



# Williamson County

## Human Resources

### DOT Regulated Drug & Alcohol Testing Policy – DRAFT

Sensitivity: None  
Criticality: Critical  
Primary Type: Policy

#### Summary

##### Purpose

It is the policy of the County to comply fully with the regulations mandating pre-use, random, reasonable suspicion and post-accident drug and alcohol testing in accordance with regulations issued by the U.S. Department of Transportation.

##### Scope

This policy applies to employees whose job requires them to obtain and retain a Commercial Driver's License (CDL) and operate a Commercial Motor Vehicle (CMV) and/or perform safety-sensitive functions.

#### Definitions

##### Performing a Safety-Sensitive Function

Any period in which the employee is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.

##### Safety-Sensitive Function

Any of the on-duty functions set forth in 49 CFR 395.2, and on-duty time.

##### On Duty Time

All the time from the time a driver begins 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. On-duty time shall include:

- All time at the County or shipper plant, terminal, facility, or other property of the County or shipper, or on public property, waiting to be dispatch, unless the driver has been relieved from duty by the County.
- All time inspecting, servicing, or conditioning any commercial motor vehicle at any time.
- All time spent at the driving controls of a commercial motor vehicle.
- All time, other than driving time, spent on or in a commercial motor vehicle.
- All time loading or unloading a commercial motor 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.
- All time spent performing the driver requirements associated with an accident.
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- All time spent providing a breath sample or urine specimen, including travel time to and from the collections site, to comply with the random, reasonable suspicion, post-accident, or follow up testing required by 49 CFR 385.2.
- Performing any other work in the capacity, employ, or service of the County.
- Performing any compensated work for a person who is not the County.

### **Designated Employer Representative (DER)**

An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part.

The Designated Employer Representative for Williamson County will be the Human Resource Generalist(s) servicing:

- Department of Infrastructure
- Unified Road Systems
- Fleet Services

512-943-1533 or [humanresources@wilco.org](mailto:humanresources@wilco.org)

Definitions for additional terminology can be found at the U.S. Department of Transportation [website](#).

## **Roles and Responsibilities**

- All employees in safety sensitive positions are required to adhere to this policy.
- Managers and employees are required to complete all compliance training and abide by all applicable regulations.

## **Policy**

This policy outlines the responsibilities of employees, supervisors and managers with regard to drug and alcohol testing of employees in safety-sensitive positions in accordance with U.S. Department of Transportation regulations, issued under the Omnibus Transportation Employee Testing Act of 1991.

### **A. Prohibited Conduct**

#### **1. Alcohol Concentration**

No employee shall report for duty or remain on duty requiring the performance of a safety-sensitive functions while having an alcohol concentration of 0.02 or greater, or perform or continue to perform safety-sensitive functions.

#### **2. On-Duty Use**

No employee shall use alcohol while performing safety-sensitive functions.

#### **3. Pre-Duty Use**

No employee shall perform safety-sensitive functions within four hours after using alcohol.

#### **4. Use following an accident**

No employee required to take a post-accident alcohol test, shall use alcohol for eight hours following the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.

#### **5. Refusal to Submit a Required Alcohol or Controlled Substance Test**

No applicant shall refuse to submit to a pre-employment controlled substance test required under 382.301. No employee shall refuse to submit to a post-accident alcohol or

controlled substance test required under 382.303, a random alcohol or controlled substances test under 382.305, a reasonable suspicion alcohol or controlled substance test required under 382.307, a return-to-duty alcohol or controlled substances test required under 382.309, or a follow-up alcohol or controlled substance test required under 382.311. No employee shall perform or continue to perform safety-sensitive functions, who refuses to submit to such tests.

**6. Controlled Substance Use**

No employee shall report for duty or remain on duty requiring the performance of safety sensitive functions when the driver uses any drugs or substances identified in 21 CFR 1308.11 Schedule I.

No employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any non-schedule I drug or substance that is identified in the other schedules in 21 CFR part 1308 except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in 382.107, who is familiar with the employees medical history and has advised the driver that the substance will not adversely affect the employees ability to safely operate a commercial motor vehicle. Employees that perform safety-sensitive functions are required to inform Human Resources of any therapeutic drug use.

**7. Controlled Substance Testing**

No employee shall report for duty, remain on duty or perform a safety-sensitive function, if the employee tests positive or has adulterated or substituted a test specimen for controlled substances.

Employees in violation of prohibited conduct are not authorized by Williamson County to operate a commercial motor vehicle or perform any safety-sensitive functions.

**B. Circumstances for Testing**

**Types of Tests**

To the extent practicable, all tests will be conducted during employees' normally scheduled work hours. All testing required by this policy will be conducted in accordance with the Omnibus Transportation Employee Testing Act of 1991 and drug testing guidelines and regulations issued by the Department of Transportation.

The following tests are performed by 3rd party medical personnel and are required:

**1. Pre-employment:**

All applicants with a bona-fide job offer for employment in CDL positions or that perform safety- sensitive functions, candidates for transfer or promotion to such positions are subject to screening for improper use of alcohol or controlled substances.

**2. Post-Accident:**

Conducted following an occurrence involving a County owned commercial motor vehicle, while performing a safety-sensitive function, whose performance could have contributed to the accident, as determined by a citation for a moving traffic violation, or resulted in bodily injury to any person, or disables one or more motor vehicles as a result of the accident, and for all fatal accidents even if the driver is not cited for a moving traffic violation. Employee must remain available for such testing or will be deemed a refusal.

- a. Alcohol tests should be conducted within 2 hours, but in no case more than 8 hours, after the accident.

- b. Any Employee required to be tested but needs medical assistance, must get the needed medical assistance first.
- c. CDL employees must refrain from all alcohol use until the test is complete.
- d. Post-accident drug tests must be conducted within 32 hours.
- e. Employee is placed on paid administrative leave until the results are confirmed.

**3. Reasonable Suspicion:**

Conducted when a trained supervisor or manager observes behavior or appearance that is characteristic of alcohol or illicit drug misuse.

- a. If a CDL employee's behavior or appearance suggests alcohol or drug misuse, a reasonable suspicion test must be conducted.
- b. If a test cannot be administered, the employee must be removed from performing safety-sensitive duties for at least 24 hours.
- c. Testing for alcohol abuse must be based upon suspicion which arises just before, during or just after the time when the employee is performing safety-sensitive duties.
- d. Testing for substance abuse may occur at any time upon suspicion.
- e. Reasonable suspicion testing may only be conducted after consultation with the Senior Director of Human Resources and/or DER.

**4. Random:**

Conducted on a random, unannounced basis just before, during or after performance of safety-sensitive functions for alcohol or at any time for drugs.

- a. Each year, the number of random alcohol tests conducted by the County must equal at least 25% of all the safety-sensitive CDL employees.
- b. Random drug tests conducted by the County must equal at least 50% of all employees that require a CDL or perform safety-sensitive functions.

**5. Return to Duty:**

Conducted when an individual who has violated the prohibited alcohol or drug standards returns to performing safety-sensitive duties after successful complying with the recommended treatment and education, verified by the 3rd party substance abuse professional (SAP).

- a. The SAP will develop the employee's follow-up testing plan; outlining for the County the number and frequency of follow-up testing that will take place. Follow-up tests are random within the follow up period.
- b. Must test negative for Drug and Alcohol prior to returning to duty.
- c. Follow-up testing may be extended for up to sixty (60) months following the return to duty, determined by the SAP.

## **C. Testing Procedures**

**1. Alcohol:**

- a. DOT rules require breath testing using evidential breath testing (EBT) devices.
- b. Two breath tests are required to determine if a person has a prohibited alcohol concentration.
- c. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. Therefore, any result with a 0.02 alcohol concentration or greater is considered a "positive" test. If the alcohol concentration is 0.02 or greater, a second, confirmation test must be conducted.

## **2. Drugs:**

- a. Drug testing is conducted by analyzing an employee's urine specimen and must be conducted through a U.S. Department of Health and Human Services certified facility, which may conduct onsite collections.
- b. Specimen collection procedures and chain of custody requirements ensure that the specimen's security, proper identification and integrity are not compromised.
- c. DOT rules require a split specimen procedure.
  - (1) Each urine specimen is subdivided into two bottles labeled as primary and split.
  - (2) Both bottles are sent to the laboratory.
  - (3) Only the primary specimen is opened and used for the urinalysis.
  - (4) The split specimen remains sealed at the laboratory.
  - (5) If the analysis of the primary specimen confirms the presence of illegal controlled substances, the employee has 72 hours to request that the split specimen be sent to another DHHS certified laboratory for analysis.
- d. All urine specimens are currently analyzed for the following drugs:
  - (1) Marijuana (THC)
  - (2) Amphetamines
  - (3) Opioids
  - (4) Phencyclidine (PCP)
  - (5) Cocaine
- e. Testing is conducted using a two-stage process.
  - (1) First, a screening test is performed.
  - (2) If the test is positive for one or more of the drugs, a confirmation test is performed for each identified drug.
  - (3) Sophisticated testing requirements ensure that over-the-counter medications or preparations are not reported as positive results.
- f. All drug tests are reviewed and interpreted by a 3rd party physician designated as a Medical Review Officer (MRO) before they are reported to the County.
  - (1) If the laboratory reports a positive result to the MRO, the MRO will contact the driver and conduct an interview to determine if there is an alternative medical explanation for the drugs found in the urine specimen.
  - (2) For all the drugs listed above, except PCP, there are some limited, legitimate medical uses that may explain a positive test result. The MRO will take into consideration 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.
  - (3) If the MRO determines that the drug use is legitimate, the test will be reported to the Designated Employer Representative and the Senior Director of Human Resources as a negative result.
  - (4) Failure to cooperate with MRO requests will be considered a positive result.

## **D. Refusal to Submit to an Alcohol or Drug Test**

1. Refusal to submit to an alcohol or controlled substances test means that a CDL employee:
  - a. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this policy.

- b. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy.
- c. Refuses to wash his or her hands after being directed to do so during collection of a urine sample.
- d. Admits to the collector of a urine sample that he or she has adulterated or substituted their specimen.
- e. During an observed collection of a urine sample, fails to follow the observer's instructions to raise his or her clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if he or she has any type of prosthetic or other device that could be used to interfere with the collection process.
- f. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process.
- g. Behaves in a confrontational way that disrupts the collection process or otherwise engages in conduct that clearly obstructs the testing process.

*The examples above are not all inclusive as there are other acts and circumstances that may be deemed as a refusal under Part 40 and DOT regulations. Refusal to test is considered a positive result. Employees who refuse to submit to an alcohol or drug test are prohibited from performing safety-sensitive functions and will be placed on unpaid administrative leave.*

## **E. Consequences of Alcohol/Drug Misuse and Refusals**

Employees who perform safety-sensitive function that violate any of the prohibited conduct under the DOT Regulated Drug & Alcohol Testing policy or violates any other provisions of the DOT testing rules, the employee will be immediately removed from performing such duties.

1. Disciplinary action, up to and including termination, may be imposed upon an employee who performs safety-sensitive functions that engages in prohibited alcohol or drug conduct or refuses to test.
  - a. A positive post-accident alcohol or drug test will result in termination.
  - b. The first time an employee alcohol test result is 0.02 or greater, but less than 0.04 will be placed on unpaid administrative leave for a minimum of 24 hours.
  - c. A second alcohol test with a result of 0.02 or greater, but less than 0.04 must be evaluated by a DOT approved substance abuse professional, and comply with any treatment recommendations to assist the employee with their alcohol or drug problem, at the employees expense, prior to returning to a safety-sensitive function.
2. The first time a safety-sensitive employee tests positive for alcohol use greater than 0.04 or drug use, or refuses to test, and is not terminated, they must be evaluated by an DOT approved substance abuse professional (SAP), and comply with any treatment recommendations to assist the employee with their alcohol or drug problem, at the employees expense, prior to returning to a safety-sensitive function.
  - a. If this employee has agreed to participate in the SAP program and Return-to-Duty testing, he/she will be placed on unpaid administrative leave, unless FMLA qualifications are met, until the SAP program has been deemed successfully completed by the substance abuse professional.
  - b. After successfully completing the SAP requirements, the employee may be eligible to return to work.

- c. If this employee tests positive for alcohol greater than 0.02 or drug use, a second time during the return to duty testing or after successful completion of the SAP/Return to Duty program, will be terminated.

## F. Information/Training

1. All personnel responsible for supervising and managing CDL employees must attend at least two hours of training on alcohol and drug misuse symptoms and indicators used in making determinations for reasonable suspicion testing.
  - a. Supervisors and managers will be instructed on the detection of abuse problems and the enforcement of the testing policy.
  - b. Educational information will be made available on Wilco 365 which will focus on the potentially dangerous effects of drug and alcohol use and abuse, the effects on job performance measured in loss of productivity, and the potential safety hazards presented to the individual employee, other employees and the public.

## G. Employee Assistance Program (EAP)

All employees have access to Williamson County's EAP where they may receive assistance for alcohol or drug misuse.

## Related Statutes, Policies, and Authorities

This Policy is a summary of the various rules and requirements that apply under the DOT and Federal Motor Carrier Act to certain employees. In all circumstances the applicable federal rules and regulations, as they may appear from time to time, control over any contrary, ambiguous, or omission related to the County Policy.

## Contact Office

Employees with questions about any issues related to the County's Policy or applicable rules should consult with the Designated Employer Representative or the Senior Director of Human Resources.

Email: [humanresources@wilco.org](mailto:humanresources@wilco.org)

Phone: 512-943-1533

### Administrative Notes

Policy Class: Risk Management

Policy Family: Risk Mitigation

Policy: DOT Regulated Drug & Alcohol Testing Policy

## Revision History

Version	Date	Description
2.0	07/30/2024	Policy proposal for Commissioners Court Approval