



**DOT DRUG & ALCOHOL TESTING
POLICY & PROGRAM**
Sarpy County

Effective Date: 07/2021

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I. PURPOSE

Sarpy County (County) is subject to the Drug-Free Workplace Act of 1988 and any amendments thereof and as a result has a longstanding commitment to providing a safe, quality-oriented and productive work environment while balancing respect for individual privacy.

Alcohol and drug abuse pose a threat to our employees, residents and to the security of our equipment and facilities. When an employee is under the influence of an illegal drug or alcohol while at work, the risk to the employee and public increases significantly. The possession, use, or sale of illegal drugs or alcohol on the job also poses unacceptable risks for safe, healthful, and efficient operations and will not be tolerated.

For the safety of the traveling public, co-workers and employees, the Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA) requires employers to implement a drug and alcohol testing program for employees that are required to maintain a Commercial Driver's License (CDL) and who are performing safety sensitive functions. This policy does not outline every aspect of the drug and alcohol testing program. This policy is intended to comply with DOT regulations [49 CFR Part 40](#) and [FMCSA 49 CFR Part 382](#) .

Within this policy and testing program certain elements are required by the DOT. This Policy Statement will cross reference to sections of 49 CFR Part 40 and 49 CFR Part 382. DOT required elements are printed in normal typeface. *County requirements based solely on the authority of Sarpy County are printed in italic typeface, to differentiate them from DOT required policy elements. For example, the DOT does not require disciplinary action for policy violations. Policy language regarding disciplinary actions are based upon the sole authority of Sarpy County.*

It is the County's intention to comply fully with the DOT regulations governing drug and alcohol use and testing, and the requirements of the DOT regulations have been incorporated into this policy. In the event DOT regulations are amended, this policy and the applicable term(s), condition(s) and/or requirement(s) of this policy shall be deemed to have been amended automatically at that time, without the need for redrafting, in order to reflect and be consistent with DOT regulations. In such case, the County reserves the right to apply the amended requirements immediately, and without giving prior notice to employees covered under this plan and/or applicants, unless such notice is required by the DOT or another applicable law.

II. POLICY APPLICATION

The provisions of this DOT Drug and Alcohol Free Workplace Policy and Testing program apply to employees of Sarpy County who are required to maintain a CDL and who perform safety sensitive functions regulated by the DOT.

In accordance with 49 CFR, Part 382.107, a safety-sensitive function is any duty related to the operation of a commercial motor vehicle which requires a CDL. This includes:

- Waiting to be dispatched to operate a commercial motor vehicle
- Inspecting, servicing, or conditioning any commercial motor vehicle
- Performing all other functions in or upon a commercial motor vehicle
- Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloading, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded
- Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle

In addition, contractors hired by the county to perform safety sensitive functions are expected to maintain a drug testing policy in accordance with DOT regulations to continue this contractor relationship. It is the responsibility of the Department Head or Elected Official utilizing these contracted services to ensure that contractors are qualified to drive and are in compliance with DOT drug and alcohol testing regulations.

A list of non-supervisory and supervisory positions covered by this policy is attached in Appendix 1. The County reserves the right to amend the list of positions covered by this policy and the supervisory positions required to attend training without redrafting the entire policy.

III. POLICY

Sarpy County declares that the unlawful use, possession, manufacture, distribution and dispensing of an illicit drug; or use, misuse or abuse of alcohol in the workplace is prohibited for all employees.

It is the County's right, obligation, and intent to maintain a safe, healthful, and efficient working environment for all of its employees and to protect County employees, the traveling public, property, equipment, and operations from the risks associated with drug and alcohol use in the workplace.

A. PROHIBITED CONDUCT

The following conduct is prohibited and, under the sole authority of Sarpy County, employees will be subject to severe disciplinary action up to and including termination of employment for violations.

1. *Consistent with the Drug-Free Workplace Act of 1988, employees are prohibited to use, possess, manufacture, sell, trade, offer for sale, offer to buy, or make arrangements to distribute illicit drugs, work under the influence or to otherwise engage in the illegal use of drugs while at work or while performing any work for Sarpy County.*
2. *It is prohibited conduct to use or possess alcohol or any illicit drug while assigned to perform safety sensitive functions or actually performing safety sensitive functions.*

3. It is prohibited conduct to report to work or remain on duty while under the influence or impaired by alcohol.
4. It is prohibited conduct to report to work and perform safety sensitive functions while having an alcohol concentration level of .02 or greater regardless of when the alcohol was consumed.
5. It is prohibited conduct to use alcohol within four (4) hours of reporting for service or after receiving notice to report.
6. It is prohibited conduct to report for duty or remain on duty when using any controlled substance unless used pursuant to the instructions of a licensed health care provider.
7. It is prohibited conduct for employees to report to work while under the influence of prescription medications or an over the counter medication if such use adversely affects the employees ability to safely perform their job.
8. If testing is required after an accident, it is prohibited conduct for employees to consume alcohol within eight (8) hours following involvement in an accident or until he/she submits to post-accident drug and alcohol testing, whichever occurs first.
9. It is prohibited conduct for an employee to tamper with a drug or alcohol test which includes adulterating or substituting the urine specimen.
10. Drug and alcohol testing is a condition of employment for employees covered by this policy, it is prohibited conduct for an employee to refuse to submit to a drug or alcohol test.
11. *Employees who test positive for controlled substances, or alcohol as a result of an employer required drug or alcohol test shall be considered to have violated Sarpy County's Drug and Alcohol Free Workplace Policy.*

B. PROHIBITED DRUGS AND ALCOHOL

Prohibited drugs and alcohol addressed by this policy include the following:

1. **Controlled Substances:** Employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of one of these controlled substances in the body as defined by [DOT Rule 49 CFR, part 40 Section 40.87](#). These drugs include: marijuana (THC metabolite), cocaine, opioids (including heroin, hydrocodone, oxycodone, codeine and other similar drugs), amphetamines, and phencyclidine (PCP).

The medical use of marijuana, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

It shall be noted that if the State of Nebraska legalizes marijuana, the DOT shall continue to prohibit covered employees from performing safety sensitive functions any time there is a quantifiable presence of THC in the body as defined by DOT Rule 49 CFR, part 40 Section 40.87.

- 2. Prescription and Over-the-Counter Medications:** The appropriate use of legally prescribed drugs and over-the-counter (OTC) medications is not prohibited under this policy, however, the following minimum standards must be met.
 - a. The medicine is prescribed by a licensed physician
 - b. The treating/prescribing physician has made a good faith judgment that the use of the medication at the prescribed or authorized dosage level is consistent with the safe performance of an employee's duties. It is the employee's responsibility to ensure that the prescribing physician has an understanding of the employee's job duties and requirements.
 - c. If taking an OTC medication, it is the employee's responsibility to be aware of the possible side effects which may impact their ability to safely perform their job.
 - d. The medication is used at the dosage prescribed or authorized.
 - e. If being treated by more than one physician, the employee must show that at least one of the treating physicians has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with safe performance of an employee's duties.
 - f. *If taking the medication at work, the employee is required to have the medication in the authorized prescription or OTC bottle.*
- 3. Alcohol:** It is a violation of the DOT for employees to report for duty under the influence of alcohol or with an alcohol concentration of .02 or higher regardless of when the alcohol was consumed.

C. DRUG AND ALCOHOL TESTING

1. Pre-employment/Pre-Duty Testing

- a. A pre-employment DOT drug test will be conducted when an employee/applicant is conditionally hired for a position listed in this policy.

- b. All offers by the County to hire an applicant for, or to assign or transfer an existing employee to, a position regulated by the DOT are conditional based upon the applicant or transferring employee completing the following:
 - i. Executing the County's general consent and release for drug testing;
 - ii. Submitting to and passing a DOT drug test as directed by the County;
 - iii. Executing the County's authorization form to obtain the previous three (3) year drug and alcohol testing history from each company for whom the applicant or transferring employee either worked, or took or refused to take a pre-employment/pre-duty drug test.
 - iv. Receiving educational material about drugs and alcohol
- c. Complying with any other conditions or requirements of which the County advises the applicant at the time of the offer.
- d. *Applicants who test positive for the use of drugs or refuse to test or tamper with the testing process or fail to adhere to requirements listed above shall be disqualified from the hiring process and the County will rescind their conditional offer of employment. Applicants who had a positive drug or alcohol test in the workplace in the last three (3) years may be disqualified from the hiring process and the County may rescind their conditional offer of employment.*

The County shall also rescind a conditional job offer of employment for any applicant who tested positive for drugs and/or alcohol at a previous employer who cannot demonstrate that they successfully completed the SAP process in accordance with DOT regulations.

2. Reasonable Suspicion Testing

- a. The County will require covered employees to submit to drug and/or alcohol testing when the employer has reasonable suspicion to believe that the employee may be under the influence of drug(s) and/or alcohol. Reasonable suspicion means that there are specific, contemporaneous, articulable observations concerning the appearance, behavior, and speech or body odors of the employee that are consistent with possible drug or alcohol use. This includes but is not limited to:
 - i. Observable symptoms or unusual behavior, including indications of the chronic and withdrawal effects of controlled substances or alcohol;
 - ii. The odor or smell of alcohol or drugs on the employee's breath or clothes or in an area (such as in a vehicle, office, work area, or restroom) immediately controlled or occupied by the employee;

- iii. Alcohol, alcohol containers, prohibited drugs or drug paraphernalia in the employee's possession or in an area controlled or occupied by the employee (vehicle, office, desk, restroom);
 - iv. Evidence that the employee may have tampered with a previous drug test;
 - v. Employee admissions regarding drug or alcohol use; and/or,
 - vi. Criminal citations, arrests or convictions involving drugs and alcohol.
- b. Observable symptoms or unusual behavior will be made by at least two supervisors or managerial level employees, at least one of which has been trained in detecting the signs and symptoms of drug or alcohol use. *Failure on the part of the supervisor(s) to accurately document the specified behavior resulting in the reasonable suspicion test may subject the supervisor to disciplinary action up to and including termination.* Supervisors shall complete the "Reasonable Suspicion" Observation form and shall forward the completed form to the Designated Employer Representative (DER). This form shall be maintained along with the testing results in the employee's confidential file.
- c. Employees who are requested to undergo reasonable suspicion testing will be transported to and from the collection site by a supervisor if a designated on-site collection agency is unavailable. Under no circumstances will an employee be allowed to drive or operate equipment if they are suspected of being under the influence.
- d. DOT alcohol testing is authorized by this section only if the observations are made while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. *Under the authority of Sarpy County, if the observation is made while the employee is at work but not within the time periods specified above, the employee shall be required to take a NON-DOT reasonable suspicion alcohol test.*
- e. If an alcohol test is not administered within two (2) hours of the observable symptoms, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours following observable symptoms, the employer shall cease attempts to administer an alcohol test and shall state the reasons for not administering the test. All written documentation of test delays shall be forwarded to the DER.
- f. *An employee who is required to take a reasonable suspicion test will be considered by the County as unqualified to work and placed on administrative leave with pay pending the results of his/her test(s).*

3. Random Drug & Alcohol Testing

- a. Employees are subject to unannounced drug or alcohol testing based on random selection. This includes temporary employees performing work in a covered position.
- b. The County will test the required percentage of employees in accordance with DOT regulations. The selections shall be made at unannounced intervals spread throughout the calendar year. An employee may be randomly selected more than once or not picked at all during the annual period. Each employee shall have an equal chance of being tested each time selections are made.
- c. To assure that the selection process is random, all employees covered by this policy will be placed in a common pool. The County's drug testing vendor will be provided the names for the pool and will select those to be tested by an acceptable random method in accordance with DOT procedures.
- d. Whenever an employee is randomly selected to be tested, he/she will be notified of this by their Supervisor and will be transported to the collection site or will be directed to the on-site collection location. Test results will be sent to the County's DER and the DER will officially notify the employee's supervisor of the drug test result.

4. Post-Accident Testing

- a. Employees are required to notify their immediate supervisor if they are involved in an accident.
- b. Employees shall be required to submit to post-accident drug and alcohol testing under the following circumstances as required by the DOT:

Type of Accident Involved	Citation Issued to the CMV Driver	Test Must Be Performed by Employer
Human Fatality	Yes	Yes
Human Fatality	No	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	Yes	Yes
Bodily Injury With Immediate Medical Treatment Away From the Scene	No	No
Disabling Damage to Any Motor Vehicle Requiring Tow Away	Yes	Yes
Disabling Damage to Any Motor Vehicle Requiring Tow Away	No	No

- c. Post-accident alcohol tests must be performed within eight (8) hours of the accident and post-accident drug tests must be performed within thirty-two (32) hours of the accident. An employee who is required to test and unnecessarily delays reporting to the testing facility or who drinks alcohol within eight (8) hours of an accident and prior to testing, are in violation of the DOT Drug and Alcohol testing program *and under the sole authority of Sarpy County will be subject to disciplinary action up to and including termination of employment.*
- d. If an alcohol test is not administered within two (2) hours following the accident, the supervisor must prepare and maintain a record stating the reasons the test was not promptly administered and forward to the DER.
- e. If the alcohol test has not taken place within eight (8) hours or a drug test with thirty-two (32) hours following the accident, there shall be no further attempt to administer the test and the supervisor shall maintain a record stating the reasons the test was not administered and shall forward to the DER.
- f. It is possible that an employee will be directed to submit to a drug and/or alcohol test at the accident scene by a federal, state, or local law enforcement officer. Tests that law enforcement administer on the scene are not conducted in accordance with DOT regulations and therefore do not satisfy post-accident testing requirements. Employees involved in an accident that require drug and alcohol testing shall be required to submit to DOT testing as outlined above in addition to any test performed by law enforcement.

- g. An employee who is required to take a post-accident drug test will be placed on administrative leave with pay pending the results of his/her drug test.

5. Return to Duty Testing

- a. DOT Return to duty testing is required as a condition of continued employment for employees who are allowed to return to work following a positive drug test or a positive alcohol test with an alcohol concentration of 0.04 or higher. Before a return-to-duty test is performed, the employee must have been evaluated by a Substance Abuse Professional (SAP) and must have successfully complied with their recommendations including participation in any rehabilitation program. The employee will be required to submit to a return to duty alcohol and/or drug test and must have a verified negative test result before performing safety sensitive functions.
- b. Refusal to submit to return to duty testing or a positive test result will be cause for termination of employment.
- c. Return to Duty Testing may be conducted under direct observation if recommended by the SAP.
- d. *Under the authority of Sarpy County, return to duty testing is required as a condition of continued employment for employees who are allowed to return to work following a positive alcohol test with an alcohol concentration of .02 - <.04. The test will be considered non-DOT and the non-DOT testing forms shall be utilized.*

6. Follow-up Testing

- a. If an employee is allowed to return to work following a positive drug or alcohol test, as a condition of continued employment, the employee shall be subject to unannounced follow-up testing for at least twelve (12) but not more than sixty (60) months. The frequency and duration of the follow-up testing will be recommended by the SAP as long as a minimum of six (6) tests are performed during the first twelve (12) months after the employee has returned to duty. Follow-up testing may be conducted under direct observation if recommended by the SAP.
- b. Refusal to submit to follow-up testing or a positive test result will be cause for termination of employment.

- c. *The DOT does not require follow up testing for employees who had an alcohol concentration of .02 – <0.04. Under the authority of Sarpy County and as a condition of continued employment, employees who had a positive test between 0.02 – <0.04, will be subject to follow up testing if recommended by the LADC. The test(s) will be considered non-DOT and the non-DOT testing forms shall be utilized.*
- d. Follow-up testing is separate from and in addition to the regulated random testing program. Employees subject to follow-up testing will remain in the random pool and will be tested whenever their names come up for random testing, even if that means duplicate tests may be performed the same week, month, or other similar time frame.

D. POSITIVE TEST RESULTS AND DISCIPLINARY ACTION FOR VIOLATIONS

1. DOT Requirements for Violations

- a. In accordance with the DOT regulations, employees who have an alcohol concentration level of 0.02 or higher shall be removed from performing safety sensitive functions for at least twenty-four (24) hours.
- b. If an employee has an alcohol concentration level of 0.04 or higher or if the employee tests positive for illicit drugs, DOT regulations require that the employee be removed from performing safety sensitive functions until they have been evaluated by a Substance Abuse Professional (SAP), successfully completed any treatment program recommended and passed a return to duty test.
- c. Employees who test positive for controlled substances or who test positive for alcohol with an alcohol concentration level of .04 or higher may also be subject to follow-up testing.

2. Under the Authority of Sarpy County:

Disciplinary action for violations of the Drug and Alcohol Free Workplace and Testing Program are determined under the sole authority of Sarpy County. The DOT does not dictate disciplinary action for employees who violate policy.

- a. *An employee who has a positive drug and/or alcohol test will be subject to disciplinary action up to and including termination. A positive test shall mean:*
 - i. *An alcohol test will be considered positive for employees with an alcohol concentration level of 0.02 or higher;*

- ii. A drug test will be considered positive if there is a quantifiable presence of a controlled substance in the body as defined by [DOT Rule 49 CFR, part 40 Section 40.87](#)*
- b. Employees found to be in violation of this policy will be removed from performing job functions immediately and placed on administrative leave with pay pending a pre-disciplinary meeting. This shall include current employees who are testing in order to transfer to a safety sensitive position.*
- c. If, after a pre-disciplinary meeting, it is determined that the employee will be allowed to continue his/her employment with the County, as a condition of continued employment, the employee shall be mandatorily referred to the Employee Assistance Program (EAP) for evaluation by a Substance Abuse Professional (SAP) or a Licensed Alcohol and Drug Counselor (LADC), whichever is required. Failure to comply with the recommendations of the SAP or LADC, including participation in any rehabilitative program, return to duty or follow up testing will be cause for termination. The employee is responsible for all costs associated with the substance abuse evaluation and treatment program.*
- d. Employees who test positive for drugs or alcohol and who are allowed to maintain their employment shall be required to sign a Mandatory Referral Agreement which will govern the conditions of the employee's continued employment with Sarpy County.*

E. DRUG & ALCOHOL AWARENESS TRAINING

1. The DOT requires two (2) hours of training for supervisors of commercial motor vehicle drivers. The training shall include sixty (60) minutes of training on the symptoms of drug use and sixty (60) minutes of training on the symptoms of alcohol abuse.
2. *The County will provide drug and alcohol awareness training upon hire and intermittently during the course of employment in order to inform employees of the following:*
 - a. The dangers of drug and alcohol use in the workplace;*
 - b. The County's DOT Drug and Alcohol Free Workplace Policy and Testing Program;*
 - c. The availability of substance abuse treatment and counseling for employees seeking such assistance; and,*
 - d. The penalties the County will impose for violations of the Drug and Alcohol Free Workplace Policy and Testing Program.*

F. VOLUNTARY ADMISSION PROGRAM

1. Employees who admit to alcohol misuse or controlled substance use are not subject to the DOT referral, evaluation and treatment requirements if the employee admission falls under 49 CFR [§382.121](#).; which states in part that, the employee's admission is in accordance with this written policy and:
 - a. The employee is not self-identifying in order to avoid testing; and,
 - b. The employee makes the admission prior to performing a safety sensitive function.
2. The County will not take adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of this program. After the voluntary admission, the County will allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee's drug or alcohol problem. The employee will not be allowed to perform a safety sensitive function until the County is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.
3. Prior to returning to work and performing any safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration level of less than .02; and/or a verified negative drug test result for controlled substances.
4. *Sarpy County shall mandatorily refer employees who make a voluntary admission to the County's Employee Assistance Program (EAP) for assistance and/or referral to a Licensed Alcohol and Drug Counselor (LADC). In order to remain in the voluntary admission program, Employees may seek treatment outside of EAP as long as the provider is a LADC and approved by EAP. In order to return to work, employees are required to be released by the County's EAP provider who shall work in conjunction with the LADC.*
5. *The employee will be allowed to use vacation or compensatory time off until they have been evaluated by a LADC. Sick leave usage will be determined on a case by case basis, however, the employee will be allowed to utilize sick leave for any inpatient treatment program.*

G. DRUG CONVICTIONS REPORTING REQUIREMENTS

As required by the Drug-Free Workplace Act of 1988, it is a condition of continued employment that:

1. *Any employee who is convicted of any criminal drug statute violation for conduct in the workplace is required to notify the County Attorney of this*

fact no later than five (5) calendar days after such conviction. A “conviction” means a finding of guilt, including a plea of “no contest”, of the imposition of a sentence, or both, by any judicial body charged with the responsibility of determining violations of federal or state criminal drug statutes.

2. *Each employee abides by the terms of this statement.*

Federal law requires that Sarpy County notify the federal government of any convictions in violation of our policy.

Federal law further requires Sarpy County to impose sanctions, which may include discharge for any violation of the provisions of this notice or policy.

H. CONFIDENTIALITY & RECORDKEEPING

1. Each individual's record of testing and results under this policy will be private and confidential, except as required by law or as outlined below. Drug and Alcohol testing records will be maintained in a separate secure file located in Human Resources and in accordance with DOT regulations.
2. An employer or service agent (e.g., a testing laboratory, Medical Review Officer or Substance Abuse Professional) is not permitted to disclose test result(s) without written consent. In certain situations, however, test information may be released without consent; such as, legal proceedings, grievances, or administrative proceedings brought on by the employee or on the employee's behalf, which resulted from a positive drug or alcohol test result, adulterated drug or alcohol test, substituted drug or alcohol test, or drug or alcohol test refusal. The County will notify an employee in writing when releasing drug and alcohol testing records under these circumstances.
3. DOT regulations require that Sarpy County provide certain records of employee's DOT drug and alcohol testing history to future DOT regulated employers, provided written authorization is received from the employee.

IV. DRUG & ALCOHOL TESTING PROCEDURES

Drug and alcohol testing for employees will be conducted in a manner to assure a high degree of accuracy and reliability. The procedures will be performed in a private, confidential manner (consistent with DOT regulations) and every effort will be made to protect the employee, the integrity of the drug and alcohol testing procedure, and the validity of the test result. Employees are required to show identification and are required to cooperate with the testing process.

Drug and alcohol testing procedures will follow federal chain of custody guidelines and will be conducted in accordance with DOT rules and regulations, as set forth in [49 CFR Part 40](#), as amended. A summary of the testing procedures are outlined below.

A. Drug Testing Procedures

1. Drug testing may be conducted on-site or at the County's designated medical facility. Employees will be required to present a photo identification. Designated collection agencies are attached at Appendix 2.
2. The County shall utilize the five (5) panel DOT drug test. Urine samples will be tested and the collection agency will send a split sample to the County's designated laboratory for testing in accordance with DOT procedures.
3. A drug test will be considered positive if there is a quantifiable presence of one of the following drugs in the body as defined by [DOT Rule 49 CFR, part 40 Section 40.87](#). The drugs are as follows:
 - Marijuana Metabolites (THC)
 - Cocaine Metabolite (Benzoyllecgonine)
 - Phencyclidine (PCP)
 - Amphetamine, Methamphetamine
 - Opioids
 - Codeine, Morphine
 - Hydrocodone, Hydromorphone
 - Oxycodone, Oxymorphone
 - 6-Acetylmorphine (Heroin)
4. If a non-negative test result is received, an employee may request, at their own expense, the split sample be tested. The request shall be made to the Medical Review Officer (MRO) within seventy-two (72) hours of receiving the non-negative test result. Applicants for initial employment or employees being transferred to a DOT regulated position may also request that the split sample be tested within the timeframe stated above.
5. In the event that the test is determined to be a dilute specimen, the applicant or employee will be allowed to re-test provided the dilute specimen was negative. If the dilute specimen was positive, the test will stand as a positive test.
6. In the event that the test is determined to be cancelled, the County shall consult with the MRO in order to reach a decision in regard to further testing.

B. Alcohol Testing Procedures

- a. A breath alcohol test will be conducted in accordance with DOT regulations. A trained Breath Alcohol Technician (BAT) will conduct tests for breath alcohol concentration utilizing a National Highway Traffic Safety Administration (NHTSA) approved Evidential Breath Testing device (EBT).
- b. An alcohol screening test will be performed on the employee. An alcohol concentration level of less than 0.02 on an initial screening test will be considered a negative test and no additional alcohol testing will be conducted. If the initial screening test indicates an alcohol concentration level of 0.02 or greater, the employee will be directed to take a confirmation test.
- c. If the results of the confirmation test and the screening test are not the same, the confirmation test result will be used.

C. Medical Review Officer (MRO)

Under DOT regulations, Medical Review Officers (MRO) are licensed physicians with knowledge and clinical experience in substance abuse disorders. They must also complete qualification training courses and fulfill obligations for continuing education courses. They serve as independent, impartial gatekeepers to the accuracy and integrity of the DOT drug testing program. All laboratory results are sent to an MRO for verification before a company is informed of the result. As a safeguard to quality and accuracy, the MRO reviews each test and rules out any other legitimate medical explanation before verifying the results as positive, adulterated or substituted.

D. Test Refusal

1. Employees who refuse to comply with a request for testing suffers the same consequences as a positive test and shall be immediately removed from duty. *The employee will be placed on administrative leave without pay pending final disciplinary action.*
2. As outlined in DOT Rule [49 CFR Part 40, Section 40.191](#), the following is considered a test refusal:
 - a. Fail to appear for any test within a reasonable time as determined by the Employer or designated DER.
 - b. Fail to remain at the testing site until the testing process is complete.
 - c. Fail to provide a urine specimen for any drug test.
 - d. In the case of a directly observed or monitored collection in a drug test, fail to permit the observation or monitoring of a specimen collection.

- e. Fail to provide sufficient amount of urine or breath when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure.
 - f. Fail or decline to take a second test the Designated Employer Representative (DER), Medical Review Officer (MRO) or collector has directed the employee to take.
 - g. Fail to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, or as directed by the DER as part of the “shy bladder” or insufficient breath procedures.
 - h. Fail to cooperate with any part of the testing process, including refusal to complete necessary consent forms and other required documents. May also include but not be limited to refusing to empty pockets or wash hands when directed, behaving in a confrontational way that disrupts the collection process.
 - i. For an observed collection, fail to follow an observer’s instructions to raise or lower clothing and turn around during a directly-observed test.
 - j. Possessing or wearing a prosthetic or other device used to tamper with the collection process.
 - k. Tampering with the collection or testing process or failure to follow directions provided by collection facility.
 - l. Admit to the adulteration or substitution of a specimen to the collector or MRO.
 - m. Fail to test or remain readily available for testing following an accident where testing may be required by law enforcement.
3. If the MRO reports a verified adulterated or substituted test result, it shall be considered a refusal to take a drug test. Refusal can also include a verbal or written declaration. *Such refusals constitute a violation of Sarpy County’s Drug and Alcohol Free Workplace Policy and Testing Program.*
4. Failure to appear for pre-employment drug testing by applicants, or employees being transferred into safety sensitive positions, is not necessarily considered a refusal to submit to a drug test. Each situation will be based on its own merit. However, failure to complete the testing process once testing commences is considered a refusal to submit in pre-employment instances.

V. DEFINITIONS

Adulterated Specimen: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol, contained in any beverage, liquid mixture or preparation, mouthwash, candy, food, or medication.

Alcohol Concentration: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing (EBT) device.

Alcohol Confirmation Test: A subsequent test using an EBT, following a screening test with a result that provides quantitative data about alcohol concentration.

Alcohol Screening Test: An analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Alcohol Testing Site: A place selected by the employer where employees present themselves for the purpose of providing breath for an alcohol test. Alcohol testing site(s) may be on or off county property.

Alcohol Use The drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

Breath Alcohol Technician (BAT): A person who instructs and assists employees in the alcohol testing process and operates an evidential breath-testing (EBT) device.

Cancelled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or been declared invalid by a Medical Review Officer. A cancelled test is neither a positive or negative test.

Chain of Custody: The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed.

Collection Site: A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test. Drug testing collection site(s) may be on or off county property.

Collector: A person who instructs and assists employees at a collection site, who receives and makes an initial inspection of the specimen provided by those employees, and who initiates and completes the custody and control form (CCF).

Commercial Driver: An employee whose position has been designated as requiring possession of a Commercial Driver's License (CDL).

Confirmation Drug Test: A second analytical procedure performed on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite.

Confirmed Drug Test: A confirmation test result received by an MRO from a laboratory.

Consortium/Third Party Administrator: A service agent that provides or coordinates the provisions of a variety of drug and alcohol testing services to employers.

Controlled Substance (DOT): The five (5) prohibited substances specified by the DOT regulations: marijuana (THC metabolite), cocaine, amphetamines, opioids (including heroin), and phencyclidine (PCP).

Designated Employer Representatives (DER): An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives the test results and other communications in relation to the drug and alcohol policy. See Attachment XX for designated employer representatives (DER).

Dilute Specimen: A specimen with creatinine and specific gravity values that is lower than expected for human urine.

Drug: The drugs for which tests are required under this part and DOT agency regulations are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opioids. For additional definition – see policy Prohibited Drug section.

Drug Test: Any drug test performed for the five (5) specified controlled substances.

Employee Assistance Program (EAP): *An Employee Assistance Program (EAP) is a voluntary, work-based program that offers free and confidential assessments, short-term counseling, referrals, and follow-up services to employees who have personal and/or work-related problems. EAPs address a broad and complex body of issues affecting mental and emotional well-being, such as alcohol and other substance abuse, stress, grief, family problems, and psychological disorders.*

FMCSA: The Federal Motor Carrier Safety Administration, an agency of the U.S. Department of Transportation (DOT).

Initial Drug Test: The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Invalid Drug Test: The result of a drug test for a urine specimen that contains an unidentified adulterant or an unidentified interfering substance, has abnormal physical characteristics, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing or obtaining a valid drug test result.

Licensed Alcohol and Drug Counselor (LADC): *Nebraska's alcohol and drug counselors are licensed by the Nebraska Department of Health and Human Services. Licensure depends on completing addictions-related coursework and practical training, working under supervision, and passing a licensing examination. A counselor who has met all requirements is known as a Licensed Alcohol and Drug Counselor (LADC).*

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test that is negative for the tested drugs or drug metabolites but has a specific gravity value lower than expected for human urine.

Negative Test Result for a Drug or Alcohol Test: Tests for which no verified presence of the five (5) specified drugs or drug metabolites is identified or the verified presence of the identified drug or its metabolite is below the minimum levels specified in 49 CFR Part 40, as amended. An alcohol concentration level of less than 0.02 is a negative test.

Non-Negative Specimen: A urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

Positive Test Result for a Drug or Alcohol Test: For a drug test means a verified presence of the identified drug or its metabolite at or above the minimum levels specified in 49 CFR Part 40, as amended. A positive alcohol test result means a confirmed alcohol concentration level of 0.02 or greater.

Primary Specimen: In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

Prohibited Drug: The drugs for which tests are required under 49 CFR Part 40, as amended, specifically marijuana, cocaine, opioids, amphetamines, or phencyclidine (PCP) at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

Split Specimen: A part of the urine specimen that is sent to the first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

Split Specimen Collection: A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy), or licensed or certified psychologist, social worker, employee assistance professional or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certifications Commission with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders. A SAP evaluates employees who have violated a drug and/or alcohol regulation and makes recommendation concerning education, treatment, follow-up testing and aftercare. Commercial drivers who violate DOT & FCMSA drug and alcohol regulations must be evaluated by a SAP before they can again perform any DOT safety sensitive duties for any employer. Payment for SAP evaluations and services is the responsibility of the employee.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

Validity Testing: The evaluation of the specimen to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

APPENDIX 1

LISTING OF POSITIONS REQUIRING A CDL & SUPERVISORS

CDL Driving Positions

Foreman
Skilled Laborer
Heavy Equipment Operator I
Heavy Equipment Operator II
Heavy Equipment Operator III
Lead Mechanic
Diesel Mechanic

CDL Supervisors

Foreman
Highway Supt.

Note: The County may add job titles to this list without prior notice providing one or more incumbents use a CDL in the course of their duties/essential functions.

APPENDIX 2

PROGRAM CONTACT INFORMATION

Primary Designated Employer Representative (DER)

Name: Kerri Plummer Gelecki
Title: Assistant Human Resources Director
Phone: 402-593-4485
Cell: 402-250-3955
Fax: 402-593-5781
Email: kgelecki@sarpy.gov

Secondary Designated Employer Representative (DER)

Name: Mary Davis
Title: Human Resources Director
Phone: 402-593-4478
Fax: 402-593-5781
Email: mdavis@sarpy.gov

Drug & Alcohol Testing Collection Site

Name: WorkFit
Address: 140 S. 77th Street, Omaha, NE 68114 (77th & Dodge)
Phone: 402-934-4535
Fax:

On-Site Drug & Alcohol Testing Collection

Name: Midlands Testing Services, Inc.
Address: 711 North 108th Court, Suite 101, Omaha, NE 68154
Phone: 402-983-9590
Fax:

Employee Assistance Program

Provider: CHI Health
Phone: 402-398-5566 or toll free 1-888-847-4975
Website: www.chihealth.com/eap

APPENDIX 3

SIGNS, SYMPTOMS AND DANGERS OF SUBSTANCE ABUSE

Reference: <https://www.samhsa.gov/find-help/national-helpline>