

NIRMA's

Loss Prevention and Safety Department
Monthly Newsletter

NIRMA's Safety Shorts

General Safety, Highway & Law Enforcement

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November Is Good Nutrition Month

Of course, focusing on a healthy diet is something we should pay attention to 365 days of the year, but let's be real: eating healthy can get boring if we're not sure how to spice up our menu options. The benefits of a healthy diet that is rich in vegetables and lean proteins has been proven to support a positive mental state, stave off fatigue, and bolster the immune system.



GENERAL SAFETY

By Chad Engle, Loss Prevention and Safety Specialist

Department of Transportation Clearinghouse

Lately I have been fielding questions relating to the Department of Transportation's Drug and Alcohol Clearinghouse (Clearinghouse). Everything from "Do I have to do this?" to "What is it?", so it seemed like a good topic to review as we approach year-end.

The Clearinghouse is an online database that provides employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations. The Clearinghouse contains records of violations of drug and alcohol prohibitions, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information is also recorded in the Clearinghouse. The Clearinghouse only houses information related to DOT drug and alcohol testing, it does not house anything regarding traffic tickets or moving violations.

Each employer (County) should appoint a person to perform the duties of the Clearinghouse Administrator. This person will manage the drivers on behalf of the County. The Administrator will report drug and alcohol program violations and conduct queries. Queries are checks to determine that current or prospective employees are not prohibited from driving a commercial motor vehicle due to an unresolved drug and alcohol program violation. Queries must be conducted as part of a pre-employment driver investigation and annually for current drivers. Pre-employment queries shall be full queries while the annual queries shall be limited.

A query requires consent from a driver. Limited queries, which only determine if a driver has any information about resolved or unresolved drug and alcohol violations, require only a general driver consent. A general driver consent is obtained outside of the Clearinghouse, is not required on an annual basis, and it may be effective for more than one year. However, the limited consent request must specify the timeframe the driver is providing consent for.

A full query allows the County to see detailed information about any drug and alcohol program violations in a driver's Clearinghouse record. The County must obtain the driver's electronic consent in the Clearinghouse prior to the release of detailed violation information during the full query.

Loss Prevention
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We're on the Web

<https://nirma.info>

Please let me
know of any
questions by
contacting me at
tim@nirma.info or
calling
402-310-4417.
Be Safe.



Department of Transportation Clearinghouse *continued*

Until the Clearinghouse has been in place for three years, when Counties hire new CDL holders they will need to request the drug and alcohol information from previous employers and perform a query on the Clearinghouse.

New regulatory requirements always take time to get comfortable with. If you have any Clearinghouse questions, please do not hesitate to contact me at chad@nirma.info or 800.642.6671.

HIGHWAY DEPARTMENT

By Tim Baxter, Road Safety and Loss Prevention Specialist

Haul Road Agreements

NIRMA has received numerous calls this year on haul road agreements, many of which have been developed by the contractor. Contractors generally have their best interest in mind. Signing an agreement developed by a contractor whose likely objective is to haul heavy loads on county roads, thereby causing wear and tear above and beyond normal traffic, rarely is in the county's best interest.

Never sign an agreement developed by anyone other than a county representative prior to having it reviewed by your county attorney or NIRMA. There are too many risks involved which could lead to significant road damage, the county getting sued, accidents happening, etc.

Due to the large number of calls on this topic, NIRMA attorneys and I have developed a comprehensive model Haul Road Agreement that covers a majority of issues that could possibly arise in these situations.

You will not appreciate the length of agreement, but it is intended to cover all issues to reduce conflicts with the contractor during construction, reduce costs for County taxpayers, and protect the safety of the motoring public. We did our best to address all possible liability and safety issues.

Too often, contractors come through counties using and abusing county roads with no haul road agreements or with agreements that are not thorough enough. This leaves the county with significant expense in repairing roads damaged by the contractor. Many times, the contractor is working on projects that have nothing to do with the county, such as building and operating wind farms, interstate pipelines, cell phone towers, etc. Sometimes contractors need to use one county's roads to access and build structures in an adjacent county. Common sense must prevail when asking contractors to enter haul road agreements. For instance, a county would not ask truckers during corn harvest to enter a haul road agreement, even though it is tempting, due to the excessively heavy traffic. Harvest is something that is necessary and occurs every year.

One of the most important things a county must do when entering a haul road agreement is to drive, photograph, and video the roads in question prior to allowing a contractor to use a haul road. This provides evidence of the condition of the road prior to the contractor's use for easier identification of needed repairs after the contractor has completed use of

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Number of Covid-
19 Cases
Worldwide as of
November 4, 2020
47,889,201

Number of deaths
from Covid-19
Worldwide as of
November 4, 2020
1,221,196

Estimated
Covid-19 Mean
Infection Rate
2.5

Be Safe
Be Healthy

Haul Road Agreements *continued*

of the haul road. Clauses in the model agreement cover damage repairs, as well as a bond clause should a contractor not make necessary repairs after use of haul roads.

It is crucial that the county have updated hourly rates established for use of your equipment, employees, and materials expense, etc. Be sure to document any repairs made to haul roads that will need to be reimbursed via invoice to a contractor.

For the benefit of NIRMA members, you will find attached a copy of the new model Haul Road Agreement. We advise you to have your county attorney and county board review it prior to using, and to make necessary and appropriate adjustments to fit the needs of the particular situation. If adjustments are made, please take advantage of the opportunity to submit the agreement to NIRMA for further review, to determine if it is unacceptable under the terms of your coverage.

Please let me know of any questions by contacting me at tim@nirma.info or calling 402-310-4417. Be Safe.

LAW ENFORCEMENT AND CORRECTIONS

By Terry Baxter, Law Enforcement and Safety Specialist

Keeping Up the Precautions-COVID

I have covered this topic several times throughout this past year, but I see from traveling the state that not everyone agrees with the restrictions implemented, or maybe they think they are invincible, so I think addressing this topic continues to be a priority.

Pursuant to Neb. Rev. Stat. § 71-502 and § 81-601 and Title 173 Neb. Admin, Code Ch. 6, the Nebraska Department of Health and Human Services may exercise authority to order Directed Health Measures necessary to prevent the spread of communicable disease, illness or poisoning. The main object of the order is to reduce morbidity and mortality ;minimize disease transmission; protect health care personnel and preserve health care system functioning.

Every county in Nebraska is currently covered by State Directed Health Measures and I am sure I speak for everyone that we want this disease to diminish and things back to the way they once were, but unfortunately until everyone does their part in slowing the spread of the disease, the pandemic will continue. Positive cases continue to rise and those considered to be a higher risk could get very sick if they contract the disease.

I know everyone is tired of hearing about COVID and the restrictions that go along with it, but until the disease is controlled and threats of exposure no longer exists restrictions will remain in place.

Law enforcement and corrections should ensure you use recommended Personal Protective Equipment (PPE) at all times, this job is tough enough already, but to prevent unwanted exposures PPE is a necessity tool in the safe performance of operational duties.

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Keeping Up the Precautions-COVID *continued*

Close contact happens every day for law enforcement from calls for service, arrests and for corrections officers simply dealing with inmate activity. It is through these contacts that virus is mainly spread via respiratory droplets produced from coughs, talking, sneezes, etc.

I am not telling you something you don't already know, but new COVID cases are reported every day, and people on the front lines are increasingly vulnerable to contracting the virus.

Over 81 law enforcement officials from 21 states have died of coronavirus-related complications. There are no reported law enforcement or correction officer deaths (knock on wood) in Nebraska relating to COVID exposure, so let's continue to ensure it doesn't.

I know the restrictions can be annoying, I know not everyone agrees with what is being implemented, but for your protection, your fellow co-workers, the public, but most importantly your families, do your part...Stay Safe.

Do Your Part:

- Put 6 feet of distance between yourself and people who don't live in your household. But, being within 6 feet of an individual with COVID-19 for a prolonged period of time is still consider close contact.
- Wear a cloth face covering in public settings where other social distancing measures are difficult to maintain.
- Stay home if you are sick and avoid contact with others.
- If you know someone is sick avoid contact if at all possible, or ensure you wear personal protective equipment.
- Wash hands often with soap and water for at least 20 seconds. If soap and water aren't available, use an alcohol-based sanitizer, but as soon as you can wash with soap and water even after sanitizer is applied.
- Avoid touching your eyes, nose and mouth with unwashed hands.
- Cover your nose and mouth with a tissue when you cough or sneeze then properly disposal of tissue.
- Clean and disinfect frequently touched objects and surfaces.
- Wash your clothing and sanitize your equipment.

For more information or to request training involving law enforcement and/or corrections operations., contact Terry at: terry@nirma.info, or 402-686-9332.