



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPLICABILITY
DEPARTMENT WIDE

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POLICY

TITLE
**ALCOHOL AND CONTROLLED SUBSTANCE TESTING
FOR CDL DRIVERS**

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APPROVED:

Signature on file

CHERYL STRANGE, Secretary
Department of Corrections

1/10/22

Date Signed

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REFERENCES:

DOC 100.100 is hereby incorporated into this policy; [RCW 46.25](#); [RCW 46.52.030](#); [Governor's Executive Order 92-01](#); DOC 850.150 Drug and Alcohol Free Workplace; DOC 890.200 Employee Occupational Health Records; [49 CFR 40](#); [49 CFR 382](#); [49 CFR 383](#); [Drug-Free Workplace Act of 1988](#); [Omnibus Transportation Employee Testing Act of 1991](#)

POLICY:

- I. The Department is committed to an alcohol and drug free workplace. The Department's goal is to ensure the health and safety of employees and the public, promote an efficient and productive work environment, and comply with federal and state regulations.
- II. The Department will provide guidance consistent with the standards and procedures for alcohol and controlled substances testing required by the U.S. Department of Transportation for employees assigned to drive commercial motor vehicles and required to carry a Commercial Driver's License (CDL) as defined in RCW 46.25.010.
- III. Any impairment while on duty caused by the use, possession, distribution, or sale of alcohol, unauthorized prescription drugs, controlled substances, or drug paraphernalia is strictly prohibited. The appropriate use of legally prescribed drugs and non-prescription medication is not prohibited.
- IV. For the purpose of testing, CDL drivers include all prospective employees applying for positions requiring a valid CDL.

DIRECTIVE:

- I. Responsibilities
 - A. Administrative Services and Prisons Divisions will have Designated Employer Representatives responsible for:
 1. Ensuring that first and second level supervisors of CDL drivers attend any required training covering the effects of controlled substances and/or alcohol in the workplace, behavioral symptoms of being under the influence of controlled substances and/or alcohol, and rehabilitation services available.
 2. Ensuring employees who are CDL drivers receive appropriate educational material required by the Omnibus Transportation Employee Testing Act of 1991.
 3. Receiving communications and test results from Service Agents (i.e., any person or entity, other than an employee of the employer, who provides

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services specified under the U.S. Department of Transportation regulations to employers and/or employees in connection with federal drug and alcohol testing requirements).

4. Making required decisions in the testing and evaluation processes, including immediately removing employees from safety-sensitive functions (e.g., driving a commercial motor vehicle on the public road) when necessary.

B. Supervisors will:

1. Have candidates for positions that require a CDL complete the release form provided by the Service Agent and obtain information from the previous employer for the 2 years preceding the date of inquiry on any alcohol test results, verified positive controlled substances test results, and refusals to be tested.
 - a. Refusal to consent to the release of previous testing information will automatically disqualify an applicant.
2. Arrange pre-employment testing for controlled substances for all candidates for CDL positions after a conditional offer of employment has been made.
3. Ensure candidates selected to fill positions requiring a CDL are CDL holders.
4. Ensure CDL drivers hired or transferred into a position requiring a CDL receive required educational material and a copy of this policy and sign DOC 03-373 Acknowledgment of Receipt of Policy and Related Educational Material.

C. CDL drivers will:

1. Not perform safety-sensitive functions, including driving a commercial motor vehicle, loading and unloading, supervising or assisting in the loading or unloading of a vehicle, if they have engaged in conduct prohibited by this policy or federal regulation. Prohibited conduct includes:
 - a. Use or possession of alcohol or any controlled substance while assigned to perform or actually performing safety-sensitive functions.
 - b. Reporting to work or remaining on duty while having an alcohol concentration of .04 or greater.

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- c. Use of alcohol within 4 hours of reporting to duty or after receiving notice to report to duty.
- d. Reporting to work or remaining on duty under the influence of any controlled substance.
 - 1) An exception is authorized when a licensed medical practitioner has prescribed the controlled substance and has advised that the substance will not adversely affect the ability to operate a commercial motor vehicle as defined by U.S. Department of Transportation provisions.
- 2. Immediately inform their supervisor if:
 - a. They are taking medications that may impair their ability to perform their assigned duties.
 - b. Their driver's license is suspended, revoked, or canceled.
 - c. They lose the privilege to drive a commercial motor vehicle, or are disqualified for any period.
 - d. They are convicted for driving under the influence of drugs or alcohol, or any crime involving alcohol or controlled substances.
- D. The Human Resources Operations Unit will:
 - 1. Oversee the activities of the Service Agent, ensuring the record keeping and reporting requirements are being met.
 - 2. Serve as the Department contact regarding alcohol and controlled substances testing.
 - 3. Ensure the contractor's database from which the random testing selections are made is kept updated and current.
- E. Human Resource Managers/Consultants will:
 - 1. Inform applicants for employment in positions requiring a CDL of the Department's testing requirements.
 - 2. Assist supervisors and/or Appointing Authorities in planning and implementing appropriate action plans for employees with positive test results.

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3. Receive test results from the Service Agents in the absence of the Designated Employer Representative.
4. Receive the follow up written test results from the contractor.
5. Maintain separate, confidential alcohol and/or controlled substances related records in the Employee Occupational Health Record (EOHR).

II. Methodology of Testing

- A. Pre-employment, reasonable suspicion, post-accident, random, return-to-duty, or follow-up alcohol or controlled substances testing is mandatory.
- B. CDL drivers will be provided information about alcohol and controlled substances misuse before alcohol and controlled substances testing.
- C. Confidentiality and privacy will be maintained throughout all stages of the testing process, including the reporting of results.
- D. Alcohol and controlled substances testing will be conducted by a Service Agent to ensure maximum accuracy and reliability.
- E. Applicants and CDL drivers will be advised that they will be asked to empty their pockets for the collector so that the collector may check for any substance that may be used for adulteration or substitution.
- F. Tests for alcohol concentration will comply with federal regulations and use National Highway Traffic Safety Administration approved evidential breath testing devices.
 1. A driver who tests 0.02 or greater will be removed from performing safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the test.
 - a. A driver who tests 0.04 or higher must be immediately removed from performing safety-sensitive functions. The driver will only perform safety-sensitive duties when the Substance Abuse Professional evaluation, referral, and education treatment process has been completed.
- G. Analytical urine testing will be conducted for controlled substances (e.g., marijuana, cocaine, opiates, amphetamines and methamphetamines, and phencyclidine) at a U.S. Department of Health and Human Services certified laboratory. The initial drug screen will be conducted as a split specimen collection.

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1. Positive test results require a confirmation test.
2. Negative results or positive confirmation results will be reported timely and confidentially to the appropriate Designated Employer Representative and confidentially to the CDL driver.

H. All hard copy test results will be mailed to the appropriate Human Resources Manager/Consultant and maintained in the EOHR.

III. Compliance with Testing

A. A CDL driver will not be allowed to continue performing safety-sensitive functions if the driver:

1. Refuses to submit to a requested alcohol or controlled substances test.
 - a. Refusal to test will constitute a positive test result at the level of 0.04 blood alcohol and/or a positive controlled substances test.
 - b. The CDL driver will only perform safety-sensitive functions when the Substance Abuse Professional evaluation, referral, and education treatment process has been complete.
2. Is reported by the Medical Review Officer as having a verified adulterated or substituted test result.
3. Provides false information relating to a test.
4. Attempts to falsify test results through tampering, contamination, adulteration, or substitution.

B. When insufficient volume of urine or breath provides an inadequate sample or the collection technician has reason to suspect tampering with the sample, another sample is required. If tampering is suspected, the second collection will be observed.

IV. Testing Results

A. Positive test results include:

1. Refusal to test.
2. Results reported by a U.S. Department of Health and Human Services certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations.

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3. The inability to provide sufficient quantities of breath or urine to be tested without a valid medical explanation.
 4. Tampering with or attempting to adulterate the specimen.
 5. Interfering with the collection procedure.
 6. Not immediately reporting to a collection site.
 7. Failing to remain at the collection site until the collection process is complete.
 8. Medical Review Officer reporting test results as adulterated or substituted.
 9. Leaving the scene of an accident without a valid reason before the test has been conducted.
- B. Test results will be considered negative if the U.S. Department of Health and Human Services certified laboratory reports to the Medical Review Officer that the specimen is valid and:
1. Does not contains drug(s), or
 2. The concentration of the drug(s) is less than the cutoff concentration.

V. Pre-Employment Testing

- A. Candidates selected for positions requiring a CDL will submit to a controlled substances test before employment at the Department's expense.
1. Failure to pass or refusal to submit will automatically disqualify an applicant.
 2. A negative test result with a noted dilute specimen will be considered the same as a negative test.
 3. A positive test result will disqualify the candidate for appointment.
- C. Current employees out of the Department of Transportation random pool for more than 30 days must submit to a pre-employment test with a negative result verified by the Medical Review Officer before returning to safety-sensitive functions.

VI. Reasonable Suspicion Testing

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- A. CDL drivers will submit to an alcohol or controlled substances test when a supervisor or manager trained in detecting signs/symptoms has reasonable suspicion to believe the CDL driver has violated the terms of this policy or federal regulations.
1. This decision must be based on specific, current, direct observations, not a third party report. When applicable, the decision will be subject to the provisions of the Teamsters Local 117 and Washington Federation of State Employees Collective Bargaining Agreements.
 2. The supervisor or manager making the observation will explain the reason for the reasonable suspicion test to the CDL driver.
 3. The CDL driver will be immediately relieved from all duties and escorted directly to the testing site.
- B. Alcohol testing is authorized only if the observations are made during, just before, or just after the CDL driver completed performing safety-sensitive functions.
1. The CDL driver will not be permitted to report for duty or remain on duty while under the influence of alcohol (i.e., as shown by the behavior, speech, and performance indicators of alcohol misuse) until an alcohol test is administered and the concentration measures less than 0.02, or 24 hours after reasonable suspicion was determined.
 2. The supervisor or manager will prepare and sign a written report of the observations leading to the reasonable suspicion test.
 - a. If a test is not administered within 2 hours of the observations, the report will cite the reasons.
 - b. If not administered within 8 hours, attempts to administer the test will cease and the report will cite the reasons.
 3. Action will not be taken against a CDL driver based solely on the driver's behavior and appearance without an alcohol test. This does not prohibit the Department from taking appropriate corrective or disciplinary action based on the employee's job performance or other misconduct.
- C. The supervisor or manager who made the observation will prepare and sign a written report of the observations leading to a controlled substances test within 24 hours of the observed behavior or before the results of the test are released, whichever is earlier.

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VII. Post-Accident Testing

- A. Immediately following an accident involving a commercial motor vehicle operating on a public road in commerce, the Department will test for alcohol and controlled substances for each surviving driver who was performing safety-sensitive functions, if:
 1. The accident involved the loss of human life, or
 2. The CDL driver received a citation under state or local law for a moving traffic violation arising from the accident, within 8 hours for alcohol related accident or 32 hours for a controlled substance related accident, if the accident involved:
 - a. Bodily injury to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident, or
 - b. A motor vehicle incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

- B. As soon as possible, the CDL driver will report an accident to the driver's supervisor, who will make arrangements with the contractor to test the CDL driver:
 1. Within 2 hours of the accident for alcohol.
 - a. If a test is not administered within 2 hours of the accident, the appropriate Designated Employer Representative or supervisor will prepare and maintain a written report stating the reasons the test was not promptly administered.
 - b. If not administered within 8 hours, attempts to administer the test will cease. The appropriate Designated Employer Representative or supervisor will prepare and maintain a written report stating the reasons.
 2. Within 32 hours of the accident for controlled substances.
 - a. If a test cannot be administered within 32 hours, the test will not be administered. The appropriate Designated Employer Representative or supervisor will prepare and maintain a written report stating the reasons.

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- C. CDL drivers will not use alcohol within 8 hours following an accident or before undergoing a post-accident alcohol test.
- D. The CDL driver will remain readily available for post-accident testing. Failure to remain available will constitute refusal to submit to testing.
- E. Leaving the scene of an accident inappropriately will constitute refusal to submit to testing.
- F. Nothing in this policy requires delaying necessary medical attention for injured people following the accident, or prohibits a CDL driver from leaving the scene for the time necessary to obtain emergency medical care or assistance.
- G. The results of a breath or blood test for the use of alcohol, or a urine test for the use of controlled substances, conducted by federal, state, and/or local officials with independent authority to conduct the test will meet the testing requirements.

VIII. Random Testing

- A. CDL drivers are subject to random, unannounced alcohol and/or controlled substances testing. Random testing will be determined solely by the Service Agent. The selection period for random testing is on a quarterly basis.
 - 1. Each year, a minimum of 10 percent of the average number of CDL positions, and 50 percent of the average number of driver positions will receive random controlled substances tests.
 - 2. Each CDL driver will have an equal chance of being tested each time selections are made.
 - a. Alcohol testing will be conducted during, just before, or just after the CDL driver has completed performing safety-sensitive functions.
 - b. Controlled substances testing may be performed at any time while the CDL driver is at work.
 - c. Once notified, the CDL driver will proceed immediately to the testing site.
 - 3. A negative and dilute test result will be considered the same as a negative test.
- B. A CDL driver on leave for an extended period of time and not available for testing during the entire selection period must be removed from the random pool.

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1. The CDL driver must complete a pre-employment test before returning to work.

IX. Return to Duty

- A. Before a CDL driver is returned to duty after engaging in conduct prohibited by this policy, the driver will:
 1. Be evaluated by a Substance Abuse Professional.
 2. Participate in any treatment and/or education program prescribed. The Appointing Authority must obtain assurance from the Substance Abuse Professional that the CDL driver has complied with any prescribed treatment program.
 3. Undergo a return to duty alcohol test, under direct observation, with a result of less than 0.02 and/or a controlled substances test with a verified negative result.
- B. Refusal to submit to testing will preclude return to duty and require appropriate action by the Department.
- C. The CDL driver will be subject to a minimum of 6 unannounced alcohol and/or controlled substance follow up tests in the 12 months after returning to duty, in addition to any ongoing random testing.
 1. Testing will be conducted at a facility designated by the Department.
 2. The Substance Abuse Professional can direct additional testing up to 60 months from the date the CDL driver returns to duty.

X. Test Costs and Compensation

- A. The Department will pay for random, reasonable suspicion, post-accident, and initial return to duty alcohol and/or controlled substance tests. All time spent traveling to and from and participating in these tests will be considered on duty time.
- B. The Department will pay for applicant pre-employment tests. For applicants with permanent status in the Department, all time spent traveling to and from and participating in these tests will be considered on duty time. All other applicants will be responsible for taking pre-employment tests on their own time.
- C. If a CDL driver's initial controlled substance test is positive and the driver requests that the split sample be tested, the second test will be at the driver's

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expense. If the confirming test is negative, the Department will reimburse the CDL driver.

- D. CDL drivers are responsible for all follow up alcohol and/or controlled substance tests directed by a Substance Abuse Professional. CDL drivers will travel to and from and participate in follow up/return to duty tests on their own time.
- E. CDL drivers are required to use sick leave, vacation leave, compensatory time, or reasonable leave of absence without pay for all work time lost due to a positive alcohol and/or controlled substances test and required education and/or treatment.

XI. Consequences of a Positive Test

A. Referral, Evaluation, and Treatment

1. CDL drivers are encouraged to seek treatment voluntarily.
 - a. An employee who requests assistance for an alcohol and/or controlled substance abuse problem will be referred to the Employee Assistance Program.
 - b. An employee who requests assistance before performing safety-sensitive functions and who provides a sample pursuant to testing will only have employment terminated if other circumstances warrant such action.
2. CDL drivers who come forward before any positive test results and notify the Department of alcohol and/or controlled substance abuse problems will be allowed to seek assistance extended to employees with other illnesses, provided:
 - a. The admission is not made in order to avoid a test required by this policy and federal regulations.
 - b. The admission is made before performing a safety-sensitive function (i.e., before reporting for duty).
 - c. The CDL driver completes recommended education and/or treatment, including aftercare, and provides documentation before resuming safety-sensitive functions.
 - d. The CDL driver provides a negative drug and/or alcohol test result before resuming safety-sensitive functions.

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3. The state considers chemical dependency a treatable disease with all the benefits available for any other illness and encourages CDL drivers who recognize they have a problem to seek assistance.
 - a. Voluntary admission of a drug and/or alcohol problem may not prevent corrective and/or disciplinary action if use of drugs and/or alcohol impairs the driver's ability to perform job duties.
 4. Per federal regulations, the Department is not required to provide or pay for rehabilitation or to hold a job open for a CDL driver who has tested positive for alcohol or controlled substances.
 5. The Department will provide information regarding the resources available for evaluating and resolving problems associated with the misuse of alcohol and controlled substances to a CDL driver who receives a positive alcohol or controlled substance test result.
- B. Positive Alcohol Test - Action Required
1. When the testing technician informs the Designated Employer Representative of a breath/alcohol concentration between 0.02 and 0.039, the CDL driver will be immediately relieved from all duties for at least 24 hours following the test. Arrangements will be made to safely transport the driver home from the testing site.
 - a. No Substance Abuse Professional evaluation is required.
 - b. Appropriate corrective or disciplinary action, up to and including dismissal, may be taken if use of alcohol impairs the driver's ability to perform job duties.
 2. When the testing technician informs the Designated Employer Representative of a breath/alcohol concentration of 0.04 or greater, the CDL driver will be immediately relieved from all duties and arrangements will be made to safely transport the driver home from the testing site.
 - a. Appropriate disciplinary action, up to and including dismissal, may be taken if use of alcohol impairs the driver's ability to perform job duties.
 - b. A CDL driver must undergo an alcohol test, under direct observation, with a result of less than 0.02, before returning to duty.
 3. If a CDL driver who registered an alcohol concentration of 0.04 or greater is given an opportunity to return to safety-sensitive duties, the driver's

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supervisor must ensure that the driver receives an evaluation by a Substance Abuse Professional and successfully complies with the Substance Abuse Professional's evaluation recommendations.

- a. The driver will be referred to a Substance Abuse Professional designated by the Department for evaluation and development of an education and/or treatment plan that will include a return to work agreement.
- b. The driver will be directed to contact the Substance Abuse Professional and schedule an appointment within 24 hours of being relieved from duty.
- c. The driver must report to the driver's supervisor, by the end of the driver's next regular scheduled work shift, that the Substance Abuse Professional was contacted and provide the date of the appointment.
- d. The driver must meet with the Substance Abuse Professional and successfully complete all elements of the return to work plan before returning to duty.
- e. Appropriate corrective or disciplinary action, up to and including dismissal, may be taken if use of alcohol impairs the driver's ability to perform job duties.

C. Positive Controlled Substance Test - Action Required

1. When the Medical Review Officer informs the Designated Employer Representative of a positive test result indicating the presence of a controlled substance in a CDL driver's urine sample, the driver will be immediately relieved from all duties. Arrangements will be made to safely transport the driver home from the testing site.
 - a. The CDL driver cannot again perform any safety-sensitive duties until the Substance Abuse Professional evaluation, referral, and education/treatment process is completed.
 - b. Appropriate disciplinary action, up to and including dismissal, may be taken if use of a controlled substance impairs the driver's ability to perform job duties.
2. If a CDL driver who has had a positive drug test is given an opportunity to return to safety-sensitive duties, the driver's supervisor must ensure that

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the driver receives an evaluation by a Substance Abuse Professional and successfully complies with the evaluation recommendations.

- a. The driver will be referred to a Substance Abuse Professional designated by the Department for evaluation and development of an education and/or treatment plan that will include a return to work agreement.
- b. The driver will be directed to contact the Substance Abuse Professional and schedule an appointment within 24 hours of being relieved from duty.
- c. The driver must report to the driver's supervisor, by the end of the driver's next regular scheduled work shift, that the Substance Abuse Professional was contacted and provide the date of the appointment.
- d. The driver must meet with the Substance Abuse Professional and successfully complete all elements of the return to work plan before returning to duty.
- e. Appropriate corrective or disciplinary action, up to and including dismissal, may be taken if use of a controlled substance impairs the driver's ability to perform job duties.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Controlled Substances; Medical Review Officer; Substance Abuse Professional. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

DOC 03-373 Acknowledgment of Receipt of Policy and Related Educational Material