

**GRAY COUNTY PUBLIC WORKS
CIMARRON KANSAS**

**DRUG AND ALCOHOL TESTING POLICY
(FMCSA/DOT)**

DRUG AND ALCOHOL TESTING POLICY APPROVAL

We have reviewed and concur with the contents of the Gray County Public Works CN2570 drug free workplace policy. Our signatures indicate approval of the policy and its contents.

Gray County Commissioner

Date

Gray County Commissioner

Date

Gray County Commissioner

Date

Policy Revision Date:
January 2002

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APPENDIX

- A. INFORMATION CONCERNING THE EFFECTS OF ALCOHOL
- B. DER AND SERVICE AGENTS
- C. JOB CLASSIFICATION

I. GENERAL

A. Purpose

1. The Department of Transportation (DOT), Federal Motor Carriers Safety Administration (FMCSA) requires Gray County Public Works CN2570 to establish a drug and alcohol testing program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. Further, the purpose of this policy is to bring Gray County Public Works CN2570 into compliance with all regulations, which require affirmative actions to eliminate the impact of the use of controlled substances and misuse of alcohol in the workplace.
2. **This policy does not create any contractual rights in favor of employees to whom the Policy is applicable. Nor does this Policy in any way alter the at-will nature of employment or imply that discharge will occur only “for cause”.**
3. **Those areas of the policy printed in bold and underlined text reflect Gray County Public Works CN2570's independent authority to require additional provisions with regard to the drug and alcohol testing procedures.**
4. **The presence of controlled substances in the body as well as the use or possession of controlled substances and/or alcoholic beverages while on Gray County Public Works CN2570 property, or in any Gray County Public Works CN2570 vehicle, or on duty, including breaks or lunch, paid or unpaid, on any shift, is strictly prohibited.**
5. Designated Employer Representative: (**Appendix B**) contains the name, address, and telephone number of the Designated Employer Representative (DER). The DER is authorized by Gray County Public Works CN2570 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 test results and other communications for the employer consistent with the requirements of 49 CFR, part 40.

B. Applicability

This policy applies to any employee of Gray County Public Works CN2570 who holds a Commercial Drivers License (CDL) and uses that license to operate a commercial motor vehicle. 49 CFR, part 382.107 defines these vehicles as a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (1) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- (2) Has a gross vehicle weight rating of 26,001 or more pounds; or
- (3) Is designed to transport 16 or more passengers, including the driver; or
- (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the hazardous Materials Regulations (49 CFR Part 172, Subpart F).

C. Testing Procedures

All testing conducted under this policy will follow the procedures as set forth in 49 CFR, parts 40 and 382.

D. Definitions

Words and phrases used in this policy are as defined and found in 49 CFR, parts 40.3 and 382.107.

II. PROHIBITIONS

A. Alcohol

1. No driver shall report for duty or remain on duty requiring the performance of safety sensitive functions while having an alcohol concentration of 0.02 or greater.

2. No driver shall use alcohol while performing a safety-sensitive function. **This includes beverages containing alcohol or substances containing alcohol including any medication, mouthwash, food, candy, or any other substance that would cause alcohol to be present in the body.**
3. No driver shall perform safety-sensitive functions within four hours after using alcohol.
4. No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until a post-accident alcohol test has been administered, which ever occurs first.

B. Controlled Substances

1. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance.
 - a. **ILLEGAL DRUGS:** The use of any illegal drug or any substance identified in Schedules I through V of the Controlled Substance Act is prohibited at all times unless a legal prescription has been written for the substance. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs.
 - b. **LEGAL DRUGS:** **The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning , motor skills, or judgment may be adversely affected must be reported to a supervisor. In addition, the employee must obtain a written release from a licensed medical practitioner releasing the person to perform their job duties any time they obtain a performance-altering prescription.**
 - c. **PRESCRIPTION DRUGS:** **A legally prescribed drug means that the employee has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing safety-sensitive functions is prohibited.**

C. Refusal to submit to a required alcohol or controlled substances test.

No driver shall refuse to submit to an alcohol or controlled substance test required by 49CFR, parts 40 and 382.

Behavior That Constitutes A Refusal To Test.

1. Refusing to provide specimen. This includes an insufficient volume of urine without a valid medical explanation.
2. Tampering with, adulterating, or substituting a specimen.
3. Failing to appear for testing within **60 minutes** of being notified.
4. Leaving the scene of an accident without just cause prior to submitting to a test.
5. Leaving collection facility prior to test completion.
6. Failing to permit an observed or monitored collection when required.
7. Failing to take a second test when required.
8. Failing to undergo a medical examination when required.
9. Failing to cooperate with any part of the testing process.
10. Failing to sign Step 2 of the alcohol test form.
11. Once test is underway, failing to remain at site and provide a specimen.

For Pre-employment Tests, The Following Are NOT Refusals

1. Failure to appear for the test.
2. Failure to remain at the site prior to the commencement of the test.
3. Failure to provide a specimen before the test commences.

III. TESTS REQUIRED

A. Pre-employment testing

1. Any applicant offered a safety sensitive position or an employee transferring to a safety sensitive position must first take a pre-employment drug test. This applicant or employee must receive a verified negative test result before performing any safety sensitive function. Details of pre-employment testing and exemptions can be found in 49 CFR, part 382.301.
2. Gray County Public Works CN2570 must request alcohol and controlled substances information from previous employers in accordance with the requirements of 49 CFR, parts 40.25 and 382.413.
3. Applicants offered a safety sensitive position and employees transferring to a safety sensitive position must sign release of information forms allowing Gray County Public Works CN2570 to receive alcohol and controlled substances information from previous employers.

B. Post-accident testing

1. As soon as practicable following an accident the driver of a commercial motor vehicle, operating on a public road in commerce, must be tested for alcohol and controlled substances under certain conditions.
 - a. Alcohol testing must be conducted if a driver receives a citation for a moving violation within 8 hours of the accident.
 - b. Drug testing must be conducted if a driver receives a citation for a moving violation within 32 hours of the accident.
2. The driver who is subject to post-accident testing shall remain readily available for such testing (meaning that the employer knows where the driver is) or may be deemed by Gray County Public Works CN2570 to have refused to submit to testing.
3. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of the accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

The following chart defines when an accident has occurred and when testing must take place.

Type of accident involved	Citation issued to the CMV driver	Tests required
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene.	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away.	YES	YES
	NO	NO

Details of post-accident testing and exemptions can be found in 49 CFR, part 382.303.

C. Random testing

All drivers that perform safety sensitive functions are subject to random drug and alcohol testing.

1. Random testing will be unannounced and unpredictable; spread reasonably throughout the calendar year. Testing will be conducted at all times of the day when safety sensitive functions are performed.
2. Employees are required to proceed immediately to the collection site once notified of testing.

3. Drug tests will be conducted anytime a safety sensitive employee is on duty. Alcohol tests will only be conducted on an employee immediately before performing, while performing, or just after performing a safety sensitive function.
4. The list of employees selected will be retained by the DER in a secure location.

Details of the random testing process can be found in 49 CFR, part 382.305.

D. Reasonable suspicion testing

All drivers that perform safety sensitive functions are subject to reasonable suspicion alcohol and/or drug testing. A reasonable suspicion referral for testing will be made on the basis of documented objective facts and circumstances that are consistent with the short-term effects of substance abuse or alcohol misuse. A trained supervisor must make the determination to test based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. Examples of reasonable suspicion include, but are not limited to, the following:

1. Physical signs and symptoms consistent with prohibited substance use or alcohol misuse.
2. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substance.
3. Occurrence of a serious or potentially serious accident that may have been caused by prohibited substance abuse or alcohol misuse.
4. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

Details of the reasonable suspicion testing process can be found in 49 CFR, part 382.307.

E. Return-to-duty testing

Details of the return-to-duty testing process can be found in 49 CFR, part 40, subpart O.

F. Follow-up testing

Details of the follow-up testing process can be found in 49 CFR, part 40, subpart O.

IV. HANDLING OF TEST RESULTS, CONFIDENTIALITY

A. Access to records

1. Except as required by law or expressly authorized by release by an employee, Gray County Public Works CN2570 will not release driver information that is contained in records required to be maintained under 49 CFR, parts 40 and 382.
2. A driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or controlled substances, including any records pertaining to his or her alcohol or controlled substances tests.
3. A driver's testing records will be made available to a subsequent employer upon receipt of a written request from the driver.
4. Gray County Public Works CN2570 may disclose information required to be maintained pertaining to a driver to the decision maker in a lawsuit, grievance, or administrative proceeding initiated by or on behalf of the individual, and arising from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test result), (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver).

V. CONSEQUENCES FOR DRIVERS ENGAGING IN PROHIBITED CONDUCT

A. Use of drivers who fail or refuse a drug test.

1. General. Compliance with this drug testing policy is a condition of employment. Refusal to take a required drug test or failure of a drug test shall result in removal from performing safety

sensitive functions. **Additional disciplinary action up to and including termination may result.**

2. Prohibitions On Use. Gray County Public Works CN2570 will remove from performing a safety sensitive function any employee who:
 - a. Fails a drug test as verified by the Medical Review Officer (MRO), or
 - b. Refuses to take a drug test required by this policy. (See Section II.C.)
3. Required Referrals and Evaluation. Any applicant or employee who fails or refuses a drug test will be referred to a Substance Abuse Professional (SAP) for evaluation and treatment.
4. **An employee may be given an opportunity to retain his or her employment, provided they first do the following:**
 - a. Have been evaluated by a SAP, and
 - b. Have completed the recommended evaluation/rehabilitation program successfully, and
 - c. Receive a verified negative test result on a return-to-duty test.

B. Retesting of Drug Positive Samples

1. General. An applicant/employee may request a retest of a positive sample, within 72 hours of notification of the positive test result from the MRO. **The request must be made in writing to the MRO.**
2. Retest Provisions. The retest will be conducted at a different SAMHSA certified laboratory. The test will be conducted on the split sample that was provided by the applicant/employee at the same time as the original sample. **All costs for such testing are to be reimbursed to Gray County Public Works CN2570 by the applicant/employee unless the result of the split sample test invalidates the result of the original test.** The method of collection, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR, part 40.
3. Detection Levels. Because some analytes deteriorate or are lost during freezing and/or storage, quantitation for a retest is not subject to a specific cutoff requirement but must provide data sufficient to confirm the presence of the drug or metabolite.

C. Use of drivers who fail or refuse an alcohol test.

1. General. Compliance with this alcohol testing policy is a condition of employment. Refusal to take a required alcohol test or failure of an alcohol test will result in removal from performing safety sensitive functions. **Additional disciplinary action up to and including termination may result.**
2. Refusal and Prohibited Conduct. Gray County Public Works CN2570 will remove from performing a safety sensitive function any employee who:
 - a. Has a confirmed alcohol test result of 0.02 or higher but less than 0.04. This driver must be removed from duty for a minimum of 24 hours. This is not a positive test requiring a SAP referral.
 - b. Fails an alcohol test with a confirmed result of 0.04 or higher, or
 - c. Refuses to take an alcohol test required by this policy. (See Section II.C.)
3. Required Referrals and Evaluation. Any employee who fails or refuses an alcohol test will be referred to a Substance Abuse Professional (SAP) for evaluation and treatment.
4. **An employee may be given an opportunity to retain his or her employment, provided they first do the following:**
 - a. Have been evaluated by a SAP, and
 - b. Have completed the recommended evaluation/rehabilitation program successfully, and
 - c. Receive a verified negative test result on a return-to-duty test.

D. **All costs associated with the evaluation and rehabilitation program are the responsibility of the employee.**

- E. **Employees should consult their health insurance policy for extent of nervous, mental and substance abuse coverage.**
- F. **A second positive test whether drug or alcohol or the equivalent will result in immediate termination of employment.**
- G. Additional Requirements

Gray County Public Works CN2570 may impose such additional disciplinary actions as they deem appropriate. This may include removal from performing covered functions, suspension (with or with out pay), and even termination.

APPENDIX A

ALCOHOL SUPPLEMENT

A. Why you should get involved:

1. Although Gray County Public Works CN2570 has no history of substance abuse problems, we recognize that alcoholism and alcohol misuse are problems throughout America.
2. There are three good reasons why you should be concerned if any of your coworkers are using drugs or alcohol on the job.
 - a. Your health and safety may be at risk.
 - b. Alcohol misuse costs you money.
 - c. Alcohol creates a negative work environment.
3. According to the National Institute on Alcohol Abuse and Alcoholism, drug and alcohol use on the job costs society an estimated \$102 billion a year. Since most of this cost is passed on to you in the form of higher health insurance rates or in consumer prices, drug and alcohol use on the job costs you and your fellow workers a significant amount of money.
4. Absenteeism among problem drinkers or alcoholics is 3.9 to 8.3 times greater than normal. If your fellow workers don't come to work, you may have to do their jobs in addition to your own.
5. Workers who misuse alcohol don't function at their full potential. Not only is absenteeism a problem, when they are at work these employees may have reduced capabilities and productivity. Since our product is the safe transportation of people, alcohol misuse is an especially serious issue.
6. No matter what your position is in the organization, there is something you can do to ensure that drug and alcohol use on the job never becomes a problem at the company. Acceptance of any misuse puts you, this company, and the public at risk.

B. Effects of alcohol misuse on an individual's health, work, and personal life:

1. Alcohol is a central nervous system depressant. Taken in large quantities, it causes not only the euphoria associated with being drunk, but also adversely affects your judgment, ability to think, and your motor functions. Drink enough alcohol fast enough and it can kill you.
2. Long term overuse of alcohol can cause liver damage, heart problems, sexual dysfunction, and other serious medical problems.
3. In some cases, alcohol use can lead to physical and psychological dependence on alcohol. Alcoholism is a serious chronic disease. Left untreated it will inevitably get worse.
4. Workers who use alcohol (and other drugs) affect everyone. Studies show that compared to alcohol-and drug-free workers, substance abusers are far less productive, miss more workdays, are more likely to injure themselves or someone else, and file more workers compensation claims.
5. The measurable dollar costs of workplace substance abuse from absenteeism, overtime pay, tardiness, sick leave, insurance claims, and workers' compensation can be substantial. However, the hidden costs resulting from diverted supervisory and managerial time, friction among workers, damage to equipment, and damage to company's public image means that workplace substance abuse can further cut profits and competitiveness.

6. Alcohol can also destroy relationships, lead to serious problems with the law (e.g., drunk driving), and even cause harm to the people you love.
 7. If drinking affects your work life, it could lead to job loss and all the financial problems that would follow.
- C. Signs and symptoms of alcohol misuse - Any one or more of the following signs may indicate a drinking problem:
- Family or social problems caused by drinking
 - Job or financial difficulties related to drinking
 - Loss of a consistent ability to control drinking
 - “Blackouts” or the inability to remember what happened while drinking
 - Distressing physical and/or psychological reactions if you try to stop drinking
 - A need to drink increasing amounts of alcohol to get the desired effect
 - Marked changes in behavior or personality when drinking
 - Getting drunk frequently
 - Injuring yourself - or someone else while intoxicated
 - Breaking the law while intoxicated
 - Starting the day with a drink
- D. Available methods of evaluating and resolving problems associated with the misuse of alcohol.
1. Outpatient programs exist in a variety of settings:
 - a. Community mental health centers
 - b. Full service agencies
 - c. Private physicians’ and therapists’ offices
 - d. Occupational settings
 - e. Specialized alcoholism treatment facilities
 2. Inpatient services, designed for those with more serious alcohol problems, can be found in hospitals, residential care facilities, community halfway houses, and some alcoholism clinics.
 3. Your local telephone directory will list helpful referral organizations such as:
 - a. Local council on alcoholism
 - b. Alcoholics Anonymous
 - c. Community alcoholism or mental health clinic
 - d. Social services or human resources department
 - e. County medical society
 4. The SAP will perform an initial evaluation, recommend any additional treatment if necessary, and will refer employees needing assistance for treatment covered under our health insurance program.

GRAY COUNTY PUBLIC WORKS CN2570
915 N Main
Cimarron, Kansas 67835

APPENDIX B
GRAY COUNTY PUBLIC WORKS CN2570

DRUG AND ALCOHOL TESTING PROGRAM
PERSONNEL AND SERVICES

1. DESIGNATED EMPLOYER REPRESENTATION (DER)

Primary Contact

Administrator Road Department
Tom Hogan
915 N Main
Cimarron, Kansas 67835
620-855-7701

Secondary Contact

Road Supervisor
Larry Werner
915 N Main
Cimarron, Kansas 67835
620-855-7701

2. LOCAL COLLECTION SITE

Cimarron Clinic
111 South Main St
Cimarron, Kansas 67835
620-855-7717

In most instances the Consortium mobile collector can do your collections on site. However, a local collection site has been set up for use when the on site collector is unavailable.

3. MEDICAL REVIEW OFFICER (MRO)

C. R. Daluz, M. D.
534 South Kansas Ave, Suite 600
Topeka, Kansas 66603
Local (785) 232-3191
Toll Free (1-800-886-1123)

4. CERTIFIED LABORATORY

Clinical Reference Laboratory
11850 W. 85th St.
Lenexa, Kansas 66214
(913) 492-3652

5. EMPLOYEE ASSISTANCE PROGRAM (EAP)
REFERRAL FOR SUBSTANCE ABUSE PROFESSIONAL (SAP)

SupportLine
Local 785-234-1077
Toll Free 1-800-999-1196

**GRAY COUNTY PUBLIC WORKS CN2570
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APPENDIX C

**EMPLOYEE/SUPERVISORY POSITIONS
SUBJECT TO DRUG AND ALCOHOL TESTING**

(JOB CLASSIFICATIONS/TITLES)

Employee positions requiring a Commercial Drivers License (CDL) subject to alcohol and drug testing.

- a. Heavy Equipment Operators
- b. Truck Drivers
- c. Mechanics
- d. Noxious Weed Employees, that spray or haul chemicals
- e.

**GRAY COUNTY PUBLIC WORKS CN2570
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**EMPLOYEE AFFIRMATION OF
DRUG AND ALCOHOL TESTING POLICY**

As an employee in a safety sensitive position, I affirm that I have received, read and understand the Gray County Public Works CN2570's Drug and Alcohol Testing Policy. I am aware that I may be required to undergo a drug and/or alcohol screen as outlined by Gray County Public Works CN2570's policy requirements and that I will be informed prior to the drug/alcohol screen; and, that I may be referred to an education and treatment program depending on the results of the drug/alcohol screen. I agree to abide by all provisions of the anti-drug policy as a condition of my continued employment with the company. I am aware and agree that the Policy does not create any contractual rights in my favor or in any way alter the at-will nature of my employment or imply that discharge will occur only "for cause".

Employee Name (Please Print)

Employee Signature

Date

Gray County Public Works CN2570 Representative

Date