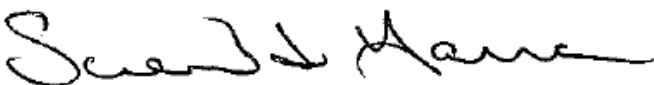


<b>SUBJECT:</b> Alcohol and Drug Testing for Commercially Licensed Drivers	<b>NUMBER:</b> 107-04-030
<b>DIVISION:</b> Operations Division – Employee Services	<b>EFFECTIVE DATE:</b> 4-20-09
<b>APPROVED:</b> 	

**POLICY/PURPOSE:** Administer a drug and alcohol-testing program for employees and applicant finalists who must hold a commercial drivers license (CDL) in the course of employment with the Department of Administrative Services (DAS).

**AUTHORITY:** Omnibus Transportation Employee Testing Act of 1991 (OTETA) Title 49, Code of Federal Regulations (CFR) parts 40 and 382 OAR 105-050-0003 Letters of Agreement with SEIU: 00.00-99-48, [CDL-Drug Testing; 00.00-01-70, CDL-Drug Testing \(Temporary Employees\)](#)

**APPLICABILITY:** All DAS employees and applicant finalists whose duties require possession of a CDL.

**DEFINITIONS** **ALCOHOL:** The intoxicating agent in the following alcohols: beverage, alcohol, ethyl alcohol, or other low molecular wither alcohols, including methyl or isopropyl alcohol.

**CONTRACTOR:** A certified drug testing facility under contract to perform drug testing for DAS.

**COVERED EMPLOYEE:** An employee that must possess a CDL to perform the duties of his or her position.

**DRUGS:** Marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates. (Parts 40 and 382 of the CFR and federal Department of Transportation regulations require testing for these drugs only.)

**MEDICAL REVIEW OFFICER:** (MRO) – A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer’s drug testing program who has knowledge of substance abuse disorders. The MRO must have appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.

**SAFETY-SENSITIVE FUNCTION:** All work that includes driving from the time a driver begins to work or must be ready to work until the time he or she is relieved from work and from all responsibility for performing work.

**SAFETY CONSULTANT:** DAS Safety and Risk Manager.

**I. TESTING**

- A.** DAS may order substance abuse testing for the following people:
  - a. Applicant finalists: on a pre-employment basis
  - b. Employees: on the basis of a reasonable suspicion, a safety issue, or randomly.
- B.** DAS may only order alcohol testing immediately before, during, or after a covered employee performs a safety-sensitive function.

**II. TYPES OF TESTING:** As required by federal regulations, DAS must perform the following types of drug and alcohol tests for covered employees.

- A. PRE-EMPLOYMENT TESTING** – Conducted after a conditional offer to hire, but before an employee actually performs safety-sensitive functions. Also conducted when employees promote, demote or transfer to safety-sensitive positions.

Licensed commercial drivers who apply for a safety-sensitive position must consent to a check of their drug and alcohol testing records from the Oregon Department of Transportation Driver and Motor Vehicles division and other state motor vehicle departments. If an applicant refuses to consent to the history check, DAS will withdraw its offer of employment.

- B. RANDOM TESTING** – Conducted on an unannounced basis throughout the year. DAS may conduct “drug tests” at any time during work hours. Selection of employees for random testing will occur by a contractor that uses a scientifically valid computer-generated, random-number selection system. Tests of a random pool of state employees affected by CDL rules (except Oregon Department of Transportation employees) must occur annually; for drug testing, the pool will represent 50 percent of affected employees; for alcohol testing, 25 percent.
- C. SAFETY-SENSITIVE FUNCTION TESTING** – DAS will conduct “alcohol tests” immediately before, during, or after an employee performs a safety-sensitive function. Also see “G” below.
- D. REASONABLE SUSPICION TESTING** – Conducted when a trained supervisor or designee determines that reasonable suspicion exists to require the employee to undergo an alcohol or drug test or both. A supervisor or designee must base the suspicion on specific, timely observations, which he or she can articulate, concerning the appearance, behavior, speech or body odors of the employee.
- E. POST-ACCIDENT TESTING** – Conducted after an accident by an employee whose performance could have contributed to an accident, as determined by a citation for a moving traffic violation, fatality, bodily injury or significant property damage.
- F. RETURN-TO DUTY TESTING** – Conducted before an employee returns to work after testing positive for alcohol misuse or for use of a controlled substance. Alcohol test results of 02 percent or greater, or refusal to submit to a test, require return-to-duty testing.
- G. FOLLOW-UP TESTING** – Conducted after an employee returns to a safety-sensitive function. The employee will undergo at least six unannounced follow-up tests in the first 12 months after returning to duty. DAS may extend follow-up testing for up to 60 months.

**III. COST OF TESTING:** DAS will pay all costs associated with testing that it orders, including follow-

up testing and split-specimen testing. an employee must pay all costs associated with testing that he or she personally orders.

#### **IV. PROHIBITED CONDUCT**

- A.** Performing safety-sensitive functions while using alcohol, while possessing alcohol, or while having an alcohol concentration of .02 percent or greater, or within four hours after using alcohol. (Federal Highway Administration regulations list alcohol concentration of .04 or greater under "prohibitions" (382.201). This DAS policy lowers that level to .02 or greater.)
- B.** Reporting for duty or remaining on duty in a position that includes performing a safety-sensitive function when the employee has used a controlled substance(s), or after testing positive for controlled substance(s).

In the case of prescription medication, DAS may ask an employee to provide documentation from a medical provider that the substance does not adversely affect his or her ability to perform a safety-sensitive function. DAS will make the final determination on an employee's ability to perform safety-sensitive functions.

- C.** Refusing to be tested, which includes any of the following:
- Refusing to cooperate with testing.
  - Failure to report to test site within the allowed time.
  - Failure to remain available for post-accident testing.
  - Attempting to alter specimens or otherwise affect test results.

Using alcohol within eight hours after an accident that requires post-accident testing under this policy, or eight hours before a post-accident test, whichever comes first.

#### **V. CONSEQUENCES OF PROHIBITED CONDUCT:** One or more of the following consequences apply when covered employees engage in prohibited conduct.

- A.** Immediate removal from safety-sensitive duties for at least 24 hours.
- a) Return to safety-sensitive duties will occur only after evaluation by a substance abuse professional and completion of any necessary rehabilitation and return-to-duty testing.
  - b) DAS may allow an employee with an alcohol concentration of .02 to .039 to return to safety-sensitive duties after removal for at least 24 hours and successful return-to-work testing.
- B.** Temporary assignment to non-safety-sensitive duties or placement on leave according to DAS leave policy.
- C.** Disciplinary action up to and including dismissal.

#### **VI. TESTING PROCEDURES**

- A.** Drug testing occurs according to federal regulations at a certified drug testing facility. DAS reserves the right to obtain additional documentation regarding an employee's drug test results.
- B.** Alcohol testing occurs according to federal regulations at a certified alcohol testing facility. DAS reserves the right to obtain additional documentation regarding an employee's drug test results.

**C. CONFIDENTIALITY OF TEST RESULT**

- a) DAS (Employee Services), the drug-testing laboratory, the alcohol testing facility, and the Medical Review Officer must keep employee alcohol and drug testing records strictly confidential. These parties may not release test results to any other party, except a substance abuse professional, without the written consent of an employee.
- b) Confidentiality exceptions are limited to decision-makers in arbitration, litigation, or administrative proceedings arising from a positive drug or alcohol test or other violation of this policy.

**D. USE OF LEAVE**

- a) DAS will allow an employee to use work time for random, reasonable suspicion, post-accident and return-to-duty testing, including travel time to and from the test site.
- b) DAS may allow an employee who tests positive in a random, reasonable suspicion or post-accident test to use any accrued leave or leave-without-pay when the agency removes the employee from the position and does not assign the employee to perform non-safety-sensitive functions.
- c) An employee can use accrued leave or leave-without-pay to enroll in and participate in a rehabilitation program and for meeting with a certified substance abuse professional if DAS requires such a meeting.
- d) If test results are later found to be negative, and the employee used accrued leave when DAS removed he or she from a safety-sensitive function, DAS will restore the employee's leave accrual balance.

**VII. TRAINING**

DAS will appropriately train all applicable supervisors, managers, and staff who will determine whether reasonable suspicion exists to require an employee to undergo testing under this policy. Training will include a minimum of two hours on the effects and consequences of prohibited drug and alcohol use on personal health, safety and the work environment; and the symptoms and behavioral signs that may indicate prohibited use.

DAS will periodically give additional training to keep employees up-to-date on the alcohol and drug testing program.

DAS will provide employees in safety-sensitive positions with a copy of this policy and educational material on how to meet the requirements of the policy.

DAS will provide all covered employees with training and educational materials on:

- Effects of alcohol and controlled substances on a person's health, work and personal life.
- Signs and symptoms of an alcohol or controlled substances problem.
- Available methods of intervention when DAS suspects an alcohol or controlled substances problem.

**VIII. PRESCRIPTION MEDICATIONS AND OVER-THE-COUNTER DRUGS**

Employees must report to work free from the effects of any controlled substance or alcohol.

Covered employees must consult a physician, pharmacist, or other healthcare professional regarding whether prescribed or over-the-counter drugs could affect the employee's fitness for duty or job performance, or whether the medication appears on the list of prohibited, controlled substances (see page 1). Covered employees must notify his or her immediate supervisor of any disabling or adverse effects.

If a covered employee reports use of a prescribed or over-the-counter drug that could affect the employee's fitness for duty or job performance, DAS may require the employee to provide written permission from a physician or healthcare professional allowing the employee to work.

DAS may reassign a covered employee to a non-safety-sensitive function or discipline a covered employee for failure to provide sufficient medical permission to work.