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## POLICY

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Res. 070124

**POL -0410-HR**  
**Document 1**

**CDL DRUG AND ALCOHOL TESTING PLAN**

This policy applies to all employees in safety sensitive positions.

### **Definitions**

**CDL** – Commercial Driver’s License

**Safety Sensitive Functions** – the operation of equipment subject to a commercial driver’s license.

**Safety Sensitive Positions** – positions held by employees who perform any work requiring possession of a commercial driver’s license.

**DOT** – Department of Transportation

**DOT Covered Substances** – substances tested for in accordance with 49 CFR, Part 382. They include marijuana, cocaine and metabolites, amphetamines and metabolites, opiates, phencyclidine and alcohol.

**Controlled Substance** – any substance whose use and dissemination is controlled by legal regulation.

**Prohibited Conduct** – processing, using, transferring, manufacturing, being under the influence of and/or trafficking a controlled substance while on the job, on Whitman County property, in a County vehicle or on County business while designated on call.

**Pre-Employment Test** – a drug and alcohol test conducted after acceptance of a position by the applicant and before his/her first day of work. Passing such a test is a condition of employment.

**Random Testing** – a drug and alcohol testing program whereby CDL drivers are randomly selected for testing.

**Reasonable Suspicion Testing** – a drug and/or alcohol test based on a supervisor’s reasonable suspicion of an employee’s abuse.

**Post-Accident Testing** – drug and alcohol tests performed on employees involved in an accident with commercial motor vehicles. The accident must include a) the death of a human being; b) bodily injury to a person, who as a result of the injury, immediately receives medical treatment away from the scene of the accident; c) one (1) or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported or towed; d) the driver receives a citation under state or local law for a moving traffic violation arising from the accident

**Substance Abuse Professional** – a licensed physician, or a licensed or certified psychologist, social worker or employee assistance professional; or an addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the Internal Certification Reciprocity Consortium/Alcohol and other Drug Abuse).

1. **Whitman County Recognizes Its Responsibility to Provide a Working Environment Free of Drug and Alcohol Abuse.**

This plan is adopted as Whitman County's Drug & Alcohol Testing Plan in accordance with the drug and alcohol testing regulations of the Federal Department of Transportation, Federal Highway Administration and other agencies whose regulations may be applicable to County employees under the federal Omnibus Transportation Employee Testing Act of 1991, for those employees who perform any work that requires possession of a commercial driver's license.

The U.S. Department of Transportation (DOT) has imposed Rule 49 CFR, Part 382. This rule or any successor law mandates urine and drug and breathe alcohol testing of commercial driver's licensed employees and prevents performance of that job based on a positive drug/breath result.

The U.S. Department of Transportation has also enacted Procedures for Transportation Workplace Drug and Alcohol Testing Programs 49 CFR, Part 40, Setting Standards for the Collection and Testing of Urine and Breath Specimens.

Whitman County recognizes its commitment to employees, customers and the public to take reasonable steps to assure safety in the workplace and in the community. Furthermore, Whitman County is concerned about the adverse effect alcohol, drugs and substance abuse may have on safe and productive job performance. Whitman County also recognizes that employees who are affected in their ability to perform their jobs safely and productively, due to physical and emotional problems or abuse of alcohol and other drug substances, jeopardize the integrity of the workplace and the achievement of Whitman County's mission.

2. **The Human Resources Department Shall Maintain a Procedure Manual.**

A procedure manual shall be maintained by the Human Resources Department to administer drug and alcohol testing according to the procedures of the Federal Department of Transportation, Federal Highway Administration.

3. **Federal Regulations Prohibit Behaviors by CDL Drivers.**

Federal (Title 49, CFR Subtitle B, Chapter III, Part 382, Subpart B) and State regulations prescribe prohibited behaviors for drivers subject to those regulations.

These prohibited behaviors include:

- Reporting for duty or remaining on duty and performing safety sensitive functions while having an alcohol concentration of 0.04 or greater.
- Possession of alcohol while on duty or operating a commercial motor vehicle.
- Use of alcohol while performing safety sensitive functions.

- Performing safety sensitive functions within four (4) hours after having used alcohol.
- Use of alcohol within eight (8) hours following an accident or before undergoing a post-accident alcohol test, whichever occurs first.
- Reporting for duty or remaining on duty performing safety sensitive functions after having used any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- Refusing to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances test as directed pursuant to this policy.
- Reporting duty, remaining on duty, or performing safety sensitive functions after having tested positive for a controlled substance.

Employees who engage in such prohibited behaviors shall be removed from safety sensitive functions and will not be returned to duties performing these functions until the appropriate referral and follow-through are achieved as prescribed in this policy. These actions are the consequences prescribed by Subpart E of the above-referenced Federal regulations. Appropriate disciplinary action shall be considered on the basis of the behavior involved and other circumstances as are normally considered in disciplinary actions.

Performance of safety sensitive functions is prohibited under these conditions: processing, using, transferring, manufacturing and/or trafficking a controlled substance while on the job, on Whitman County property, in a County vehicle or while on County business while designated on call.

No County employee shall report for work after having used a controlled substance (as defined in RCW 69.41) which has not been legally prescribed by a health care practitioner. No employee shall report for work while impaired from the consumption of alcohol.

An employee who reports to work while taking a lawfully prescribed, controlled substance shall have obtained a recommendation from their health care provider as to whether the employee may perform the duties of their job in a safe manner. Such recommendation will be required to be in writing if the employee is performing a job which involves driving motor vehicles, operation of equipment or other tasks the safe performance of which may be compromised by the use of controlled substances. If the controlled substance may impair the employee's ability to perform the safety sensitive position, he/she will report it to their immediate supervisor and provide the doctor's recommendation.

**4. Employees Shall Not Remain on Duty When They Engage in Behaviors Described in Provision 3.**

County supervisors and managers shall not permit employees to remain on duty or to perform safety sensitive functions when they engage in any of the above-prohibited behaviors.

**5. Whitman County Shall Perform Alcohol and Controlled Substance Testing.**

As part of the administration of this policy, Whitman County will be performing alcohol and controlled substance testing.

Pre-Employment Testing:

Job applicants who have been given a conditional offer of employment with the County for a position which involves the driving of a commercial motor vehicle shall be informed that a condition of employment includes passing both a drug test and an alcohol breath test as part of the pre-employment physical examination.

Random Testing:

Current employees holding a commercial driver's license, applying for positions which require an employee hold a CDL for the operation of commercial motor vehicles, participate in the County's CDL Drug Testing Program.

Random Alcohol Testing – the minimum annual percentage rate for alcohol testing shall be ten percent (10%) of the average number of driver positions.

Random Drug Testing – the minimum annual percentage rate for random drug testing shall be fifty percent (50%) of the average number of driver positions. All drug tests shall be through urine samples processed by a DHHS-NIDA-certified laboratory.

Reasonable Suspicion Testing:

When a supervisor has a reasonable suspicion that an employee is under the influence of alcohol or drugs while on duty, that supervisor shall make every effort to have the Human Resources staff confirm that suspicion. The suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee. If the reasonable suspicion is confirmed, that employee shall be required to submit to a breath test and/or drug test. Only supervisors and managers who have had the required one hundred twenty (120) minutes of training may confirm a reasonable suspicion.

Blood alcohol tests may be used instead of a breath test when an employee is unable to provide a sufficient amount of breath or a BAT is not readily available.

Post Accident Testing:

As soon as practicable following an accident involving a commercial motor vehicle, the County shall test for alcohol and drugs in each surviving driver who was (a) performing driving functions with respect to the vehicle if the accident involved the loss of human life, regardless of fault, or (b) receives a citation at the site under State or local law for a moving traffic violation arising from the accident, or (c) one or more of the vehicles is disabled and must be towed from the scene.

The accident must include a) the death of a human being; b) bodily injury to a person, who as a result of the injury, immediately receives medical treatment away from the scene of the accident; c) one (1) or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported or towed; d) the driver receives a citation under state or local law for a moving traffic violation arising from the accident.

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 tests shall be considered to meet

the requirements of this section, provided such tests conform to applicable Federal, State or local requirements, and that the results of the tests are obtained by the County.

Blood alcohol tests may be used instead of a breath test when an employee is unable to provide a sufficient amount of breath or a BAT is not readily available.

**6. Employees Shall Not Refuse a Drug/Alcohol Tests.**

No employee shall refuse to submit to an alcohol or drug test as directed under this policy. A refusal to submit shall include:

- Failure to provide adequate breath for testing without a valid medical explanation after an employee has received notice of the requirement for breath testing in accordance with the procedure manual.
- Failure to provide adequate urine for controlled substances testing without a valid medical explanation after an employee has received notice of the requirement for urine testing in accordance with the procedure manual.
- Engaging in conduct that clearly obstructs the testing process.

**7. Employees Testing Positive Shall Take Specific Steps Before Returning to Work.**

If a driver tests at least 0.02 but less than 0.04, the driver shall be removed from the job for a least twenty-four (24) hours. The employee may return to work after the completion of the following:

1. After at least twenty-four (24) hours have elapsed from the breath test reading of at least 0.02 but less than 0.04, the employee has taken another breath test.
2. The breath retest showed an alcohol concentration of less than 0.02.
3. The employee provided a copy of the breath retest results to his/her supervisor to be forwarded to the Human Resources Department.

No employee who tested 0.04 or greater on a breath test or who tested positive for any one of the five (5) controlled substances shall be permitted to return to work until he/she:

1. Has been evaluated by a qualified substance abuse professional.
2. If recommended by a substance abuse counselor, has properly followed any rehabilitation prescribed.
3. Has a negative result on a return-to-duty alcohol and/or drug test (depending upon which was failed).

Upon completion of a recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for up to sixty (60) months as recommended by the substance abuse professional, with a minimum of six (6) such unscheduled tests within the first twelve (12) months of returning to duty. Employees participating will be entitled to use their accumulated vacation time and sick leave.

In addition, an employee who fails a drug or alcohol test or engages in prohibited behavior will be subject to appropriate disciplinary action up to and including termination. Discipline resulting from a violation of the alcohol and controlled substances policies shall be progressive and subject to the grievance and arbitration procedure.

**8. Whitman County Shall Provide Training.**

The County shall provide all affected employees with copies of this policy, related procedures and other information as follows:

- The identity of the person designated by the County to answer questions about the policy and other training materials concerning the policy.
- The categories of drivers who are subject to the provisions of this plan applicable to commercial drivers.
- Sufficient information about the safety-sensitive functions performed to make clear what period of the workday the driver is required to be in compliance with this policy.
- Specific information concerning driver conduct that is prohibited by this policy.
- The circumstances under which a driver will be tested for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver.
- The requirement that a driver submit to alcohol and controlled substances tests administered in accordance with this plan.
- An explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the resulting consequences.
- The consequences for drivers found to have engaged in prohibited behaviors under this plan, including the requirement that the driver be removed immediately from safety sensitive functions and the procedures for substance abuse referral, evaluation and treatment prior to reinstatement.
- The consequences for drivers found to have an alcohol concentration of 0.02 or greater but less than 0.04.
- The information concerning the effects of alcohol and controlled substances on an individual's health, work, and personal life; signs and symptoms of an alcohol or controlled substances problem; and available methods of intervening when an alcohol or a controlled substance problem is suspected, including confrontation, referral to any employee assistance program and/or referral to management.
- Information concerning the other aspects of this policy to maintain a drug-free workplace such as the requirement to inform the County within five (5) days of any conviction for the

use, manufacture, distribution, dispensing or possession of controlled substances on county premises or while conducting County business off County premises.

Each driver shall sign a receipt upon having been provided the above referenced information including a copy of this plan and accompanying procedures for drug testing.

Persons designated to determine whether reasonable suspicion exists to require a commercial driver to undergo alcohol or drug testing will receive at least sixty (60) minutes of training on alcohol and sixty (60) additional minutes on substance abuse. The training will cover the physical, behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

**9. Union Representation May be Provided.**

The Human Resources staff shall make reasonable efforts to afford employees the right to union representation whenever an employee is directed to submit to an alcohol or controlled substances test which are for post-accident or reasonable suspicion. All issues relating to implementation of the DOT alcohol and controlled substances testing regulations for employees covered by these regulations are subject to the grievance and arbitration procedures in the collective bargaining agreement. Where an employee's grievance is sustained, the employee shall be made whole, including back pay and fringe benefits with interest, restoration of seniority, return to the employee's original position, and have all adverse references related to alcohol, controlled substance use or testing removed from the employee's record.

The union shall be responsible to provide Human Resources names and telephone numbers for after hour staff available for call out with a maximum of thirty (30) minute response time. If a union representative cannot be contacted or does not respond within thirty (30) minutes, the County shall proceed with testing as defined in the DOT standard. In return, the County shall make a reasonable effort to secure the release of a Shop Steward/Union Representative from their work duties.

**10. Testing Time May be Compensated.**

All time spent administering an alcohol or controlled substance test, including travel time, will be paid at the employee's regular rate of pay, or at their overtime rate, if applicable. Any employee who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost if tests results are ultimately negative. The employer shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a federally certified laboratory if so requested by the employee.

**11. Employees Observing the Impairment of a Co-Worker Must Report it to His or Her Supervisor.**

An employee who observes or has knowledge of another employee in a condition which impairs his or her ability to perform job duties and poses a hazard to the safety and welfare of others must promptly report the incident to his or her immediate supervisor. The supervisor will immediately notify the Human Resources Department for investigation.

**12. Criminal Convictions Occurring While on Duty Must be Reported.**

An employee who is convicted of a criminal violation occurring in the workplace involving a controlled substance must notify the Whitman County Human Resources Director within five (5) days of the conviction. The Human Resources Director will immediately inform the respective department director.

If the employee performs duties associated with the provisions of a contract or grant received directly from a federal agency, including block grants or entitlement grants, the department director is required to notify the appropriate federal agency of the conviction within five (5) days of the employee's notification.

Within thirty (30) days of notification one of the following actions will be taken:

Whitman County may take appropriate disciplinary action and/or require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency. If so required, satisfactory participation in such a program shall be a condition of continued County employment. The appointing authority shall report any such convictions, disciplinary actions, and rehabilitation requirements to any Federal agency from which the Department received any funding either directly or through a State agency.

**13. Violators of This Policy Shall Be Subject to Discipline.**

Persons violating this policy are subject to discipline up to and including termination. Violations include, but are not limited to, failure of a drug or alcohol test, engaging in prohibited behavior, failing to receive required treatment, etc. Discipline resulting from a violation of the alcohol and controlled substances policies shall be progressive and subject to the grievance and arbitration procedure.