

SUPPLEMENT TO THE DRUG ABUSE POLICY

Introduction

When the Federal Highway Administration (FHWA), Department of Transportation implemented the alcohol and drug ruling, it was obvious that a critical part of the ruling involved the supervisors of those persons that were in operator positions. It is now the responsibility of the supervisor to determine when testing for "reasonable suspicion" should be administered. The importance of the supervisor training and the manner in which the information is conveyed to the operators cannot be taken lightly as it involves not only safety, but the morale and employability of people.

The following information will supplement the Drug Abuse Policy adopted by our organization. This will provide additional information about random testing, and discuss the effects of alcohol and drugs on the body.

Random Testing-Alcohol

Random testing is done on a percentage basis. The FHWA bases the minimum annual percentage required on the violation rate for the entire industry. Per 49 CFR 382.305 the minimum annual percentage rate for random alcohol testing is 25%. The number of operators tested must be equal to, but not less than the minimum required rate determined by the FHWA.

All random testing must be unannounced and the dates for conduction the tests must be spread reasonably throughout the calendar year. Organizations must require that operators selected for random testing proceed immediately to the test site.

Random alcohol testing can only be conducted just before, during or immediately after performing a safety- sensitive function, unless an operator is considered to be "on-call".

If an operator is subject to random testing under the rules of more than one DOT agency for the same organization, the operator is tested at the random rate specified by the DOT agency regulating over 50% of the operator's functions. If more than one DOT agency is involved, the organization may establish separate pools for random selection with each pool containing the DOT covered operators subject to testing at the same required minimum rate, or randomly select such operators for testing at the highest minimum rate by any DOT agency to which the organization is subject to.

Random Testing - Drugs

Unannounced random drug testing must be completed on 50% of operators each year. Random selection must be done so each operator has an equal chance of being selected each time the selections are made.

All random testing must be unannounced and the dates for conducting the tests must be spread reasonably throughout the calendar year. Organizations must require that operators selected for random testing proceed immediately to the collection/test site.

If an operator is subject to random testing under the rules of more than one DOT agency for the same organization, the operator is tested at the random rate specified by the DOT agency regulating over 50% of the operator's functions.

Reasonable Suspicion Testing- General

The regulations allow reasonable suspicion testing when a supervisor has reasonable suspicion to believe that an operator's appearance or behavior may indicate drug or alcohol use.

The determination to test for reasonable suspicion MUST BE BASED ON THE OBSERVATIONS OF A SUPERVISOR or company official who has received drug and alcohol training required by the Department of Transportation ruling. The ruling further states that the supervisor training must consist of a minimum of one hour on alcohol misuse and one hour on controlled substances use.

It cannot be stressed enough that reasonable suspicion testing must be based on your observations, accompanied with good documentation. If you observe an operator that, based on their ability to perform operator functions, gives you reason to suspect the misuse of alcohol or drugs, then reasonable suspicion testing should be administered.

Note that with suspicion of alcohol misuse these observations must be made immediately before, during or just after the performance of the operator functions unless the operator is considered "on call" and is aware that they are "on call". With suspected drug use, your observations can be made any time the operator is performing duties for the organization.

If the supervisor is unsure of the substance or suspects both alcohol and drugs are being abused, then testing for both should be administered. In an instance where both alcohol testing and drug testing are to be administered then the alcohol testing should be performed first.

Alcohol leaves the body much quicker than drugs so this test should be administered as soon as possible. Alcohol testing should be done within 2 hours if at all possible.

Example: In some cases when a drug test is performed first, the operator may not be able to provide a urine sample: therefore, by waiting for the operator to provide the urine sample, the 2 hour limit could be exceeded for an accurate alcohol test.

The other side of this is that when you test for alcohol first the operator will immediately see the results and may refuse a drug test if the alcohol test was positive.

Many organizations require both tests in all cases of reasonable suspicion, with the alcohol test always being first.

If you make the observation and determine that reasonable suspicion testing should be done, as the observer you may not conduct the alcohol test or specimen collection.

Reason Suspicion- Alcohol

Alcohol testing can be done if the organization has reasonable suspicion to believe that an operator's behavior or appearance, instead of performance, may indicate alcohol use.

The determination to test for reasonable suspicion must be based on:

1. The observations of a supervisor or official who has received the training required DOT.
2. Specific, clearly stated observations concerning the appearance, behavior, speech or body odors of the operator.
3. Observations made just before, during, or just after the performance of operator functions.

Note: The supervisor who makes the observation and determines that reasonable suspicion testing should be done may not conduct the alcohol test on the operator.

Alcohol testing for reasonable suspicion must be done within two hours of the observations. If testing cannot be done within this time limit the organization must maintain a file that explains why the testing was not done immediately.

Operators cannot report for duty or stay on the job while under the influence of alcohol or while impaired by alcohol as shown by behavior, speech, or performance that indicated alcohol misuse.

Our organization shall not allow these operators to continue to perform operator functions until an alcohol test is administered and the operator tests below .02 alcohol level. If an operator tests .04 or above or if they refuse to have an alcohol test administered then the operator is deemed to have failed the alcohol test and will be terminated per our policies.

Evidential Breath Testing (EBT)

Regardless of the type of alcohol breath testing done, the regulations require that an Evidential Breath Testing (EBT) device be used. All EBT's used for alcohol testing must be approved by the National Highway Traffic Safety Administration. Additionally, only the approved "Breath Alcohol Testing" form may be used. The Breath Alcohol Technician has the forms and must provide 4 copies.

Copy 1 for the breath alcohol technician

Copy 2 for the operator

Copy 3 for the organization

Copy 4 for the plan administrator

NOTE: An EBT device that prints out the results, date and time of the test must be used for the confirmation test.

If the operator is unable or states that he/she is unable to provide adequate breath for testing:

- A. The BAT will make another attempt to have the operator complete the breath test
- B. If the operator still cannot provide adequate breath, the BAT will notify the organization immediately.
- C. The organization will require the operator to be evaluated by a physician acceptable to the organization concerning the operator's medical ability to provide an adequate amount of breath.
- D. If the physician determines and provides a written statement that a medical condition should prevent the operator from completing the test, the result cannot be regarded as a refusal to test.

Reasonable Suspicion- Drug Testing

There is significant difference as it related to suspicion drug testing. First of all, the use of controlled substances is illegal. This means they cannot be used in or outside the workplace with a prescription.

Reasonable suspicion drug testing must be based on specific, clearly stated observations concerning the appearance, behavior, speech or body odors of the operator detected by a trained supervisor. The observations can be made any time the operator is at work for the organization.

The decision to perform reasonable suspicion testing for drugs may follow an accumulation of events. These events may be tardiness or increased absenteeism, added to poor job performance or unusual or bizarre behavior. Please review the selections on drugs and their effects discussed in detail later in this document.

Observed behavior documentation for reasonable suspicion must be made and signed with 24 hours of the observed behavior or before the results of the test are released.

SPECIAL NOTE ON DRUG TESTING

NOTE: Any action required by the DOT as a result of a positive test (i.e. removal from the operator duty) is not delayed pending the result of a split specimen confirmation test or appeal process.

Approaching the Operator- General

It is important that you remember that some medical conditions may resemble the symptoms of drug use or alcohol misuse. It is also important that you stick to the facts and base your observations on what you see or smell. Never "assume" or act on what someone tells you.

You may observe some of these signs, particularly with alcohol:

- Odor of alcohol on breath
- Lack of coordination or poor balance

- Slurred speech
- Inability to divide attention

There is significant difference as it related to drug use. First of all, the use of controlled substances is illegal. This means they cannot be used in or outside the workplace.

The decision to perform reasonable suspicion testing for drugs may also follow an accumulation of events as discussed in the selection above and/or may observe possible drug effects as discussed in detail later in this supplement.

For various reasons use the following approach is recommended.

1. Meet with the operator in privacy(you may want another supervisor to be present as a safeguard) in an effort to determine if there may be other reasons for his/her job performance, appearance, behavior, speech, or other observations that caused suspicion.
2. Explain to the operator that you are concerned about the things you have observed. Ask for an explanation.
3. Unless you are fairly certain that alcohol has been misused or that a controlled substance has been taken, require the operator to undergo BOTH alcohol and drug testing if there is still suspicion.

You may want to also inform the operator that some medical problems can often show the same indications as drugs or alcohol misuse.

The operator may decide, at his/her own expense, to have a health assessment performed, particularly blood pressure, respiration and pulse.

FOR SAFETY REASONS AND POSSIBLY LIABILITY ASSIGNMENT, DO NOT LET THE OPERATOR DRIVE ALONE TO THE TEST/COLLECTION FACILITY. Also, do not let the operator drive the organization's vehicle to the facility. It is not the responsibility of the test/collection site to prevent an operator from driving or leaving the facility.

Always try to avoid mentioning drug and alcohol used when you are approaching an operator that you have reason to believe may have an alcohol or drug problem. Remember to stick to the facts and what you have observed. Use performance and physical observations if at all possible. NEVER ACCUSE SOMEONE OF USING DRUGS OR MISUSING ALCOHOL.

When approaching an operator that may be using drugs or misusing alcohol expect the following behavioral signs.

- Becomes defensive or denies your observations
- Talks non-stop
- Cries
- Remains silent
- Becomes aggressive or belligerent
- Uncooperative

Listen respectfully and repeat what you have observed, emphasizing that you are only following the rules required by DOT and your organizational policy.

Simply point out that an evaluation must be done to get to the root of the problem and to find a solution.

Keep the conversation in focus by asking questions that require only a yes or no answer. This will help you keep control of the situation.

Give the operator time to regain composure, remember you must always remain in control. Maintain your composure by using a calm tone of voice. Avoid raising your voice as it sets up a win-lose situation and you could escalate the aggressive behavior. Ignore inflammatory remarks that could escalate the aggressive behavior.

Post-Accident- Alcohol

Post-accident alcohol testing must be completed following an accident with a fatality or where the operator was cited for moving traffic violation. Testing should be done within two and half (2 ½) hours of the accident. If testing cannot be done within this time limit, the organization must maintain a file that explains why the testing was not done immediately.

If a test is not done within eight (8) hours of the accident a file explaining this decision must also be kept. These records must be provided to the FHWA on demand.

It is recommended that you provide each operator with our plan administrator's collection site hotline number which will identify the closest testing/collection facility in the event that an operator has an accident while outside our normal operating area.

Post-Accident Testing- Drug

Post-accident drug testing on the operator must be completed as soon as possible following an accident with a fatality or where the driver was cited for moving traffic violation. Testing should be done within 32 hours of the accident. If a test is not done within this time limit records must be kept explaining the reason why.

It is recommended that you provide each operator with our plan administrator's collection site hotline number which will identify the closest testing/collection facility in the event that an operator has an accident while outside our normal operating area.

Summary

The effects and symptoms of substance abuse provided in this material give you information that can help you determine when to require reasonable suspicion testing. It is not intended to be a complete course on alcohol or drug abuse.

As a supervisor, your role is to know when an operator appears or behaves as if alcohol or drugs were abuses. You re not required to know when someone has been using cocaine or any other specific drugs. As previously mentioned, when in doubt of the substance used, it is generally best to require both alcohol and drug testing.

MOST IMPORTANTLY, be thoroughly familiar with our organization's alcohol and drug policy. This is only a supplement to the policy and should be treated as such. Following the established rules offers you support and the knowledge that your actions are within the standards defined by the Department of Transportation and your organization.

If you have any questions or concerns please contact the following

NAME

TELEPHONE

NAME

TELEPHONE