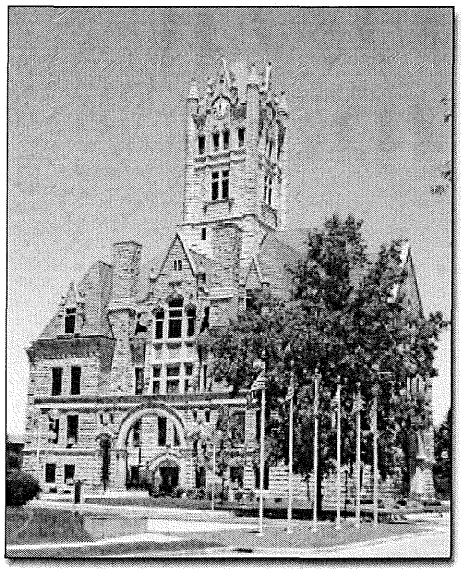
HANCOCK COUNTY GOVERNMENT



PERSONNEL ORDINANCES

REVISED JUNE 2010

Personnel Ordinances

The following is a compilation of Hancock County ordinances that apply to employees of Hancock County. Unless otherwise stated, all ordinances apply to employees of every officeholder and department. Individual officeholders and department heads may have additional rules that apply. These ordinances do not create a contract of employment; employment is at the will of the employer. Benefits can be changed or terminated at the county's discretion.

CHAPTER 31: PERSONNEL REGULATIONS

General Provisions

31.001 Blanket surety bonds
31.002 Sexual harassment policy
31.003 Hiring and termination policies for all county employees

General Personnel Policies

31.015 Applicability
31.016 Public Employees Retirement Fund (PERF)
31.017 County Deferred Compensation Plan
31.018 Severance pay
31.019 Workweek and work period; definitions of full-time and part-time
31.021 Intoxicating beverages
31.022 Non-discrimination
31.023 Holiday schedule
31.024 Mileage allowance
31.025 Lodging and meals expenses
31.027 Personal days
31.028 Insurance benefits
31.030 County office hours
31.031 Illness and injury days
31.032 FMLA time off.
31.033 Bereavement time off.
31.034 Workers compensation time off.
31.035 Vacations

Special Personnel Policies Affecting Hourly Employees of the County Highway Department

31.055 Applicability
31.056 Miscellaneous provisions
31.057 Conditions of employment
31.058 Holidays
31.059 Vacations
31.060 Additional Personal Days
31.061 Grievances; appeals
31.062 Accidents or injuries
31.063 Use of county property
31.064 Overtime
31.065 Disciplinary action
31.066 Highway Engineer's Authority

County Highway Department Alcohol and Controlled Substances Testing Policy

31.075 General testing guidelines
31.076 Pre-employment testing
31.077 Random testing
31.078 Post-accident testing
31.079 Reasonable suspicion
31.080 Use of prescription drugs
31.081 Confidentiality
31.082 Violations
31.083 Return to duty

GENERAL PROVISIONS

§ 31.001 BLANKET SURETY BONDS.

All county employees and Commission members required to post an individual surety bond for the faithful performance of their duties are hereby authorized to be included within the coverage of a blanket surety bond.
('86 Code, § 2-11) (Ord. 1983-1A, passed 12-12-83)

§ 31.002 SEXUAL HARASSMENT POLICY.

(A) It is the county policy that sexual harassment of any employee by any person will not be tolerated.

(B) All complaints of sexual harassment should be reported immediately to the department head or officeholder who employs the person being sexually harassed as well as the department head or officeholder who employs the person who is alleged to be sexually harassing the complainant. If the complainant is of the opinion that reporting the offense to the department head or officeholder would be ineffective, the complaint should be filed with the Board of Commissioners.

(C) All complaints will be investigated and the final disposition reported to the complainant.
(Ord. 1998-8A, passed 8-10-98)

§ 31.003 HIRING AND TERMINATION POLICIES FOR ALL COUNTY EMPLOYEES

All Hancock County employees are employees at will, except where otherwise provided by state or federal law, county ordinance or written contract, and may be hired or terminated at any time for any reason by the appropriate officeholder, department head or board, that does not contravene any state or federal law, county ordinance or written contract.
(Ord. 2003-3A, passed 3-06-03)

GENERAL PERSONNEL POLICIES

§ 31.015 APPLICABILITY.

This subchapter applies to all county employees unless otherwise set out.
('86 Code, § 2-20.1)

§ 31.016 PUBLIC EMPLOYEES RETIREMENT FUND (PERF).

All employees working in a PERF covered position and working at least 1,560 hours per year on a regular basis may have the PERF benefit, except those employees who are participating in the Police Retirement Plan, the Judge's Retirement Fund or any other pension plan authorized by state law.
('86 Code, § 2-20.2) (Ord. 1995-5G, passed 5-22-95)

§ 31.017 COUNTY DEFERRED COMPENSATION PLAN.

(A) The county has adopted and established the County Deferred Compensation Plan for voluntary participation of all eligible county employees, elected officials and independent contractors.

(B) The officer so designated is authorized to execute for the county individual participation agreements with each eligible employee requesting the same, and to act as the "Administrator" of the Plan representing the county, and to execute any agreements and contracts as are necessary to implement the program. It is implicitly understood that, other than the incidental expenses of collecting and disbursing of the employees' deferrals and other minor administrative matters, there is to be no cost or contribution by the county to the program.
('86 Code, § 2-20.3) (Ord. 1995-5G, passed 5-22-95)
Statutory reference:
Public employee deferred compensation plans, see I.C. 5-10-1.1

§ 31.018 SEVERANCE PAY.

(A) Employees who separate from county employment in good standing shall be paid for each day of unused vacation. If the employee returns to employment by the county, the employee shall earn vacation days as if the employment gap did not exist.

(B) In the event of discharge, any employee shall be entitled to any vacation pay due to him or her. Any employee whose employment is terminated and who returns to employment at a later date shall be considered a new employee.
(=86 Code, ' 2-20.4) (Ord. 1995-5G, passed 5-22-95; Am. Ord. 2009-3G, passed 3-23-09)

§ 31.019 WORKWEEK AND WORK PERIOD; DEFINITIONS OF FULL-TIME AND PART- TIME.

(A) The work period for deputies assigned to road patrol and jail communications officers is set at 15 days.

(B) The workweek for all other employees of the County Sheriff shall consist of a 168-hour period beginning at 7 a.m. on Friday.

(C) The workweek for employees of the County Highway Department shall consist of a 168-hour period beginning at midnight on Saturday.

(D) The workweek for all other county employees shall consist of a 168-hour period beginning at 4 p.m. on Friday.

(E) Full-time employment is defined as a 35-hour work week. An hourly employee working at least 1,560 hours for a full 52 weeks a year may be considered full-time if so designated by the office head.

(F) Part-time and/or temporary employment is defined as employment on an irregular, seasonal or as needed basis without regards to the number of hours worked per week.

('86 Code, § 2-20.5)(Ord. 1995-5G, passed 5-22-95; Am. Ord. 2002-12E, passed 12-12-02)

§ 31.021 INTOXICATING BEVERAGES.

Working while under the influence of alcohol or unprescribed drugs is absolutely forbidden and is cause for dismissal.
('86 Code, § 2-20.7) (Ord. 1995-5G, passed 5-22-95)

§ 31.022 NON-DISCRIMINATION.

(A) It is the policy of Hancock County, Indiana, that no discrimination on the basis of race, religion, color, sex, national origin, disability, age or ancestry be condoned or permitted against any person or persons in the recruitment or hiring of employees, in any personnel transaction, in the provision of governmental services, in the accessibility of county programs and facilities or in the solicitation of bids or the award of public contracts.

(B) All complaints of discrimination against any office or personnel of Hancock County shall be reported immediately to the officeholder or department head, except that if the action of the officeholder or department head is the subject of the complaint, then the employee shall file the complaint with the Board of Commissioners. All complaints shall be dealt with expeditiously.
(86 Code, § 2-20.8) (Ord. 1995-5G, passed 5-22-95; Am. Ord. 2003-3D, passed 3-31-03) (Am. Ord. 2005-11G, passed 11-28-05)

§ 31.023 HOLIDAY SCHEDULE.

(A) The holiday schedule shall be set forth each year in a resolution passed by the Board of Commissioners.

(B) Only full-time employees shall receive pay for holidays designated by the Board of Commissioners under subsection A.
(86 Code, § 2-20.9) (Ord. 1995-5G, passed 5-22-95)

§ 31.024 MILEAGE ALLOWANCE.

(A) The rate used to reimburse county employees for miles driven on county business in a motor vehicle owned by the employee shall be the standard mileage rate as set by the Internal Revenue Service.

(B) The county reimbursement rate shall change on each subsequent date that the IRS sets a new standard mileage rate.
('86 Code, § 2-20.10) (Ord. 1995-5G, passed 5-22-95; Am. Ord. 2001-6C, passed 6-13-01)

Statutory reference:

Mileage allowance for county officers, see I.C. 36-2-7

§ 31.025 LODGING AND MEALS EXPENSES.

Lodging and meal expenses will be paid to county officials and employees only under the following circumstances:

(A) When attending a meeting called by a state agency, expenses will be paid as provided in the directive from the agency; and

(B) When attending a meeting authorized by the County Commissioners that is more than 50 miles from the County Courthouse, lodging expenses will be reimbursed, and an allowance of $6, $8 and $12 will be paid for breakfast, lunch and dinner, respectively.
('86 Code, § 2-20.11) (Ord. 1995-5G, 5-22-95; Am. Ord. 1998-9C, passed 9-28-98)

§ 31.027 PERSONAL DAYS.

(A) Paid leaves totaling two days per year may be taken by each employee to conduct personal business, except that a new employee earns no days for the first five months and then one day per month, to a maximum of two, to the end of the calendar year in which the five-month waiting period ended.

(B) Except in cases of emergency, these days shall be scheduled by the officeholder or department head.
(Ord. 2001-1A, passed 1-4-01)

§ 31.028 INSURANCE BENEFITS.

(A) All elected officeholders are eligible to participate in all insurance programs of the county effective the first day of their term. All full-time employees, including the Commissioners= legal counsel, are, after 60 days of employment, eligible to participate in all insurance programs of the county.

(B) All employees, except those terminated for cause, who are eligible for health insurance and who have been county employees for ten years, or, in the case of elected officeholders, eight years, and a member of the county=s health insurance program for the last four years of employment, may elect to have health insurance coverage for themselves, their spouses and/or dependants after employment ends under the following terms:

(1) The employee must be at least age 55 on termination;

(2) The employee must pay 50% of the premium;

(3) The request for coverage must be made within 90 days after employment ends;

(4) The coverage terminates:

(a) For the employee when the employee becomes eligible for Medicare;

(b) For the spouse when the spouse becomes eligible for Medicare; and

(c) For eligible dependants when the employee and spouse, if any, are both eligible for Medicare.

(5) Retirement includes separation from the county by any means other than termination for cause.

(C) Any county employees who do not qualify under division (B) above, but are eligible for health insurance, and who have been county employees for 20 years may, upon retirement, elect to have health insurance coverage for themselves, their spouses and/or their dependants after retirement under the following terms:

(1) The employee must be at least age 55 on retirement;

(2) The employee must pay all of the premium, including the employer's share;

(3) The request for coverage must be made within 90 days after retirement; and

(4) The coverage terminates:

(a) For the employee when the employee becomes eligible for Medicare;

(b) For the spouse when the spouse becomes eligible for Medicare; and

(c) For eligible dependants when the employee and spouse, if any, are both eligible for Medicare.

(Ord. 2003-3E, passed 3-31-03; Am. Ord. 2008-4B, passed 4-21-08; Am. Ord. 2009-10A, passed 10-26-09)

§ 31.030 COUNTY OFFICE HOURS.

Each county office shall be open from 8 a.m. until 4 p.m. and officeholders and department heads with more than one employee shall schedule vacations and other matters so that offices will not be closed over lunch hours. Offices may be closed on days other than holidays only when permitted by the Board of Commissioners. This section does not apply to the courts.
('86 Code, § 2-21.5) (Ord. 1995-5G, passed 5-22-95; Am. Ord. 2003-6D, passed 6-9-03) (Am. Ord. 2005-11F, passed 11-28-05)

§ 31.031 ILLNESS AND INJURY DAYS

(A) If a full-time employee is unable to work due to illness or injury, the employee will be paid to the extent that leave days have been earned. An employee shall have seven illness or injury leave days per year, which are available on January 1 of each year, except that a new employee earns no days for the first five months and then one day per month, to a maximum of seven, to the end of the calendar year in which the five-month

waiting period ended.

(B) Illness and injury include the tending to an illness or injury of a spouse, parent, child or step-child. Office holders and department heads may request a physician's statement at any time, and **must do so for absences exceeding five consecutive days**. The statement must indicate the date that the employee is released to return to work. A copy of the statement must be filed with the Auditor.

(C) Illness and injury days carry over to subsequent years. For every accumulated day over 50, the employee may choose to be, and for each day over 100 the employee shall be, paid the equivalent of one-half day of salary. When employment terminates, except when the employee is terminated for cause, the employee will be paid the equivalent of one-half day of salary for each day of sickness and injury not used.

(D) An employee whose illness and injury days are exhausted may receive illness or injury days, or vacation days, transferred from an unlimited number of other employees, but such days shall not exceed the number required to keep the recipient from taking an unpaid day.

(E) Any employee, who takes a paid illness or injury day under this section, when such illness or injury does not exist, shall be dismissed.

(F) On January 2, 2003, all current full-time employees will be credited with seven illness and injury days for each full year of full-time employment with the county, to a maximum of thirty.
(Ord. 2002-12F, passed 1-2-03; Am. Ord 2005-1B, passed 1-10-05)

§ 31.032 FMLA TIME OFF.

(A) Except to the extent required by the Family and Medical Leave Act (FMLA), no employee may take time off without the time being applied to vacation days, personal days or illness and injury days. If no such days are available, an elected official or department head may grant time off without pay pursuant to the terms of FMLA..

(B) During the time taken off work under FMLA, the county will continue to pay its share of health insurance. The employee must pay the employee's share, and all of the premiums of policies in which the county does not participate, in a timely manner, or those health insurance and other policies for which the employee has not paid will be discontinued. If the employee returns to work, the time off will be credited towards the determination of retirement benefits.

§ 31.033 BEREAVEMENT TIME OFF.

An employee may be absent up to three days, as determined by the office holder or department head, with pay, to attend a funeral for those related as follows: grandchild, brother, sister, father, mother, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandmother or grandfather, and up to five days for a spouse, child or step-child. The name and relationship of the person shall be placed in the employee's personnel file.

§ 31.034 WORKERS COMPENSATION TIME OFF.

During time taken off work while receiving worker's compensation benefits, the following applies:

(A) The employee will receive the regular paycheck, which for hourly workers will assume that the normal workweek was worked, until the first workers' compensation check arrives. For such time that the employee receives both a regular paycheck and worker's compensation, the overlapping worker's compensation payments shall be turned over to the county, and the illness and injury days used during that time shall be restored.

(B) After receipt of the first workers' compensation check, there will be no salary or wages paid, but the county will pay the employer's and employee's premium for health insurance for 12 months. If the employee wants to retain, for 12 months, other policies to which the county does not contribute, the employee shall pay those premiums in a timely manner. After 12 months, health insurance coverage and all other policies terminate.

(C) If the employee takes a lump sum worker's compensation benefit in settlement of a determination of total and permanent disability, or fails to return to work promptly after worker's compensation benefits end, or 500 weeks, whichever occurs first, or if the employee returns and there is no suitable work that the employee can perform, the employee shall be dismissed.

§ 31.035 VACATIONS.

(A) Each full-time county employee earns vacation time as follows:

The year beginning on January 1 following the date of employment shall be the first vacation year.

VACATION YEAR	VACATION DAYS
1	One day of vacation for each full month of employment during the preceding year, to a maximum of ten. The initial month of employment counts if the employee worked beginning the first day of that month.
2 through 5	10
6 through 13	15
14 through 21	20
22 or more	25

(B) Vacation days must be used no later than December 31 of the year, unless otherwise approved by the officeholder or designee. Days carried over must be reported to the Auditor.

(C) Holidays occurring while an employee is using vacation days do not count as a vacation day.

(D) Employees who separate from county employment in good standing and who give two-weeks notice before leaving, shall be paid for each day of unused vacation. If an employee returns to employment by the county, the employee shall earn vacation days

as if the employment gap did not exist, but shall not receive credit for any year that he was not employed for the full year.

(E) Part-time employees who became full-time employees working at least 1,560 hours per year shall, for each year where the part-time work exceeded 300 hours in a year, have that year count in determining eligibility for vacation days.
(Ord. 2003-6D, passed 6-9-03; Am. Ord. 2004-11C, passed 11-22-04)

SPECIAL PERSONNEL POLICIES AFFECTING HOURLY EMPLOYEES OF THE COUNTY HIGHWAY DEPARTMENT

§ 31.055 APPLICABILITY.

The provisions of this subchapter apply to all hourly employees of the County Highway Department. If the provisions of this subchapter conflict with any provisions of the general personnel policies, this subchapter prevails.
('86 Code, § 2-22.1) (Ord. 1995-4D, passed 4-17-95)

§ 31.056 MISCELLANEOUS PROVISIONS.

(A) These policies may be amended from time to time as conditions warrant. Employees will be given notification of change.

(B) Nothing in these policies shall prevent the County Commissioners from laying off any employee whenever they deem it necessary.
('86 Code, § 2-22.13) (Ord. 1995-4D, passed 4-17-95)

§ 31.057 CONDITIONS OF EMPLOYMENT.

(A) The established work pattern for all full-time employees in the County Highway Department shall be eight hours for a normal day's work and 40 hours for a normal week's work to be completed in five days, Monday through Friday. Because of the nature of the County Highway Department's job responsibilities, hours of work may vary at the discretion of the County Commissioners.

(B) All employees, upon receiving their assignments, are to report to their assigned job with no stopping to eat breakfast, and the like.

(C) The lunch period shall be for ½ hour and no longer. Employees are to have their lunch with them on the job site and not use county vehicles to go to a restaurant, unless authorized by the County Highway Engineer/Superintendent.

(D) All new full-time employees shall work a probation period of 60 days. Temporary employees will not have a probation period.

(E) No relative of any County Highway Department employee or relative of a county commissioner may be hired for employment at the County Highway Department. For purposes of this provision, a relative is defined as anyone related by blood, adoption or marriage within the immediate family and through the level of first cousin. This provision does not apply to employees hired prior to the date of 4-17-95.

(F) No supervisor of the County Highway Department may date an hourly employee

of the department.

('86 Code, § 2-22.2)(Ord. 1995-4D, passed 4-17-95)(Am. Ord. 2005-8B, passed 8-29-05) (Am. Ord. 2005-11H, passed 11-28-05)

§ 31.058 HOLIDAYS.

(A) Days may be declared holidays by the County Commissioners at their discretion.

(B) All full-time employees shall receive their regular eight-hour daily wage for the scheduled holidays or substitutes thereof when not worked, provided they have worked the regularly scheduled day before and after holidays unless officially excused.

(C) During weeks where a holiday pay occurs, a temporary employee, but not a part-time employee, may receive the holiday pay according to the above standards.
('86 Code, § 2-22.3) (Ord. 1995-4D, passed 4-17-95)

§ 31.059 VACATIONS.

The vacation policy set out in Section 31.035 applies to all employees of the Hancock County Highway Department.
('86 Code, § 2-22.4) (Ord. 1995-4D, passed 4-17-95, Am. Ord. 2003-6D, passed 6-9-03)

§ 31.060 ADDITIONAL PERSONAL DAYS.

Highway Department employees who work on a day when the Courthouse and Courthouse Annex is scheduled to be open but has closed by order of the County Commissioners because of adverse weather or other emergency reasons, shall receive an additional personal day for each such day worked.
(Ord. 2005-1C, passed 1-18-05)

§ 31.061 GRIEVANCES; APPEALS.

(A) If a County Highway Department employee has a complaint related to equal opportunity or any other problems, it should be handled as follows:

(1) *Step one.* The first step shall be a direct complaint to the respective foreman. The employee and the foreman will make every effort possible to resolve the problem.

(2) *Step two.* If the problem cannot be resolved through step one, then the problem will be taken before the Assistant Highway Supervisor and attempted to be resolved.

(3) *Step three.* If steps 1 and 2 do not work, then a meeting with all involved parties and the Highway Supervisor will be scheduled.

(B) After exhausting the above steps, the final step is to contact and petition, in writing, the County Board of Commissioners. A date will be set to meet with them to resolve the problem and/or complaint.

(C) Grievances or complaints from county residents concerning County Highway

Department equipment or personnel shall be investigated and filed in the employee's file, and necessary action will be taken by the Highway Supervisor or County Commissioners.
('86 Code, § 2-22.9) (Ord. 1995-4D, passed 4-17-95)

§ 31.062 ACCIDENTS OR INJURIES.

(A) All work-related accidents or injuries must be reported to the supervisor or crew leader as soon as possible. Any injury needs to be reported.

(B) All vehicular accidents involving county equipment and/or personnel are to be reported to the Sheriff's Department at the time of the accident, and a report made to the County Commissioners by the Highway Supervisor at the next scheduled Commissioners meeting.
('86 Code, § 2-22.10) (Ord. 1995-4D, passed 4-17-95)

§ 31.063 USE OF COUNTY PROPERTY.

No highway employee shall use or allow to be used any county property such as computers, vehicles, telephones, mailing privileges, paint or other materials, buildings, gasoline, oil, antifreeze, tools and the like for personal use.
('86 Code, § 2-22.11) (Ord. 1995-4D, passed 4-17-95)

§ 31.064 OVERTIME.

All overtime will be those hours over 40 in any given week. Where possible, overtime will be given to those with the least amount of overtime. Overtime wages are 1½ times the regular pay rate, and holiday pay, for a scheduled holiday, is 2 ½ times the regular rate.
('86 Code, § 2-22.12) (Ord. 1995-4D, passed 4-17-95)

§ 31.065 DISCIPLINARY ACTION.

(A) Employees of the Hancock County Highway Department shall be immediately dismissed from employment for any of the following:

1. Drinking alcohol or using un-prescribed controlled substances on the job.
2. Being under the influence of alcohol or un-prescribed controlled substances while on the job.
3. Failure to follow work orders of a supervisor, foreman or group leader.
4. Physical abuse of the public or fellow employees.
5. Taking county personal property off of county property without authorization.
6. Misusing, mistreating or destroying public property.
7. Failure to have a driver's license that authorizes driving on the job, when it is required to perform the assigned duties.
8. Intentionally providing false information to a supervisor, foreman or group leader.
9. Conduct that would cause the public to lose confidence in the department.

(B) Employees of the Hancock County Highway Department shall be given a three day layoff without pay and, if it is the second violation of any item in subsection (B) within the preceding twelve months, immediately dismissed from employment for any of the

following:

1. Failure to perform an assigned work task in an efficient manner, or being wasteful of material.
2. Inability to get along with fellow employees so that work is hindered.
3. Failure to follow safety rules that have been posted or directly conveyed verbally.
4. Failure to use proper safety equipment on the job.
5. Misuse of Highway Department radio.
6. Absent from work, or tardy for more than one hour.
7. Horseplay on the job.
8. If on call, failure to respond to callout for ice or snow removal.
9. Verbal abuse of the public or fellow employees.

§ 31.066 HIGHWAY ENGINEER'S AUTHORITY

(A) Except for the matters set out in Section (B) the Highway Engineer shall make all decisions regarding employment, dismissal, discipline and job classification of all employees of the County Highway Department, and no employee may seek relief from a county commissioner.

(B) Complaints regarding sexual harassment, or discrimination based on race, religion, color, sex, national origin, ancestry, disability or age shall be reported immediately to the Highway Engineer, except that if the action of the Highway Engineer is the subject of the complaint, then the employee shall file the complaint with the Board of Commissioners.
(Ord. 2005-8C, passed 8-29-05)

COUNTY HIGHWAY DEPARTMENT ALCOHOL AND CONTROLLED SUBSTANCES TESTING POLICY

§ 31.075 GENERAL TESTING GUIDELINES.

(A) All hourly employees that are required to have a CDL license will be tested for alcohol and drug abuse in accordance with the FHWA regulations.

(B) All other employees, meaning those for which a CDL license is not required, will be tested in the same manner as above, but not as a requirement of the FHWA. This includes supervision personnel.

(C) Testing will be done in accordance with FHWA regulations through an independent company.

(D) An educational session on this policy and FHWA regulations will be given to each employee.
(Res. 2001-3-2, passed 3-5-01)

§ 31.076 PRE-EMPLOYMENT TESTING.

Under no circumstances will an individual be placed on the payroll without proof of a successful completion of alcohol and drug tests. It is conditional for employment that the applicant provide access to his or her DOT drug and alcohol test results, including

refusal to test, conducted by the applicant's previous employer. Any individual who refuses to submit to these tests, has a detectable amount of alcohol in his or her system, or has a positive controlled substance test result will not be considered for employment.
(Res. 2001-3-2, passed 3-5-01)

§ 31.077 RANDOM TESTING.

(A) A minimum rate of 50% of drivers and non-drivers shall be tested annually for drugs, and 25% of drivers and non-drivers shall be tested annually for alcohol.

(B) Random drug and alcohol testing will be combined. For example, when testing at 50% drug random rate and 25% alcohol random rate, half of the randomly selected individuals chosen for testing would be tested for both drugs and alcohol, while the rest will be tested only for drugs.

(C) The procedure for random testing selection is as follows:

(1) All drivers are in one pool and all non-drivers, including supervision personnel, are in another pool;

(2) Employees in each pool will remain in the pool even if they have been tested before;

(3) Valid random selection will be used;
(4) Testing shall be done at least once each quarter;

(5) No prior notice of testing will be given.
(Res. 2001-3-2, passed 3-5-01)

§ 31.078 POST-ACCIDENT TESTING.

(A) Drivers and non-drivers are required to submit to drug and alcohol testing as soon as possible following a "DOT" accident which involves the loss of human life or the driver or non-driver receives a citation under state or local law for a moving traffic violation arising from the accident.

(B) A "DOT" accident is defined as an occurrence involving a commercial motor vehicle (for drivers) or a County Highway Department vehicle (for nondrivers) operating on a public road which results in: (A County Highway Department vehicle is not a part of the FHWA regulations)

(1) A fatality;

(2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; and/or

(3) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

(C) The driver or non-driver who is subject to post-accident testing shall remain readily available for the testing, and retesting if the first test is inconclusive, or he or she may be deemed by the County Highway department to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical treatment or to prohibit the driver or non-driver from leaving the scene of an accident for a period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.

(D) No driver or non-driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident, or until he or she undergoes a post-accident test, whichever occurs first.

(E) If a driver or non-driver is seriously injured and cannot submit to testing at the time of the accident, he or she shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether there were any drugs or alcohol in his or her system.

(F) The results of a breath or blood test for the use of alcohol or a urine test for the use of drugs conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the requirements for post-accident testing if the results are obtained by the County Highway Testing Lab.

(G) Actions to take in a post-accident testing situation are as follows:

(1) Treat injuries;

(2) Work with law enforcement;

(3) Explain the need for testing;

(4) Work with the medical facility;

(5) Collect specimens promptly; and

(6) Document events.

(Res. 2001-3-2, passed 3-5-01)

§ 31.079 REASONABLE SUSPICION.

(A) The employer is required to test for the use of alcohol and controlled substances upon "reasonable suspicion." Reasonable suspicion is defined to mean that the employer believes the behavior, speech, body odor, or appearance of a driver or non-driver while on duty are indicative of the use of alcohol and/or controlled substances. The conduct must be witnessed by a supervisor, if so trained. The mere possession of alcohol does not constitute a need for an alcohol test. The witness must have received training in the detection of probable alcohol and drug use by observing a person's behavior. If it is at all possible, the witness should not conduct the alcohol test in order to protect the driver or non-driver.

(B) Alcohol testing is authorized only if the observations are made during, just before, or just after the period of the work day of the driver or non-driver. A written record shall be made of the observations leading to an alcohol and/or controlled substance test. This record is to be signed by the supervisor who made the observations.

(C) If a reasonable suspicion alcohol test is not administered within two hours

following the observations, the witness shall prepare and maintain on file a record stating the reasons the alcohol test was not administered promptly. In addition, if not administered within eight hours, all attempts to administer the test shall cease. A record shall be prepared and maintained stating why the alcohol test was not administered.

(D) Anytime reasonable suspicion testing is done, the driver or non-driver shall be escorted to the testing site as well as home after the test.

(E) Guide to successful reasonable suspicion testing includes:

(1) Focus on safety;

(2) Verify reasonable suspicion;

(3) Isolate and inform the employee;

(4) Inquire and observe the employee;

(5) Review the findings;

(6) Transport the employee to a testing site;

(7) Transport the employee home; and

(8) Document events.

(Res. 2001-3-2, passed 3-5-01)

§ 31.080 USE OF PRESCRIPTION DRUGS.

(A) Daily, prior to the start of work, a driver or non-driver must report to his or her immediate supervisor the use of any prescription and/or over-the-counter drugs which may affect job performance or the safety of others.

(B) It is the driver's or non-driver's responsibility to obtain from his or her physician a determination as to whether or not the drug could affect job performance. The driver must present the drug container with the full label on it.

(Res. 2001-3-2, passed 3-5-01)

§ 31.081 CONFIDENTIALITY.

All information obtained in the course of testing of drivers or non-drivers shall be protected as confidential medical information. No data concerning this information will be made a part of the employee's personnel file, or will be provided to any other party without the direct written consent of the driver or non-driver.

(Res. 2001-3-2, passed 3-5-01)

§ 31.082 VIOLATIONS.

(A) Failure to sign a release for alcohol drug testing will be classified as insubordination, and the driver or non-driver shall be terminated.

(B) Refusal to submit to alcohol and/or controlled substance testing as required will be recorded as a positive test. Refusal to submit to an alcohol or controlled substance test means that a driver or non-driver:

(1) Fails to provide adequate breath for testing without valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with this policy;

(2) Fails to provide adequate urine for controlled substance testing without valid medical explanation after he or she has received notice of the requirement for testing in accordance with this subchapter; or

(3) Engages in conduct that clearly obstructs the testing process.

(C) Drivers or non-drivers testing positive for alcohol at a level of .02 or greater or for a controlled substance shall be terminated and referred to a substance abuse professional (SAP) and associated drug and alcohol assistance program. The names, addresses, and telephone numbers of SAP's and programs are on file in the Highway Department office.

(D) Drinking alcohol or using controlled substances, or arriving on the job under the influence of alcohol or controlled substances shall be punishable by dismissal for the first offense. However, there shall be no disciplinary action taken if the employee has furnished in advance to the County Highway Engineer a physician's note detailing the exact circumstances under which the employee is to take alcohol or controlled substances.
(Res. 2001-3-2, passed 3-5-01)

§ 31.083 RETURN TO DUTY.

Any person terminated for a positive test for either alcohol or a controlled substance may be considered for rehire, if positions are available, at a later date after participation in an assistance program and evaluation by a SAP. The person will be considered as a new hire and will be subject to this subchapter.
(Res. 2001-3-2, passed 3-5-01)

DRUG-FREE WORKPLACE NOTIFICATION

The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the Hancock County workplace, and action will be taken against employees for any violation. As a condition of continued employment the employee will (1) abide by the terms of the above statement, and (2) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

(A) Any person employed by the Hancock County Commissioners who:

(1) tests positive for a controlled substance listed in Schedule I or II of IC 35-48-2, or

(2) tests in excess of 0.02% by weight of alcohol in his blood while operating a county owned or leased vehicle, or a personal vehicle on county business for which he is eligible to be reimbursed mileage, shall be immediately terminated.

(B) Any county employee not hired by the county commissioners who tests positive for controlled substances or alcohol, as set out in Section (A), while operating a county owned or leased motor vehicle shall not thereafter operate any motor vehicle titled to or leased by the county commissioners.

(C) No county owned or leased vehicle damaged while operated by a county employee who tests positive for controlled substances or alcohol, as set out in Section (A), shall be repaired or replaced so long as that person remains in the employment of the county.

(D) Any person who declines to be tested for alcohol or controlled substances, as set out in Section (A), when requested to do so by his supervisor or a police officer shall be deemed, for the purposes of this policy, to have tested positive for alcohol or controlled substances as set out in Section (A).

(E) Any person who does not request and obtain the tests set out in Section (A) within three hours of an accident in which he was operating a motor vehicle owned or leased by the county, or a retest if the first rest was inconclusive, shall, unless he was physically unable to take such test, be deemed, for the purposes of this policy, to have tested positive for alcohol or controlled substances as set out in Section (A).

(F) Hancock County shall pay the costs of tests required to be administered by this policy.