 years in a county position not requiring a CDL but the position being applied for would require such licensing.

Or, it could be a new applicant to county government applying for a position which requires a CDL.

The county is required to verify past drug and alcohol testing records from previous employers for a period of three (3) years prior to the application for employment. The county will provide an authorization form releasing such information, which as a condition of employment, must be signed by the applicant.

This form, after being signed, will authorize previous employers to release the requested material.

What Conduct is Prohibited?

Federal and state law and county policy prohibits CDL operators from any of the following acts:

- Reporting for duty, or on duty, with an alcohol concentration of .02 or greater;
- On duty, or operating a commercial vehicle, while in possession of alcohol, except if such is part of an authorized load;
- The term alcohol is not limited to beverage alcohol, it includes medications (including over-the-counter types) or other products containing alcohol;
- Using alcohol when performing a safety sensitive operation;
- Refusing to submit to a required drug or alcohol test;
- Reporting for duty or remaining on duty after using any drug, except when the use has been prescribed by a physician and does not adversely affect the operators ability to safely operate a commercial motor vehicle;
- Following an accident which requires a post-accident alcohol test, a CDL operator must not use alcohol for eight (8) hours or until after such tests have been conducted (whichever comes first);
- Attempting to mask a test, or otherwise interfere with testing procedures.

What Are the Testing Methods?

Alcohol

The regulations require a CDL operator submit to a saliva or breath test to determine the blood alcohol concentration (BAC). Only trained individuals may perform such tests in order to meet the requirements of the regulations. An exception may apply in post-accident situations.

If a CDL operator tests .02 or higher on a saliva test, a confirmation test must be conducted within 20 minutes utilizing an evidential breath testing (EBT) device.

The exception in a post-accident situation is that if no suitable equipment is available, a law enforcement officer may request that a blood test be taken. You cannot use blood for DOT, if you cannot get an alcohol test performed then document the reason why you could not get that done.

The following sequences of events are typical of how the county's alcohol testing program will affect county CDL operators:

1. The county will gather and submit the CDL driver information to the third party administrator. This information will include:
 - CDL driver's name, social security number, date-of-hire, and CDL license number.
2. The third party administrator on a regular basis will provide the county program administrator with the list of employees randomly selected for testing.
3. Selected CDL operators will be notified by the program administrator they have been selected and must submit to an alcohol test.
4. The driver will proceed immediately to the testing site as directed.

The authorized tester, either a breath alcohol technician (BAT) or a screening test technician (STT) will:

1. Ask for a photo id to confirm the CDL operator's identification;
2. Provide step-by-step instructions of the test procedures;
3. Present the operator with an individually sealed mouth piece for breath testing or saliva screening unit for saliva testing;
4. The BAT will remove the mouthpiece from its packaging or give it to the operator to be unwrapped just prior to the test;
5. The technician will show the operator the test results prior to writing them down;
6. If an EBT is used and there is a discrepancy between the result or the sequential number displayed and the results the EBT prints, the test is invalid. No further testing is authorized under these circumstances.
7. If the saliva screening results indicates .02 BAC or above, the STT will direct the operator to a BAT who will conduct an EBT. The confirmation test must be done on an EBT and the operator must not eat, drink, smoke, or chew anything during the period between the two tests.

If the result of the screening test is lower than .02 BAC, the operator will complete one part of the form and the STT will provide one copy to the operator, who is then free to return-to-duty.

If the result of the screening test is .02 BAC or greater, the operator will be directed to take a confirmation test on an EBT.

If the EBT shows a confirmation result below .02 BAC, the operator will complete one part of the form and the BAT will provide one copy to the operator, who is then free to return-to-duty.

If the result of the confirmation test is .02 BAC but lower than .04 BAC, the BAT will notify the county program administrator of the results **AND** the CDL operator must not report for duty for at least 24 hours and other county personnel policies will be reviewed for action during that time.

Additionally, the employee will not drive a vehicle from the testing site. The county will make travel arrangements.

If the result of the confirmation test is .04 BAC or greater, the BAT will notify the county program administrator **AND** the CDL operator will be advised by a county official to report to a substance abuse professional (SAP) for an evaluation. Additionally, the employee will not drive a vehicle from the testing site. The county will make travel arrangements.

The CDL operator will also be informed that other county personnel policies will be reviewed for possible action.

In order for a CDL operator to drive a commercial motor vehicle after a confirmation test result of .04 BAC or greater, the operator must:

- Submit to an evaluation by a SAP;
- Successfully complete a SAP prescribed treatment program;
- Complete a return-to-duty alcohol test with a BAC of less than .02; and,
- Be approved for returning to work by a county official.

When Must I be Tested?

Pre-Employment

After an individual has been offered a position which requires a CDL and before being accepted for such a position, the individual must take a Pre-Employment Drug Test. (Alcohol testing is not required by the DOT regulations.)

There are certain exceptions such as if the individual has participated in a drug testing program within the previous thirty (30) days, has been drug tested within the past six (6) months, or has been in a random drug testing program for the previous twelve (12) months and has no record of a DOT drug violation during the previous six (6) months.

CDL applicants will be requested to sign an authorization to release information form as a condition of being considered for employment. This form, when signed, allows (a) previous employer(s) to release DOT testing results information.

The county is required to acquire from previous employers of the applicant the results of all DOT drug and alcohol tests for the three-year period prior to the application for employment.

Random

The county has a program which selects CDL operators at random for drug and alcohol testing as required by the DOT. No official in county government has any control over the random selection of CDL operators. Such operators may be selected once, several times, or not at all.

The annual selection rate is: Ten (10) percent of CDL driver tested for alcohol
 Fifty (.50) percent of CDL drivers tested for drugs.

On an annual basis the county must test a certain percentage of its CDL operators for drug use, and a small percentage for alcohol use. These percentages change at the discretion of the DOT. However, by participating in a pool composed of several counties, the numerical results of your county CDL operators may not meet the percentages stated (it could be higher or lower). Some counties are in a

single employer pool and others are in a multiple employer pool. Pools are assigned at the discretion of the third party administrator.

Post-Accident

CDL operators involved in a fatality accident or receive a citation for a moving violation in an accident, must be tested for drug or alcohol use.

An accident is defined as one in which:

- A moving violation citation is issued to the CDL operator; or
- Anyone involved requires medical treatment away from the scene; or
- If any vehicle involved has disabling damage.

A vehicle that is towed or has damage which cannot be readily repaired at the scene is considered to have disabling damage; a flat tire would not be classified as disabling damage.

The county program administrator must be advised of accidents involving CDL drivers, when the vehicle requires a CDL license operator. The CDL driver is required to have an alcohol test completed within two (2) hours after the accident. If that is not possible, the driver must continue to try for up to eight (8) hours after the accident.

If the driver is unable to have both tests completed within the above time frames, the driver is to stop trying to have such tests taken. The county will document, in its records, the reasons for the tests not being completed.

If a driver is injured in an accident and hospitalized, the county may request that you sign a release so that the required tests can be taken. If, due to the injuries, the tests cannot be taken, the county will document the reason(s).

Reasonable Suspicion

Designated county officials or employees must ask you to submit to a test if either your conduct or appearance indicates you may be under the influence of alcohol or drugs. Individuals requesting you undergo such tests must be trained in the detection of alcohol or drug misuse. The county officials or employees must make the observation and decision to test just before, during or after such time as you are on duty for operations requiring the use of your CDL.

Return-to-Duty

Following any positive test, you will be evaluated by a substance abuse professional (SAP). The SAP may require you to undergo treatment or participate in other programs. Following such recommendations and prior to returning to duty, you must test negative for drugs and below .02 for alcohol.

Follow-up Testing

Employees returning to work after completing substance abuse treatment will be subject to unannounced testing, separate from random testing, which will consist of a minimum of six (6) tests the first year and may continue for an additional forty-eight (48) months. Testing may consist of an alcohol test, a drug test or both at the discretion of the substance abuse professional.

What Are the Drug Testing Procedures?

Test Procedures -- Drugs

The following sequence of events are typical of how the county's drug testing program will affect county CDL operators and other county employees:

- The county will gather and submit the CDL driver information to the consortium service provider;
- CDL driver's name, social security number, date-of-hire, and CDL license number;
- Selected CDL operators will be notified by the county confident they have been selected and must submit to a drug test.
- Once the employee has been advised he or she is subject to a drug test, the employee will immediately proceed to the testing site.

An authorized collector will:

- Ask for a photo I.D. to confirm the CDL operator's identification;
- Provide step-by-step instructions of the test procedures;
- Ensure no water is available in the collection area.
- Handles or tapes of available faucets will be taped;
- A bluing agent will be added to water in the toilet bowl;
- Have the donor remove all unnecessary outer garments;
- The top portion of the chain-of-custody (COC) form should already be completed;
- If the lab has a peel-off specimen number on the form, this number should be placed on the specimen bottles;
- Ask the donor to wash and dry his or her hands prior to the collection, give one specimen container to the donor and let him or her provide the specimen in privacy.
- There must be 45 milliliters (ml) of urine for a primary specimen test.
 - i. If there is not a sufficient amount, have the donor drink up to 48 ounces of water and after a period of up to three (3) hours, again try for a specimen using a fresh collection container.
 - ii. If the donor cannot provide a sufficient amount of urine for a valid test, the collector must advise the county confident.
 - iii. Record the temperature of the urine immediately and be sure to record in-range temperature on the COC form.
 - iv. If the temperature is not in-range, the donor can volunteer to have his or her oral temperature taken to provide evidence of lower body temperature.
 - v. If the donor refuses to have his or her oral temperature taken, immediately contact the county confident.

- If there is reason to believe the specimen has been altered or tampered with or substituted, immediately contact the county confidant.
 - i. A county official shall review the situation and agree with the collector in advance concerning any decision by a collector to obtain a specimen under direct supervision. A higher level supervisor of the collector may also be consulted.
- Samples will be split into portions of 30 ml and 15 ml. The donor must have the specimen in view at all times until the split sample is sealed and labeled. The donor will initial the labels.
- The donor will sign the COC form indicating that the sample is the donors.
- The donor will complete a block on the Medical Review Officer (MRO) portion with personal information so that the MRO could contact the donor.
- The samples will be expedited to the lab.
- The samples will be split and tested.
- The MRO will review the results of the test.
 - i. If negative, the process is complete.
 - ii. If positive, the MRO will contact the donor with questions about the test results.
 - iii. The donor may request the split sample be tested at a second facility if the donor does not agree with the results. The donor is responsible for all related costs of testing the split sample.
 - iv. For positive tests of illegal usage of drugs, the MRO will contact the county confidant.
- For positive results, confirmed in writing by the MRO, the county will implement the applicable county policy, the County Drug and Alcohol Personnel Policy.

What Are the Consequences of Testing Positive?

The consequences of testing positive for either drugs or alcohol are described in the County Drug and Alcohol Personnel Policy. Your highway superintendent or other county personnel will provide you with information concerning the County Drug and Alcohol Personnel Policies, if requested.

What is Considered a Refusal to Take a Test?

- An implied refusal is when all arrangements have been made by the county confidant and the employee, after being advised where to report, does not report to take the test in the allocated time.
- A direct refusal is when the employee is advised to report for a required alcohol test and verbally refuses and after being advised of the consequences of not taking the required alcohol test does not report to take the test; or,
- A refusal to be tested is also when the employee fails to provide adequate breath or saliva for testing without a valid medical reason; or,
- A refusal to be tested is when the employee fails to provide adequate urine for testing without a valid medical reason; or,
- A refusal is when the employee refuses to complete step 2 of the breath testing form; or,
- The employee engages in conduct clearly obstructing the testing process, such as using a masking agent.
- A refusal to test will be treated the same as if the test was positive.

What About Prescribed or Over-the-Counter (OTC) Medicines?

It is your responsibility to inform the physician you are under drug and alcohol testing requirements; ask if the medication could result in a positive drug test. If the answer is yes, have the physician write a note to your highway superintendent or commissioner/supervisor stating what the effects of the medication are. It is not necessary to inform those individuals what medication you are on or the medical condition, but they do need to know if this could affect operating a vehicle or power tools. The same is true for OTC type medicines or other materials containing alcohol. Remember, you are not permitted to ingest alcohol four (4) hours prior to reporting for work.

Medical Marijuana Use is Prohibited Under This Policy

The federal government does not recognize medical marijuana prescriptions. Since federal law supersedes state law, the county is going to follow the federal government's stand on medical marijuana and will not allow its employees, individuals, drivers, operators and/or contractors to be employed or perform work at any of the county locations or operations.

What Are the Effects of Alcohol or Drugs?

County employees have been provided information on how the misuses or abuse of drugs or alcohol can have a negative impact on one's personal and employment way of living. It is not the intent of the county board or any county official to intrude into the personal life-style of any county employee.

However, county employees are reminded that actions off-duty can impact work performance and, therefore, may impact the operations of county government.

What Can I Do if I Think I Have a Problem With Drugs or Alcohol?

Any county employee who needs assistance with a drug or alcohol misuse or an abuse problem should contact one of the agencies which specialize in treatment for information and a confidential interview.

Any Moving Violation Must be Reported

It is your responsibility to report any moving violation in any type of vehicle --this includes your personal vehicles -- to your supervisor/commissioner or highway superintendent. This is after you have been found guilty or have paid a fine after pleading no contest. You must report such an event within twenty-four (24) hours after reporting for duty.

Effective September 20, 2005, regardless of the type of vehicle being operated, if an employee possessing a CDL is convicted of a moving violation or for speeding at 15 mph or more, the Nebraska Department of Motor Vehicles (DMV) will, in accordance with federal and state law, administratively suspend the individual CDL license.

RECEIPT OF CDL INFORMATION

By my signature below, I certify that on _____ County, my present employer, did provide me with information that explained the Drug and Alcohol Testing requirements of the Department of Transportation.

I have also been informed of and understand the county's policies and procedures with regard to these testing requirements and that the excessive, abusive or illegal use of drugs or alcohol could result in corrective action in accordance with the county personnel policy.

Employee Name (PRINTED): _____

Employee Signature: _____

Witness: _____

Date: _____



**COMMERCIAL DRIVER'S LICENSE
MEMORANDUM of UNDERSTANDING**

I, _____, an employee of Sarpy County am required to possess a valid commercial driver's license for my position with the County.

I understand that if I plead guilty to or am found guilty of any type of a moving violation by any legal jurisdiction, at any time on or off duty, I must report such a conviction to the authority having jurisdiction, as defined below, within 24-hours of returning to work.

For Sarpy County, the authority having jurisdiction will be:

- Rich Weber, Highway Superintendent

- George Funderburk, Fleet Services Manager

NAME OF EMPLOYEE - TYPE OR PRINT

SIGNATURE OF EMPLOYEE

DATE

WITNESS SIGNATURE

DATE

EMPLOYMENT POSITION