

Policy: Commercial Motor Vehicle (CMV) Alcohol & Controlled Substances Testing	Policy No: II-3
Policy Owner(s): Risk Management	Original Date: 3/9/2015
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- I. **POLICY:** The safety and well-being of University Commercial Motor Vehicle (CMV) drivers, employees, and the general public requires that our CMV drivers perform their duties free from the effects of alcohol and/or drugs. Drivers who use or abuse alcohol and/or drugs are a hazard to the University, the general public, other employees and themselves, and are prohibited from such use or abuse.
- II. **PURPOSE:** In order to ensure safe transportation and provide for an efficient and drug-free workplace while complying with the Federal Motor Carrier Safety Regulations, John Carroll University (“the University”) has adopted this policy.
- III. **SCOPE:** All John Carroll University employees whose job duties require a Commercial Driver’s License (CDL).
- IV. **DEFINITIONS:**
 - Program Administrator:** the person designated by the University to oversee requirements of the CMV Alcohol/Controlled Substance Testing Policy and Procedure.
 - Substance Abuse Professional:** a qualified individual who has knowledge of alcohol and controlled-substance related disorders and has gone through training and passed an exam as required by the Department of Transportation.
- V. **PROGRAM ADMINISTRATOR’S ROLE:**
 - A. The Director of Regulatory Affairs and Risk Management has been designated by the University as the CMV Alcohol/Controlled Substance Testing Program Administrator. In this function, the Director of Regulatory Affairs and Risk Management will be responsible for answering any questions from CMV drivers or University supervisors and administrators, regarding this policy.
 - B. The Program Administrator will handle information on all tests of covered drivers in a confidential manner. The Program Administrator may provide such information as necessary to the drivers’ supervisors to enable them to

take appropriate disciplinary action as warranted or to other University administrators in relation to the administration of the program. The Program Administrator may also release test information to the University's Substance Abuse Professional to use to evaluate and recommend appropriate follow-up.

VI. DRIVERS SUBJECT TO TESTING:

All drivers who must have a CDL to perform their job duties. Such positions are considered as safety-sensitive positions under federal regulations. "Safety-Sensitive Function" is defined in Section VII below. These positions will be subject to the alcohol and/or controlled substance testing as outlined in this policy and required by applicable federal regulations.

VII. DRIVER COMPLIANCE WITH REGULATION:

- A. All CDL drivers subject to alcohol and controlled substance testing must comply with federal, state and local regulations and this policy at all times while working for the University. This will include all time spent driving a commercial vehicle as well as time spent performing Safety-Sensitive Functions or just before or time just after performing Safety-Sensitive Functions.
- B. "Safety-Sensitive Function" means all time from the time a driver begins to work or is required to be in readiness to work until relieved from work and all responsibilities for performing work. Safety-Sensitive Functions shall include any of the following:
 - 1. All time at a University or third party facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the University;
 - 2. All time inspecting equipment as required by federal regulations, and otherwise inspecting, servicing, or conditioning any University CMV at any time;
 - 3. All time spent at the driving controls of a University CMV in operation;
 - 4. All time, other than driving time, in or upon any University CMV;
 - 5. All time loading or unloading a University CMV, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the University CMV, or in giving or receiving receipts for shipments loaded or unloaded; and/or
 - 6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled University CMV.

VIII. SUBSTANCES TESTED FOR:

The following substances will be tested in CMV drivers to determine their presence:

1. Alcohol
2. Marijuana
3. Cocaine
4. Amphetamines
5. Phencyclidine (PCP)
6. Opiates

Per federal law, there is no exclusion for medical marijuana. Marijuana is always prohibited for CDL drivers.

IX. PROHIBITED CONDUCT:

During the time that CMV drivers are performing Safety-Sensitive Functions, they shall not:

1. Report to and/or remain on duty with an alcohol concentration of 0.04 or greater;
2. Possess any alcohol and/or controlled substance;
3. Use any alcohol and/or controlled substance;
4. Use any alcohol within four (4) hours of going on duty;
5. Use any alcohol for eight (8) hours after an accident which will require the driver to be tested for alcohol or until tested;
6. Refuse to submit to a required alcohol and/or controlled substances test;
7. Report to or remain on duty when using any controlled substance, except when under a physician's orders **AND** the physician has informed the driver that the use will not affect the safe operations of a commercial vehicle; and/or
8. Report to or remain on duty after testing positive for a controlled substance.

X. TESTS REQUIRED:

All CDL drivers who are required to be tested for alcohol and/or controlled substance use or misuse will be tested under the following circumstances:

A. Pre-employment.

1. All applicants for jobs requiring a CDL and/or current employees transferring to a job that requires a CDL will be required to be tested for the use of controlled substances.

2. Any offer of employment to an applicant or current employee for a job requiring a CDL shall be made contingent upon pre-employment testing for controlled substances.
- B. **Random.** All drivers are subject to random testing for alcohol and controlled substances at annual rates determined by the Federal Motor Carrier Safety Administration, which may be changed on a yearly basis. These random tests will be unannounced and will be spread throughout the calendar year. Except as otherwise provided in the Code of Federal Regulations, the minimum percentage rate for annual random alcohol testing shall be ten (10) percent of the average number of CDL driver positions. Except as provided otherwise in the Code of Federal Regulations, the minimum percentage rate for annual random controlled substance testing shall be twenty-five (25) percent of the average number of CDL driver positions.
 - C. **Post-accident.** CDL drivers driving a University CMV involved in an accident will be tested for alcohol and controlled substances following **all** accidents involving a human fatality. If the accident is one where one or more vehicles were towed from the scene of the accident, or involves somebody being injured to the degree that the injury must be treated immediately away from the scene of the accident, the CMV driver must be post-accident tested for both alcohol and controlled substances if the driver receives a summons for a “moving traffic violation” as a result of the accident.
 - D. **Reasonable suspicion.** All drivers who exhibit signs and/or symptoms of alcohol and/or controlled substance use or misuse, which are observed by a trained University supervisor, while performing Safety-Sensitive Functions or just before or just after performing Safety-Sensitive Functions will be required to submit to an alcohol and/or controlled substance test.
 - E. **Return-to-duty.** A driver who previously tested positive for alcohol and/or controlled substances or refused to be tested must submit to a return-to-duty alcohol and/or controlled substance test. The results of the test must be obtained by the University and be negative before the driver may be allowed to perform a Safety Sensitive-Function.
 - F. **Follow-up.** A driver who previously tested positive or refused to be tested and has returned to duty must submit to at least six (6) alcohol and/or controlled substance tests during the first twelve (12) months after returning to work. Follow-up tests will be unannounced and may continue for up to sixty (60) months after returning to work. Any follow-up tests will be at the direction of the Substance Abuse Professional.

XI. TESTING PROCEDURES:

A. Testing Overview

1. The University has contracted with PreCheck as its controlled substance and alcohol program provider and Certified Third Party Administrator (C/TPA). The collection site will be chosen by the Program Administrator.
2. Once a driver has been directed to submit to an alcohol and/or controlled substances test, they will proceed immediately to the testing area directed by the Program Administrator. Drivers must comply with the lawful requests of the technician doing the alcohol and/or controlled substances test.
3. The selected driver will be required to provide a urine specimen for controlled substance testing and/or a breath or saliva sample for analysis of alcohol concentration.
4. The driver will be required to provide photo identification prior to testing. Privacy will be ensured at the facility by means of voiding in a private enclosure. A split sample will be procured, and both samples will be sent to the lab.
5. Proper chain of custody procedures will be followed to ensure that the specimen submitted is indeed the specimen that belongs to the selected driver. The specimen will be sealed to prevent tampering during transport to the laboratory. The C/TPA will utilize federal certified laboratories for testing (controlled substances), and two separate methodologies will be performed to verify all specimens as positive prior to controlled substances reporting to a Medical Review Officer (MRO). The MRO is a licensed physician utilized by the C/TPA that reviews all test results prior to reporting to the University.
6. Should a specimen test positive, the MRO will contact the driver to discuss the test findings and afford the driver an opportunity to discuss test results and any factors that could have contributed to the positive test. Should the driver question the test findings, the driver can request that the split sample be forwarded to another certified laboratory for re-analysis.
7. All test results are treated confidentially by the C/TPA, and no results will be released to outside parties without the driver's express consent or when required by law, rule or regulation or expressly authorized.
8. All testing for alcohol use or misuse will be conducted only by devices which have been approved by the National Highway Traffic Administration and conducted by trained Breath Alcohol Technicians or trained Screening Test Technicians.

B. **Requirement That Drivers Must Submit to Tests:** All drivers who are required by Federal Motor Carrier Safety Regulations and this policy to be subjected to alcohol and/or controlled substances testing must fulfill that requirement when so directed by the Program Administrator or by a trained supervisor, consistent with the requirements of this policy. Failure to comply with the regulations or this policy will be grounds for disciplinary action up to and including termination.

C. **Refusal To Test:**

1. No driver may refuse to submit to a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a follow-up alcohol or controlled substances test required by federal regulations or this policy.
2. The University shall not permit a driver who refuses to submit to such tests to perform or continue to perform Safety-Sensitive Functions.
3. Refuse to submit (to an alcohol or controlled substances test) means that a driver:
 - a. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the University, consistent with applicable federal regulations and this policy, after being directed to do so by the University or the C/TPA;
 - b. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
 - c. Fails to provide a urine specimen for any controlled substances test required by regulations or this policy. An employee who does not provide a urine specimen because they have left the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test;
 - d. In the case of a directly observed or monitored collection in a controlled substances test, fails to permit the observation or monitoring of the driver's provision of a specimen;
 - e. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;

- f. Fails or declines to take a second test that the University or C/TPA has directed the driver to take;
- g. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Program Administrator. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
- h. Fails to cooperate with any part of the testing process (e.g., refuses to empty pockets when so directed by the collector, behaves in a confrontational way that disrupts the collection process); and/or
- i. Is reported by the MRO as having a verified adulterated or substituted test result.

XII. DISCIPLINARY ACTION:

- A. Any driver who violates either the Federal Motor Carrier Safety Regulations or this policy may be subject to disciplinary action up to and including termination of employment.
- B. Any driver who has tested positive for either controlled substances or alcohol, has performed a prohibited act, or has refused to submit to a controlled substances or alcohol test will be removed from the Safety-Sensitive position immediately and directed to a Substance Abuse Professional. The Substance Abuse Professional will:
 - provide a comprehensive face-to-face assessment and clinical evaluation of the driver; and
 - recommend a course of education and/or treatment with which the employee must demonstrate successful compliance prior to returning to a Safety Sensitive Function
- C. Drivers who are found to have an alcohol concentration of 0.02 or greater, but less than 0.04, will be taken out-of-duty for a minimum of 24 hours.

XIII. INFORMATION:

- A. The University will provide each driver required to have a CDL to perform their duties subject to the Federal Motor Carrier Safety Regulations a copy of this policy.
- B. In addition, material which describes the effects of alcohol and/or controlled substance use or abuse on the individual's health, work and personal life, as

well as information on the signs and symptoms of an alcohol or controlled substances problem is available in the Drug-Free Workplace Notice at <http://webmedia.jcu.edu/hr/files/2016/10/Annual-Notice-Draft.pdf>.

- C. Each driver required to have a CDL to perform their duties must sign an acknowledgement of receipt of a copy of this policy and information on alcohol and controlled substance use or abuse. The Acknowledgement Form is attached to this policy as Appendix A.

XIV. REPORTING TO THE CLEARINGHOUSE:

- A. Prior to performing Safety-Sensitive Functions, a driver must consent to a check by the University of their driving records on file with the Commercial Driver's License Drug and Alcohol Clearinghouse ("Clearinghouse").
- B. The following personal information collected and maintained under this part will be reported by the University to the Clearinghouse:
 - 1. A verified positive, adulterated, or substituted drug test result;
 - 2. An alcohol confirmation test with a concentration of 0.04 or higher;
 - 3. A refusal to submit to any test required by this part;
 - 4. The University's report of actual knowledge (as defined by federal regulations) of;
 - On-duty alcohol use;
 - Pre-duty alcohol use;
 - Alcohol use following an accident; and
 - Controlled substance use;
 - 5. A Substance Abuse Professional Report of the successful completion of the return-to-duty process;
 - 6. A negative return-to-duty test; and/or
 - 7. The University's report of completion of follow-up testing.

XV. CROSS REFERENCE

- A. Appendix A: Acknowledgement
- B. JCU University Vehicle Policy
- C. JCU Corrective Action Policy

ACKNOWLEDGMENT

I certify the following:

1. I have received a copy of John Carroll University's Commercial Motor Vehicle (CMV) Alcohol and Controlled Substances Testing Policy and Procedure, and
2. I have been notified of electronic access to material concerning the effects of alcohol and controlled substance on an individual's work and personal life, signs and symptoms of a drug or alcohol problem including a co-worker's, and the methods to deal with a substance abuse problem.

Driver's Signature