
SUBJECT: REQUIRED ALCOHOL AND CONTROLLED-SUBSTANCE TESTING OF EMPLOYEES
IN SAFETY-SENSITIVE POSITIONS (C.L.)

EFFECTIVE DATE: January 1, 1996

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In an effort to prevent injuries and deaths due to drug-or alcohol-impaired drivers operating commercial vehicles, the United States Congress enacted the Omnibus Transportation Employee Testing Act of 1991 (the 'Act'). This federal law mandates drug and alcohol testing for certain classes of transportation employees.

All Cass County employees who, as a requirement of their job, operate vehicles classified as commercial and have a commercial driver's license, are considered to be in "safety-sensitive positions" and are subject to the Act. Provisions for disciplinary actions are based on the independent authority of the County.

This personnel policy concerns only employees subject to the Act and describes County implementation of the Act. Employees in the classes below are subject to the controlled-substance requirements of the Act and to this policy at all times when on duty, regardless of the task-they are performing. Employees are subject to alcohol testing requirements only just prior to, just after, or when performing safety-sensitive functions.

Equipment Operators
Highway Foremen
Temporary employees operating commercial vehicles

Alcohol Prohibition

Employees must:

1. Test when requested.
2. Not use alcohol, in any form, on the job(including mouthwash or cough syrup containing alcohol).
3. Not have even one drink fewer than 4 hours before work duties begin.
4. Not work under the influence of alcohol.
5. Not remain on work duty with a breath-alcohol concentration (BAC) of .02 or greater.
6. Not use alcohol within 8 hours after an accident or until undergoing post-accident alcohol test.

Definition of Positive Alcohol Test

Alcohol tests will be considered positive if the breath test indicates an alcohol presence of .04 or greater. If the test results are positive, the employee and supervisor will be notified before the employee leaves the test site.

If an alcohol test indicates an alcohol concentration of at least .02, but less than .04, the test is considered negative, but the driver will be taken out of service for 24 hours. The driver must use annual leave or leave without pay. Supervisor will explain the employees options.

Testing Vendor Responsibilities in Alcohol Tests

If the initial test results are .02 or greater, the testing vendor will wait 15 minutes and then issue a retest or confirmation test. During the 15-minute waiting period before the confirmation test, the employee will be given a set of instructions (for example, no eating or drinking) that must be followed. If the employee does not follow these instructions, it may be considered an attempt to alter the tests results. The confirmation test result is used to make decisions about employment and treatment.

Definition of Positive Controlled-Substance Test

A test will be considered positive if controlled substance for which no legitimate explanation is determined by the medical review officer is found in the urine specimen.

Testing Vendor Responsibilities in Controlled-Substance Tests

Controlled-substance tests must use proper laboratory procedures.

If a test is positive, it will be reviewed by the physician serving as the testing vendor's medical review officer (MRO). The MRO will follow specific procedures required by the federal guidelines. These procedures are intended to make sure that the test result is a true positive. The MRO will call the employee who has tested positive, discuss what might have caused the test result to be positive, and make sure of the result before notifying the County. If the test remains positive, the employee may request, at his or her expense, that a second independent analysis be performed on the untested portion of the sample.

Pre-Employment Tests

New employees will be hired for safety-sensitive positions on the condition of a negative drug test (administered after being chosen but before starting safety-sensitive tasks) and a drug-testing record from previous employers that shows no drug use for the previous two years or successful treatment followed by a lengthy nonuse time period.

County job announcements will say whether the position is safety-sensitive and requires pre-employment drug-testing.

Post-Accident Tests

Drivers are responsible for notifying the County of any vehicle accident.

1. In an accident resulting in a death, all County drivers working at the scene must undergo post-accident testing.
2. In an accident which does **not** result in a death, but in which the County driver is cited for a moving traffic violation, and (A) if the accident involved bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene, or (B) when one or more motor vehicles incur disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

A driver who is subject to post-accident testing shall remain readily available for 8 hours for such testing or may be deemed to have refused to submit to testing. Post-accident breath alcohol tests must be completed within 8 hours of the accident or it should not be done. The drug test should be completed within 32 hours of the accident or it should not be done.

Employees must be tested for alcohol within 2 hours and controlled substances within 32 hours after all accidents resulting in a death or where the driver is cited for a moving violation.

If the alcohol test is not administered within 2 hours, the supervisor must file and maintain records stating why. If no alcohol test is administered within 8 hours of the accident, no test will be given, and the supervisor must file and maintain records stating the reason for the delay and the lack of testing.

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CONTROLLED SUBSTANCE TEST

RESULTS	EMPLOYEE STATUS	REQUIRED ACTION
Positive	Applicant	Not hired
Positive	Employee Temporary Employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination

ALCOHOL TEST

RESULTS	EMPLOYEE STATUS	REQUIRED ACTION
.02 - .039	Employee Temporary Employee	Taken out of service for 24 hours without pay (may use annual leave if available); Subject to County discipline, up to and including termination
.04 - .99	Employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination
.04 - .99	Temporary Employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; and terminated
.1+	Employee Temporary Employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; and terminated

OTHER PROHIBITED CONDUCT-REQUIRED ACTION

PROHIBITED CONDUCT	EMPLOYEE STATUS	REQUIRED ACTION
Refusing to be tested	Applicant	Not hired
Refusing to be tested	Employee Temporary employee	Terminated
Reporting for duty fewer than 4 hours after having a drink	Employee Temporary employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination
Unless the test is complete within 8 hours after a reasonable suspicion occurrence or accident in which there was a fatality or citation for moving violation	Employee Temporary employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination
Possessing or consuming alcohol, i.e. beverage as defined in Title V of the ND Century Code, on the job	Employee Temporary Employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination
Possessing or consuming cough syrup, mouthwash, or any other substance containing alcohol while on the job	Employee Temporary employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination
Possessing or using a controlled substance without a doctors prescription	Employee Temporary employee	Taken off duty; referred to a licensed addiction counselor for evaluation and treatment; Subject to County discipline, up to and including termination

PROHIBITED CONDUCT	EMPLOYEE STATUS	REQUIRED ACTION
Performing a safety sensitive function while using a prescription containing a controlled substance when a physician has not instructed the driver that the substance does not adversely affect the drivers ability to safely operate a commercial motor vehicle	Employee Temporary employee	termination Taken off duty; referred to a licensed addiction counselor or physician as appropriate for evaluation and treatment; Subject to County discipline, up to and including termination

Evaluation of Employees with Positive Test Results

Any employee who has a positive test result or engages in prohibited conduct as described in this policy will be referred to a licensed addiction counselor for an evaluation to determine what help is necessary. If a rehabilitation program is prescribed, the licensed addiction counselor will determine whether the driver has followed the program. All costs of employee assistance will be at the employee's expense.

If an employee receives a positive test result on an alcohol test, the licensed addiction counselor will recommend the frequency of follow-up testing, (However, if an employee receives a positive test result on a drug test, the MRO recommends follow-up testing.) Follow-up testing will consist of at least 6 unannounced tests in the first 12 months. These follow-up tests are in addition to any random tests that the employee might happen to be chosen for. No

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follow-up testing will be conducted more than 60 months after the driver's return to duty. However, potential random tests will continue to be administered for which the employee may be randomly selected.

Out-of-Service Request

All drivers are subject to call for emergency duties. However, if the driver has had even one drink in the 4 hours prior to the call, or suspects that he or she may have a breath-alcohol concentration .02 or above, the driver must take himself or herself out of service. No disciplinary measures will be taken when the driver requests to take himself or herself out of service. However, repeated work absences due to repeated out of service requests could result in a determination of unsatisfactory attendance and work performance.

Disciplinary Action

The charts on pages 7 through 9 show the required action required for controlled-substance tests, alcohol tests, and prohibited conduct. Any employee who commits any of the acts where the required actions says 'terminated' will automatically lose employment with the County.

However, in order to determine the appropriate progressive disciplinary action, all other violations-such as situations where the employee will be evaluated and treated under a licensed addiction counselor will be evaluated based on their severity, the degree of danger to other employees and the general public, and the frequency of occurrence.

Self-Referral to a Licensed Addiction Counselor

All drivers who feel they have a problem with the use of alcohol or controlled substances may refer themselves for evaluation and any needed rehabilitation through a licensed addiction counselor. No employee will be subjected to disciplinary action for self referral.

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Supervisors' Responsibilities

Supervisors include:

- Foremen
- Superintendent
- Design and Construction Supervisor
- County Engineer

No County supervisor of employees in safety-sensitive positions will permit any driver to violate this policy. All supervisors must require reasonable-suspicion testing of any employee who would appear to be in violation of this policy. Failure to carry out supervisory duties under this policy will result in disciplinary action up to and including dismissal.

All responsible administrators and supervisors will receive the training necessary to perform their supervisory duties. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

All supervisors and administrators are bound by the rules of confidentiality. No information may be released except as provided in this policy or expressly authorized by 49 CFR 382.405. No administrator or supervisor responsible for implementing random testing may give any notice or information about upcoming test requirements. Any violation of these confidentiality requirements will result in disciplinary action up to and including termination.

Program Administration

The Association of Counties will be the County's coordinator for the program, responsible for implementing and overseeing the program. Duties will include managing the vendor contract, responding to inquiries from the U.S. Department of Transportation, and relaying information on positive test results directly from the vendor to the county contact personnel.

The County Engineer will be the local coordinator for the program. In the absence of the County Engineer, the Maintenance Superintendent will be responsible for relaying information on positive test results.

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All testing information about individual drivers is confidential and is not in the public domain and will be maintained in the same manner as other county medical records. Such information may not be released except as required by law or expressly authorized by 49 CFR 382.405 (see attachment on next two pages).

County Requirements to Inquire with Previous Employers

The County must inquire with previous employers at the time of hiring someone to fill a safety-sensitive position. Applicants must sign a release of information allowing County officials to inquire with previous employers about the applicant's drug-testing history during the previous two years. Information that may be requested includes:

1. Previous test dates.
2. Positive test results.
3. Refusals to test.
4. Evaluation and rehabilitation results.

County Requirements to Inform Prospective Employers

If asked, and the proper release of information is provided, the County will disclose the following information to any potential future employers of drivers covered under the County's alcohol-and drug-testing programs:

1. Results of any tests which a driver took.
2. Any referral for evaluation and rehabilitation.
3. The results of any such referral.

County Requirements to Notify Employees About This Policy

New employees will be notified about this policy after they are hired but before they report to work with the County. They must sign off, indicating that they have read and understood the policy, before they begin work duties with the County.