DEPARTMENT OF CORRECTIONS

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| **Policy:** | **103.041** |
| **Title:** | **Commercial Driver's License** |
| **Effective Date:** | **1/12/22** |

**PURPOSE:** To implement federal and Minnesota standards for the department's practice regarding Commercial Drivers Licenses and Commercial Motor Vehicles. In the event state or federal regulations conflict with this policy, the state and federal regulations prevail where applicable to designated safety-sensitive employees. In the event that state or federal regulations fail to provide language for a particular situation, the employee is subject to this policy. This compliance includes such examples as drug and alcohol testing; ensuring drivers obtain and maintain necessary commercial driver's licenses; and safe maintenance and operation of commercial motor vehicles.

**APPLICABILITY:** All Department of Corrections (DOC) employees operating commercial motor vehicles, their supervisors, and Human Resources (HR) staff responsible to perform or administer related work.

**DEFINITIONS:**

Commercial driver's license (CDL) – a license required to drive a commercial motor vehicle.

Commercial motor vehicle (CMV) – a vehicle or vehicle combination over 26,000 pounds; a vehicle designed to transport 16 or more passengers including the driver; or a vehicle used in transporting hazardous material that requires placards. See Minn. Stat. Chapter 171 for specific definitions and types.

Designated employer representative (DER) – an individual in HR assigned to manage the CDL drug and alcohol program for the DOC. This individual is the primary DOC contact for the State of Minnesota Drug and Alcohol Testing Plan and for the vendor.

Disqualification of drivers – drivers become disqualified from driving a CMV for certain driving or traffic violations both at work and in his/her personally owned vehicle away from work in accordance with Code of Federal Regulations (CFR) Part 40: 383.51.

Driver – any person operating a commercial motor vehicle, including such examples as: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers; and independent, owner operator contractors who are either directly employed by or under lease to the DOC or who operate a commercial motor vehicle at the direction of or with the consent of the DOC.

Driver pool – the list of drivers provided by the DER to the vendor to be included in the statewide random testing pool.

Endorsements – specific types of allowable CMV operation listed on a Minnesota driver's license.

Plan – The State of Minnesota Drug and Alcohol Testing Plan (Minnesota Management and Budget (MMB) document (attached)).

Reasonable suspicion – when a trained supervisor reasonably suspects that an employee has violated Part V prohibitions of the Plan. Reasonable suspicion test referrals must be based on specific,

contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. The observations for the suspicion of drug use may include indications of the chronic and withdrawal effects of controlled substances.

Reportable accident – an accident involving either of two situations:

1. A fatality of any person involved in the accident; or

2. When the commercial driver (the employee) is cited for a moving violation of any kind when
   a) Any involved vehicle requires towing from the scene of the accident; or
   b) Any involved person requires medical treatment away from the scene of the accident.

Safety-sensitive function – all time from when a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. Safety-sensitive functions include:

1. All time at an employer or shipper plant, terminal, facility, or other property or any public property, waiting to be dispatched, unless the employer relieves the driver from duty;

2. All time inspecting equipment as required by federal regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

3. All time spent at the driving controls of a commercial motor vehicle in operation;

4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;

5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded, and

6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Substance abuse professional (SAP) – individuals listed by the state and the state's contractor to perform any evaluation and treatment required in the Plan if a driver tests positive for drugs or alcohol.

Vendor – company contracted by the state jointly for agencies that operate CMVs to administer drug and alcohol testing of drivers in accordance with Federal Motor Carrier Safety Regulations (FMCSR).

**PROCEDURES:**

A. Drug and alcohol testing

1. The DOC follows the State of Minnesota Drug and Alcohol Testing Plan (Plan) and participates in the statewide contract using the vendor for drug and alcohol testing.

2. Drivers are subject to the following drug and alcohol testing:
   a) Pre-employment;
   b) Random;
   c) Post-accident;
   d) Reasonable suspicion;
   e) Return-to-duty; and

f) Follow-up.

B. Pre-employment physical

1. State of Minnesota employees are exempt from federal regulations governing pre-employment and post-employment periodic physical exams (medical cards).

2. Drivers may be subject to a pre-placement medical exam and evaluation in accordance with Policy 103.016, "Pre-Placement Medical Exam and Evaluation."

C. Addition or removal of a CMV from the DOC fleet

1. All persons authorizing the addition or removal of a commercial motor vehicle (CMV) from operation in the DOC, other than for replacement of existing CMV must:
   a) Notify the designated employer representative (DER) in writing prior to the change;
   b) Provide the name(s) of any employee(s) whose CDL status may change due to the addition or removal of a CMV; and
   c) Provide the date current commercial drivers may no longer be required to hold a CDL and/or the date new commercial drivers must be added to the driver pool.

2. The authorizing person must also supply to the DER
   a) The name(s) of any supervisor(s) who may no longer supervise commercial drivers;
   b) The name(s) of any supervisor(s) who may begin supervising commercial drivers; and
   c) Any necessary transition plan for staffing.

3. The authorizing person must also discuss the change with the DER and create and execute a transition plan necessitated by the addition or removal of a CMV.

D. Driver pool – addition and removal of drivers

1. A driver who leaves the driving pool for 30 days or more due to a job change (including such examples as transfer, retirement, and promotion to a non-CDL job) is no longer in the driver pool and must be removed.

2. Removal from the driver pool does not occur for extended leaves of absence covered under the Family and Medical Leave Act (FMLA) or for military leave.

3. Drivers working out of class in a non-CDL job remain in the driver pool and continue to be subject to random testing during the work-out-of-class (WOOC).

4. A non-driver considered for WOOC in a CDL/driver job must meet all requirements of drivers and must be added to the random testing pool during the WOOC assignment.

E. Employee (Driver) Responsibilities

1. Drivers must obtain and maintain the required CDL and endorsement(s).

2. Within 14 days of hire, commercial drivers must
   a) Read the Plan, complete, sign and date the Commercial Driver's License Drug and Alcohol Testing Program Certification of Receipt and Acknowledgement Form (attached), which is maintained in the employee electronic file initial hire documents;

b) Review supplemental information including Effects of Alcohol and Other Drugs on Job Performance and Family, Health Effects of Alcohol and Other Drugs on Your Body, Minnesota Impaired Driving Fact Sheet MN DPS, Driving Under the Influence of Alcohol or Drugs, MN Driver's Manual Chapter 8 (attached) or attend a commercial driver training from an authorized source;

c) If training from an outside source is attended, the driver must record the training in the DOC approved training system.

3. Drivers are subject to the drug and alcohol testing listed in section A.1., above.

4. Drivers must ensure they have access to, and are responsible to execute, post-accident testing in accord with CDL Post Accident Testing Instructions (attached) for any reportable accidents.

5. Drivers must know and locate the packet located in each CMV containing
   a) CDL Post Accident Testing instructions (attached),
   b) Clinics Drivers Use to Submit Sample for DOT CDL Drug and Alcohol Testing (attached); and
   c) Vendor's Federal Drug Testing Custody and Control form (attached).

6. Drivers must report to their supervisor any driving violations covered by 49 CFR. § 383.51, "Disqualification of Drivers" (attached).
   a) This includes driving/traffic violations while operating personal/private motor vehicles outside of work.
   b) Examples include, but are not limited to
      (1) Certain speeding tickets; and
      (2) Driving while intoxicated (DWI)/driving under the influence (DUI).

7. If a driver has a positive drug and/or alcohol test, the driver must
   a) Immediately notify the driver's supervisor;
   b) Not perform any safety-sensitive functions until directed to do so by the driver's supervisor; and
   c) Not return to work doing any safety-sensitive functions until after the driver has completed all necessary steps in the Plan to permit the driver to resume performing safety-sensitive functions.

8. A driver is subject to discipline up to and including discharge for an alcohol test of 0.02% or greater and/or for a positive drug test.

9. Drivers must maintain and/or inspect commercial motor vehicles (CMV) in accordance with state and federal requirements.

10. CDL permits
    a) Current DOC employees who wish to be considered for a CDL position but who do not have a current CDL may be appointed to a CDL position with a CDL permit.
    b) The appointed employee may practice and test in the CMV the employee will be driving for the DOC with supervisory approval if:
       (1) No offenders are present during permit driving; and
       (2) The permit holder complies with all state license requirements related to a CDL permit.

c) The employee must obtain the CDL with proper endorsements within 12 weeks of appointment to the CDL position.
   (1) The appointment must be terminated and the employee non-certified if the employee does not obtain the CDL with proper endorsement within 12 weeks of appointment to the CDL position; or
   (2) The appointing authority has discretion to grant an extension to the period of time during which a driver must obtain the CDL with proper endorsements in special circumstances. The extension period must not exceed the probationary period end date.

F. Supervisor Responsibilities

1. The supervisor notifies the DER and the human resources (HR) office within 48 hours of any changes to the driver pool in his/her area of supervision.

2. Supervisors ensure any new CDL drivers they supervise receive required training and information.

3. Supervisors must:
   a) Complete training on reasonable suspicion; and
   b) Recognize and respond to any reasonable suspicion incident in accordance with the Plan and as specified in required training attended.

4. Back-up supervisors who supervise CDL drivers in the absence of the regular supervisor assume the responsibility for reasonable suspicion monitoring and response in the regular supervisor's absence.

5. A supervisor must ensure that a driver with a positive drug or alcohol test does not perform any safety-sensitive function until and unless indicated by the Plan and Federal Motor Carrier Safety Regulations (FMCSR).

6. Following a positive driver drug and/or alcohol test, the supervisor must:
   a) Immediately notify the regional HR director (RHRD) and DER;
   b) Review the Plan to determine if the employee must be immediately removed from safety-sensitive functions;
   c) Consult with the DER regarding appropriate steps to be taken, including removing the employee from safety-sensitive functions, determining if a driver must be placed on leave, type of leave, and follow up action required;
   d) Consult with the DER and RHRD to draft and issue written notice and/ or instructions to the driver; and
   e) Keep a copy of the notice in the employee's supervisory file.

7. Supervisors must ensure drivers have access to instructions and documents and understand how to execute post-accident testing and under what circumstances post-accident testing is required.

8. The supervisor must ensure a packet is placed in each CMV for which the supervisor is responsible containing:
   a) CDL post-accident testing instructions (attached);
   b) "Clinics Drivers Use to Submit Samples for DOT CDL Drug and Alcohol Testing" document (attached); and

c) The vendor's "Federal Drug Testing Custody and Control form" (sample attached).

9. The supervisor seeks and completes sufficient training to know, understand, and execute oversite of safe CMV maintenance and operation.

10. The supervisor clearly identifies positions requiring a CDL when requesting to create or fill a position.
    a) The supervisor must provide the HR/staffing representative a description of the CDL requirements for a position for classification, recruiting, posting, pre-employment checks, and hiring.
    b) The supervisor uses language consistent with the Plan and with current Minnesota Driver's license language for license and endorsements (See Minn. Chapter 171).

11. The supervisor reviews driver's licenses and maintains proof of license and endorsements in accordance with Policy 103.040, "Employee Credentials Requirements."

G. Human Resources (HR) Responsibilities

1. If a driver has a positive CDL drug or alcohol test, the DER
    a) Checks the Plan and works with the RHRD to determine type of leave and follow-up action required.
    b) Works with the HRD and supervisor to ensure a proper response.

2. The staffing representative/designee must ensure that positions identified by the hiring supervisor as requiring a CDL are appropriately identified during the job classification and vacancy filling process, including job postings, recruiting, job announcements, and pre-employment checks.
    a) The positions must have the CDL option associated with the position unless possessing a CDL is a minimum qualification for all state positions within the job classification (e.g., delivery van driver) or if associating the option is not possible.
    b) The stated CDL requirements include specific endorsement(s) required by the position.
    c) The license and endorsement identification language matches wording used on the Minnesota State driver's license. The staffing representative/designee works with the supervisor to ensure this.

3. Each time a vacancy occurs with a CDL requirement, the staffing representative/designee reviews the pre-employment/pre-placement testing procedures of the Plan to ensure all requirements are clearly stated and met.
    a) This includes pre-employment CDL drug screening and CDL safety performance history checks.
    b) Pre-placement specimen collection and drug testing for CDL positions must be performed and billed through the State CDL program vendor.
    c) Drivers must be drug tested in accordance with the Plan for marijuana, cocaine, opiates, phencyclidine (PCP) and amphetamines.

4. The staffing representative/designee provides a selected applicant who has received a contingent job offer for a position requiring a CDL with a packet that includes the following forms and applicant instructions:
    a) Vendor's "Federal Drug Testing Custody and Control Form (CCF)."
    *Instructions*: Bring this form to pre-placement appointment for CDL drug testing.

b) Completed "MN State Corrections Drug/Alcohol Screening Authorization Form".
*Instructions*: Bring this form to pre-placement appointment for CDL drug testing.

c) CDL Drug & Alcohol Testing Program Consent and Release Form.
*Instructions*: Read the State Of Minnesota Drug and Alcohol Testing Plan, then sign, date and return this form to staffing representative/designee.

d) CDL Drug & Alcohol Testing Program Certification of Receipt and Acknowledgement Form.
*Instructions*: Read, sign and return this form to staffing representative/designee.

e) "Release of Information Form -- 49 CFR Part 40 Drug and Alcohol Testing"
*Instructions*: Complete Section 1 Employee Name, SS or ID Number, Signature and Date and return this form to staffing representative/designee.

f) Corrections Drug/Alcohol Screening Authorization Form.
*Instructions*: Read, sign and return this form to staffing representative/designee.

g) State Policy on Alcohol and Other Drug Use by State Employees (HR/LR Policy and Procedure #1418)
*Instructions*: Read this document and retain for your records.

h) State Of Minnesota Drug and Alcohol Testing Plan (HR/LR Policy and Procedure #1418A)
*Instructions*: Read this document and retain for your records.

i) Supplemental information, including:
   (1) Effects of Alcohol and Other Drugs on Job Performance and Family,
   (2) Health Effects of Alcohol and Other Drugs on Your Body
   (3) Minnesota Impaired Driving Fact Sheet MN DPS
   (4) Driving Under the Influence of Alcohol or Drugs, MN Driver's Manual Chapter 8 (detailed information about impaired driving)
   *Instructions*: Read these documents and retain for your records.

5. The staffing representative/designee ensures receipt back of three completed forms from the applicant:
   a) CDL Drug & Alcohol Testing Program Consent and Release Form
   b) CDL Drug & Alcohol Testing Program Certification of Receipt and Acknowledgement Form.
   c) "Release of Information Form -- 49 CFR Part 40 Drug and Alcohol Testing."

6. When an applicant receives a contingent job offer:
   a) The staffing representative/designee obtains CDL safety performance history on the individual using the signed "Release of Information Form - - 49 CFR Part 40 Drug and Alcohol Testing" form(s).
   b) CDL safety performance history includes the previous two years of alcohol and drug testing results from previous CDL employer(s).
   c) State agencies (including the department) provide the past three years of CDL safety performance history to inquiring potential employers with properly executed release signed by the driver.
   d) If a driver with a contingent job offer has a positive drug test, the DER:
      (1) Notifies the staffing representative/designee to inform the RHRD;
      (2) Checks the Plan and works with the RHRD to determine next steps and follow up action required; and
      (3) Works with the RHRD and supervisor to ensure a proper response.

H. DER responsibilities

1. The DER is the primary DOC contact and administrator of the Plan and any related CDL/CMV program for the DOC.

2. The DER is the primary contact for the vendor performing CDL drug and alcohol testing.

3. The DER:
   a) Notifies the vendor within five working days from an employment action of any changes to the driver pool for random drug and alcohol testing;

   b) Ensures clear protocols and any related forms for testing and related employment actions are readily available to drivers and drivers' supervisors;

   c) Works with the driver, supervisor, vendor, other HRM staff, and substance abuse professional (SAP), if used, to respond to a positive drug or alcohol test in accordance with the Plan including with the RHRD and supervisor to draft and issue written notices and/or instructions to the driver;

   d) Notifies all affected staff of any changes to CDL policy or program;

   e) Ensures changes are reflected in policy, procedure, instructions and related information created by the DOC; and

   f) Receives testing results from the vendor, and:
      (1) Maintains a copy of the results on all employees in a secure file and location;
      (2) Ensures the DOC retains test results in accordance with the Plan and FMCSR; and
      (3) Follows retention requirements, which are:
         (a) Positive test results are retained for a minimum of five years; and
         (b) Negative test results are retained for a minimum of one year.

I. Training

1. Within 14 days of hire, the supervisor must ensure the new driver received a copy of the Plan and supplemental information on the effects of drug and alcohol use and must answer any questions about them.
   a) The new driver must sign the "CDL Drug and Alcohol Testing Program Certification of Receipt and Acknowledgement Form" confirming the driver has received the Plan and information on the effects of alcohol and drug use on driving safety.
   b) The signed form is returned to the staffing representative/designee and maintained in the employee's personnel file.

2. The supervisor must schedule the commercial driver for new driver's training with an authorized source.
   a) After the supervisor determines the required training for the new hire, Employee Development, HR, and/or the DER assist the supervisor, if necessary, in locating the correct training for the driver within 14 days of their hire.
   b) After attending the training, the driver must record the training in the DOC approved training system.

c) Once approved by the supervisor, the training must be reflected on the employee's official training record. Employee development staff may assist supervisors to verify that required training was completed by the driver.

3. Driver supervisors
   a) New driver supervisors must obtain and read a copy of the Plan within 14 days of commencement of driver supervision. The supervisor records the completion of the review of the Plan in DOC approved training system.
   b) Within 30 days of commencement of driver supervision and periodically thereafter, driver supervisors must complete training to identify and respond to driver behavior that requires reasonable suspicion testing in accordance with the Plan.
      (1) After attending this training, the driver supervisor records the training on the DOC approved training system.
      (2) Once approved by the supervisor's supervisor, the training must be reflected on the supervisor's official employee training record.
   c) Driver supervisors must work with employee development and/or the DER to determine general ongoing CDL/CMV training needs required by the State of Minnesota and/or the U.S. Department of Transportation.

**INTERNAL CONTROLS:**

A. Driver and driver supervisor trainings are recorded and retained in the DOC-approved electronic training management system.

B. Pre-employment drug and alcohol testing results are maintained in a secure file and location and retained in accordance with the Plan and FMCSR retention requirements.

C. The supervisor maintains proof of a current driver's license and endorsements.

D. The "CDL Drug & Alcohol Testing Program Consent & Release form" and Certification of Receipt and Acknowledgement Forms are retained in employee electronic file initial hire documents.

E. "Release of Information form 49CFR part 40 Drug & Alcohol Testing" is retained in employee electronic file initial hire documents.

**ACA STANDARDS:** None

**REFERENCES:** Minn. Stat. §§ 152.01, subd. 4; 169.011; 181.950 through 181.957; and Chapter 171.
Policy 103.016, "Pre-Placement Medical Exam and Evaluation."
Policy 103.215, "Alcohol and Other Drug Use."
Policy 103.040, "Employee Credentials Requirements"
Policy 104.4616, "Obtaining New and Replacement Vehicles."
Code of Federal Regulations 390.5, 49 part 40, 49, 391 and 394
Omnibus Transportation Employee Testing Act of 1991
Federal Motor Carrier Safety Regulations (FMCSR) 49 CFR Part 382 and Part 383
Prohibition of Alcohol and Drug Use by State Employees (HR/LR Policy and Procedure #1418)
State of Minnesota Drug and Alcohol Testing Plan

**REPLACES:** Policy 103.041, "Commercial Driver's License," 8/1/17.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

**ATTACHMENTS:**
State of Minnesota Drug and Alcohol Testing Plan (HR/LR Policy and Procedure #1418A) (external MMB HR document)
Prohibition of Alcohol and Drug Use by State Employees (HR/LR Policy and Procedure #1418) (external MMB HR document)
49 CFR § 383.51 "Disqualifications of Drivers"
Supervisor Instructions for CDL Drug and Alcohol Testing (103.041B)
CDL Post Accident Testing Instructions (103.041C)
Clinics Drivers Use to Submit Sample for DOT CDL Drug and Alcohol Testing (103.041D)
Release of Information form 49CFR part 40 Drug & Alcohol Testing (103.041E)
CDL Drug & Alcohol Testing Program Consent & Release form (103.041F)
Federal Drug Testing Custody and Control form—SAMPLE (103.041G)
Commercial Driver's License Drug and Alcohol Testing Program Certification of Receipt and Acknowledgement Form (103.041H)
MN State Corrections Drug/Alcohol Screening Authorization Form (103.041I)
Supplemental Information Effects of Alcohol and Other Drugs on Job Performance and Family (103.041J)
Supplemental Information Health Effects of Alcohol and Other Drugs on Your Body (104.041K)
Supplemental Information Minnesota Impaired Driving Fact Sheet (103.041L)
Supplemental Information Driving Under the Influence of Alcohol or Drugs, MN Driver's Manual Chapter 8(103.041M)

**APPROVED BY:**
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