



## **A Supervisor's Manual**

# **Guidelines for Reasonable Suspicion Drug and Alcohol Testing**

**For Supervisors of DOT-covered employees**

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## INTRODUCTION

This Supervisor's Guide to Reasonable Suspicion Drug and Alcohol Testing is provided to assist supervisors of safety-sensitive employees in making decisions about reasonable suspicion drug and alcohol tests as required by Department of Transportation Anti-Drug and Alcohol Misuse Prevention Rules. The Guide will serve as a ready reference for supervisors in fulfilling their responsibilities to monitor employees' compliance with the drug and alcohol use standards set forth in the DOT rules.

At Appendix A, the Guide presents workplace scenarios designed to provide the supervisor with "real life" practical situations that necessitate the supervisor's evaluation and assessment concerning a reasonable suspicion test determination. These scenarios may be used as "practical exercises" by the supervisor in implementing and integrating the didactic information presented in the training course and Guide. Each workplace scenario contains several questions that lead the supervisor through the decision making process concerning a reasonable suspicion test determination.

These scenarios can also be used as "case studies" for discussion in a group training session, or can be presented as "role plays" in a facilitated training course. Suggested responses to the workplace scenarios are provided at the end of Appendix A.

Appendix B is the Supervisor's Checklist for Reasonable Suspicion Test Determination. This is an easy to use checklist for providing documentation of the supervisor's observations of employee behavior, appearance, speech, or body odors made in conjunction with the reasonable suspicion test determination. The checklist is designed to cover situations that necessitate a reasonable suspicion alcohol and/or drug test. The checklist can serve as the written documentation to support a decision to conduct a reasonable suspicion test. DOT rules require written documentation of the supervisor's observations of the employee and the decision to conduct a reasonable suspicion test. The checklist should be maintained in confidential files as documentation of compliance with reasonable suspicion testing requirements.

## **OVERVIEW OF DEPARTMENT OF TRANSPORTATION ANTI-DRUG AND ALCOHOL MISUSE PREVENTION RULES**

In 1988, the Department of Transportation issued safety regulations requiring transportation employers to implement workplace anti-drug policies and programs that included employee drug testing, drug prevention education and training, and sanctions for employee illegal drug use. The goal of the anti-drug rules is to protect public safety by deterring illegal drug use by safety-sensitive employees. The 1988 rules applied to employers in the aviation, railroad, commercial motor vehicle, commercial marine, and liquid and gas pipeline industries, covering approximately 4 million employees in safety-sensitive transportation occupations.

The anti-drug rules require urine drug testing for illicit controlled substances. Pre-employment, post-accident, reasonable-suspicion, random and return-to-duty testing is required. Urine specimens are obtained from employees using procedures that protect the employee's privacy, ensure the accuracy and reliability of test results, and provide for forensic security, integrity and identification of the urine specimen. Analysis of the specimen is performed at drug testing laboratories certified by the Department of Health and Human Services. Each specimen reported positive for drugs undergoes two independent analyses; one using immunoassay methodology, and a second procedure using gas chromatography/mass spectrometry methodology. Test results are sent to a physician designated by the employer to serve as a medical review officer (MRO). The MRO interviews the employee to determine if there is an alternative medical explanation for the urinalysis finding. Once the MRO has reviewed and interpreted the test result, it is reported to the employer. The employer is required to remove from safety-sensitive duty any employee whose test results is reported as positive.

In 1994, in response to the Omnibus Transportation Employee Testing Act passed by Congress, the DOT issued expanded drug testing regulations. These rules added over 3 million employees to the categories subject to drug testing. Safety-sensitive employees of city, county or other public transit services are subject to alcohol and drug testing requirements under rules issued by the Federal Transit Administration (FTA), a DOT agency. Additionally, employees who operate a vehicle requiring a commercial driver's license (CDL) are subject to substance abuse testing. This expansion of the scope of the Federal Motor Carrier Safety Administration (FMCSA) rule added over 3 million city, county and state employees, school bus drivers, and intrastate commercial motor vehicle drivers to the scope of the FMCSA alcohol and controlled substances testing regulation.

The Omnibus Transportation Employee Testing Act also required the DOT to add alcohol testing to its existing drug testing programs. The FAA, FRA, FMCSA and FTA issued alcohol misuse

prevention rules based on a philosophy of prevention and deterrence with a focus on fitness for duty. The rules establish specific standards of conduct related to alcohol use and the performance of safety-sensitive duties. Alcohol misuse is defined as: on-duty use, use within 4 hours of reporting for duty (8 hrs for flight crew members), having an alcohol concentration of 0.04 or greater just before, during or just after performing safety-sensitive duties. The consequences of engaging in alcohol misuse are removal from safety-sensitive duties and evaluation by a substance abuse professional to determine if the employee needs assistance in resolving problems associated with alcohol use.

The rules require alcohol breath testing in the following circumstances: post-accident; random; reasonable suspicion; and return-to-duty/follow-up. In addition to testing requirements, employers are required to implement an alcohol misuse prevention policy, provide training for supervisors, maintain records and documents related to alcohol testing, and establish resources for employee substance abuse assistance.

The DOT has established specific procedures for conducting alcohol testing. The procedures require the use of breath or saliva alcohol testing devices. Evidential Breath Testing (EBT) equipment must be used for a confirmation test if the initial screening test is 0.02 or greater. The DOT procedures also establish qualifications for Screening Test Technicians and Breath Alcohol Technicians (BAT) who administer the tests. The testing procedures provide for employee privacy protection and ensure the accuracy and reliability of alcohol test results through a quality assurance program.

## **SUPERVISOR TRAINING REQUIREMENT**

Each of the DOT rules requires employers to provide training for supervisors of safety-sensitive employees. The training must include specific information on the physical, behavioral, and performance indicators of probable drug or alcohol use. Supervisors who may make reasonable suspicion test determinations must complete at least 2 hours of supervisor training—one hour on signs and symptoms associated with drug use and one hour on signs and symptom associated with alcohol misuse. Employers must maintain documentation of the Supervisor's participation in the required training.

The Federal Railroad Administration (FRA) rule requires that supervisors of Hours of Service employees complete at least 3 hours of training on drug and alcohol testing requirements, including reasonable suspicion test determinations. The Federal Aviation Administration (FAA) rule requires that supervisor training on reasonable suspicion drug testing consist of the 2 hours training, plus recurrent supervisor training at intervals specified in the aviation employer's anti-drug and alcohol misuse prevention plan.

## **REASONABLE SUSPICION DRUG AND ALCOHOL TESTING**

Reasonable suspicion testing is one component of a comprehensive workplace drug and alcohol testing program. Like other types of testing, reasonable suspicion testing is a tool to deter employees from engaging in prohibited drug and alcohol use and to identify those who do use illegal drugs or misuse alcohol. The overall goal of reasonable suspicion testing is to protect public and workplace safety by ensuring that employees whose behavior and appearance indicate possible illegal drug use or alcohol misuse are removed from safety sensitive duties.

There is a significant major difference between testing for alcohol misuse and testing for drug use. Use of controlled substances without a physician's authorization is prohibited for safety-sensitive employees. Unlike alcohol, which is a legal substance, the use of illicit drugs is not linked to specific times in relation to the performance of safety-sensitive duties. Illegal use of controlled substances is prohibited: whether such use is on-duty, off-duty, or at any time. Drug testing is not a fitness for duty program. There is no attempt based on a drug test to determine if the individual is under the influence of or impaired by drugs. Drug testing is a mechanism to determine if the employee has used a prohibited drug; regardless of when, or what amount.

The DOT rules require that determinations to conduct reasonable suspicion testing be based on specific contemporaneous articulable observations of employee conduct, behavior, appearance or body odors. The observations must be made and documented by a supervisor who has participated in training on the signs and symptoms of alcohol misuse and drug abuse and the requirements for reasonable suspicion testing. In the case of reasonable suspicion alcohol testing, the observations of employee behavior, conduct, or appearance must be made just before, during, or just after performing safety-sensitive duties. Unlike reasonable suspicion alcohol testing, a reasonable suspicion drug test determination may be made at any time the supervisor observes employee behavior or appearance indicating possible use of controlled substances.

Once a supervisor makes a determination that a reasonable suspicion test is required, the test should be conducted as soon as possible. If the breath alcohol test is not conducted within 2 hours of the decision to require a test, the reasons for the delay must be documented. If the breath alcohol test is not obtained within 8 hours of the decision to test, the testing is discontinued. The supervisor should complete signed, written documentation of the observations leading to a reasonable suspicion test within 24 hours of the observations. The DOT rules require that written documentation of reasonable suspicion testing determinations be maintained in a confidential file

Even if the reasonable suspicion test cannot be conducted, the employer must remove from safety-sensitive duties any employee whose behavior or appearance is indicative of being under the influence of or impaired by alcohol or drugs. This requirement of removal from safety-sensitive duties, in the absence of a test result, is to protect the public safety and ensure that an employee who may not be fit for duty does not continue to jeopardize himself and/or his co-workers.

Reasonable suspicion testing is important to monitoring employees' compliance with requirements regarding drug and alcohol use. Employees who engage in illegal drug use or alcohol misuse put themselves, their co-workers and the public at risk. Supervisory personnel have a responsibility to monitor employee performance, behavior and conduct to ensure that they are able to perform safely their duties. Reasonable suspicion testing isn't "blowing the whistle" on or "harassing" employees; it is a tool to deter substance abuse, to protect workplace safety, and to identify employees who need help in resolving problems associated with drug or alcohol abuse.

## **SUMMARY**

### **Reasonable Suspicion Testing**

- Reasonable suspicion testing is mandated
- Decision to test must be based on supervisor's observations
- Observations must be specific, contemporaneous, and articulable
- Observations must be of employee appearance, behavior, conduct
- Supervisor must have training on signs and symptoms of drug and alcohol abuse
- Supervisor who makes observations cannot conduct alcohol test or collect urine specimen for drug test
- For reasonable suspicion alcohol testing, observations must be made just before, during, or just after performing safety-sensitive duties
- Testing must be conducted promptly after the determination to test is made
- If alcohol test is not conducted within 2 hours, reasons must be documented; if not conducted within 8 hrs, test must be discontinued
- Any employee who may be under the influence of or impaired by alcohol or drugs must be removed from duty
- Written documentation of observations is required within 24 hrs
- Illegal drug use is prohibited at all times
- Urine drug test does not establish if the person is under the influence of a drug

## **PROHIBITED DRUG USE**

The DOT drug testing regulations require testing for five classes of drugs:

- marijuana

- cocaine
- amphetamines (including amphetamine & methamphetamine)
- opiates (including morphine, codeine & heroin)
- phencyclidine (PCP)

These five classes of drugs represent the most frequently abused illegal drugs. Most prescription drugs are not found in these classes of drugs. Barbiturates, benzodiazapines, synthetic morphines, and other prescription medications are not identified through the DOT drug testing program. Because the DOT rules are primarily focused on deterring illegal drug use, the fitness for duty issues related to prescription drug use or abuse are not addressed in the testing requirements.

Drug testing identifies the drug metabolites produced in the urine after ingestion of marijuana, cocaine, amphetamines, opiates, or PCP. The urine specimen is first analyzed using an immunoassay to identify the presence of metabolites in the one or more of the drug classes. If this screening test is positive for drugs, a second analysis using gas chromatography/mass spectrometry (GC/MS) is used to identify the specific drug metabolite. The amount of drug metabolite found in the urine is measured in nanograms per milliliter. Cut-off levels or thresholds are used to determine if a specimen is reported positive for drugs.

The cut-off levels were established so that only specimens containing a sufficient quantity of drug metabolites to ensure that the individual actually ingested the drug, as opposed to simply being exposed to the drug, are identified as positive. This prevents persons who may be passively exposed to drugs, such as through secondary marijuana smoke or cocaine tainted money, from being identified as having ingested the controlled substance.

The use of the very sophisticated, extremely accurate GC/MS confirmation methodology also ensures that the use of over the counter medications or preparations containing sudafed, ibuprofen, aspirin, caffeine, etc. do not yield positive results.

## **SUMMARY**

### **Drug Classes**

**DOT testing is for five classes of drugs:**

- **marijuana**
- **cocaine**
- **amphetamines (methamphetamine & amphetamine)**

- **opiates (codeine, morphine & heroin)**
  - **phencyclidine**
- 
- Most prescription drugs are not found in these drug classes
  - Urine specimens undergo a separate screening and confirmation test before being reported positive
  - Cut-off levels prevent passive inhalation of drugs from causing a positive result
  - Over the counter medications do not cause a positive drug test

## **ALCOHOL MISUSE**

The standards of alcohol related conduct for safety-sensitive employees involve prohibited behavior in the context of performing safety-sensitive duties. Alcohol is a legal drug and therefore its use is prohibited only in relation to performance of safety-sensitive duties. An employee's off duty use of alcohol is not proscribed by the DOT rules, except when such use has a direct bearing on the employee's condition and fitness for duty when he/she is ready to begin performing safety-sensitive duties. Thus, the DOT alcohol misuse prevention rules are specific about when and under what circumstances alcohol use is prohibited. The rules prohibit the performance of safety-sensitive duties when employees engage in certain alcohol related conduct.

Under the DOT rules, performance of safety-sensitive duties is prohibited when an employee:

- has a breath alcohol concentration of .04 or greater
- consumes alcohol while on duty
- has consumed alcohol within 4 hours of reporting for duty (8 hours for flight crew members)
- possesses alcohol while on duty (applies to commercial driver's license (CDL) positions only)
- refuses to take a required alcohol test
- required to undergo a post-accident alcohol test has consumed alcohol before the post-accident test is conducted or within 8 hours after the accident, whichever occurs first

Additionally, any employee whose alcohol test result is 0.02-0.039 BrAc must be removed from duty as follows:

FMCSA – for at least 24 hours

FRA – for at least 8 hours

FTA, FAA and PHMSA – until alcohol concentration is < 0.020 or for at least 8 hours.

The objective of reasonable suspicion alcohol testing is to determine if the employee has engaged in any of the prohibited conduct listed above. The decision to make such a determination based on a breath alcohol test, must be based on observations of the employee's behavior or appearance that are possible indicators of alcohol misuse.

Because reasonable suspicion alcohol testing is conducted before an accident or safety incident occurs, it can be an effective safety strategy. It is aimed at identifying a potentially unsafe or unfit employee and removing him/her from safety duties before an accident or workplace safety incident occurs. Reasonable suspicion testing can serve as effective deterrent to alcohol misuse since it provides a method to identify employees who engage in prohibited alcohol related conduct.

### **SUMMARY**

#### **Alcohol Misuse**

**Employees cannot perform safety-sensitive duties when they have:**

- An alcohol concentration of .04 or greater
- Consumed alcohol within 4 hrs of performing safety-sensitive duties (8 hrs. for flight crew members)
- Consumed alcohol while on-duty
- Alcohol in their possession while on duty (CDL only)
- Refused an alcohol test
- Consumed alcohol following an accident prior to taking an alcohol breath test

In addition, any employee whose alcohol test result is 0.02-0.039 BrAc must be removed from duty for a specific period of time based on the DOT rules:

FMCSA – for at least 24 hours

FRA – for at least 8 hours

FTA, FAA and PHMSA – until alcohol concentration is < 0.020 or for at least 8 hours.

## **DEFINITION OF REASONABLE SUSPICION**

Reasonable suspicion is a broad based term used to describe a set of circumstances that indicate a reason to conduct an investigation or assessment of an employee's fitness for duty, or to explore possible explanations for an employee's conduct, actions or appearance. The suspicion is based on observations of the individual employee. It is not a generalized belief or "gut feeling" about a group or category of employees based on such characteristics as dress, ethnicity, age, or occupation. A reasonable suspicion is more than a hunch; it is a reasoned conclusion drawn from objective observations of the individual.

The standards applied to probable cause are generally more definitive in a legal sense than those applied to reasonable suspicion, especially in the context of requiring an individual to undergo a chemical test (breath or urine) for the presence of alcohol or other drugs in their body. Probable cause generally implies that there is evidence to support a probable conclusion--e.g. drug or alcohol use. Reasonable suspicion leaves room for an action to "rule out" or eliminate a particular cause for the observed phenomenon. In other words, the reasonable suspicion test is used as much to determine that alcohol or drugs are not the cause of the observed behavior or appearance, as it is to prove that alcohol or drugs is the causative agent. So the behaviors, conduct, or appearance observations of the supervisor do not have to represent probable drug or alcohol misuse, but rather **possible** drug or alcohol misuse.

A reasonable suspicion test is not a diagnostic tool for definitive evidence of alcoholism or drug addiction. A drug or alcohol test is not a clinical diagnostic test. Because an employee has used drugs or alcohol in violation of workplace policy or rules, does not mean that he/she is an alcoholic or drug addict. A reasonable suspicion test is one way of determining if an employee has engaged in conduct prohibited by the DOT anti-drug and alcohol misuse prevention rules.

### **SUMMARY**

#### **Reasonable Suspicion--Definition**

- Reasonable suspicion is based on observations of an individual
- Reasonable suspicion is based on objective, documented criteria
  - Reasonable suspicion is a reasoned conclusion drawn by an individual based on objective, articulable criteria.
- Reasonable suspicion testing is used to rule out or eliminate alcohol or drug use as a cause of the individual's behavior or appearance
- Reasonable suspicion testing is not a diagnostic tool

## **CRITERIA FOR REASONABLE SUSPICION TEST DETERMINATION**

Reasonable suspicion testing determinations must be based on the supervisor's specific contemporaneous articulable observations of an employee's behavior, appearance, speech or body odors associated with alcohol or controlled substance use. Observations of employee behavior or appearance that are consistent with the effects of chronic drug use or withdrawal from drugs may be used to document a reasonable suspicion drug test determination.

**What does contemporaneous mean?** In the context of reasonable suspicion test determinations, contemporaneous means that the behavior, appearance or body odor exists now; when the supervisor is making the observation. The decision to conduct a reasonable suspicion test cannot be based on observations of the employee made during off duty time, or at times not proximate to the employee's duty period. Remember that the observations leading to a reasonable suspicion alcohol test determination must be made just prior to, during, or immediately after the period of time the employee is required to be in compliance with the alcohol conduct standards of the rules.

**What does articulable mean?** Essentially, articulable means capable of being articulated. In the context of a reasonable suspicion test determination, articulable means that the observations are specific, grounded in objective criteria, and capable of being documented by verbal or written expression. The supervisor must be able to document specific behavioral or physical signs associated with drug or alcohol use. Basically these observations are what the supervisor sees, hears, or smells; they are founded in sensory input. Articulable does not mean based on a "hunch" or "gut feeling" that an employee may have used alcohol or drugs. General beliefs or stereotypes about groups or categories of people cannot be used as grounds to require an employee to undergo a reasonable suspicion test. For example, beliefs about age, gender, or ethnicity in relationship to alcohol or drug abuse cannot be used as a determinant to conduct reasonable suspicion testing.

### **SUMMARY**

#### **Reasonable Suspicion Criteria**

- Reasonable suspicion test determinations must be based on contemporaneous, articulable observations of employee behavior, appearance, speech or body odors associated with drug or alcohol use
- Contemporaneous observations occur in the present
- Articulable observations are capable of being documented in verbal or written expression
- Observations are what the supervisor sees, hears, or smells
- Supervisor may consider the effects of chronic drug use or withdrawal on behavior and

appearance for a reasonable suspicion drug test

- Supervisor must make the observations; not based on reports from other sources

## **ROLE OF THE SUPERVISOR IN REASONABLE SUSPICION TESTING**

One of the most difficult things for supervisors about reasonable suspicion testing is the fear of being wrong-- of accusing an employee of using drugs or alcohol , of being involved in something illegal or prohibited by company policy. Supervisors often fear being sued or having a labor grievance action brought against them as a result of their decision to conduct a reasonable suspicion test. These fears can be minimized if supervisors remember that a decision to require an employee to submit to a reasonable suspicion test is not an accusation of drug or alcohol use or an attempt to diagnose substance abuse or addiction. It is rather a method for "ruling out" a possible cause or explanation for employee behavior or appearance that is cause for concern. It is true that many of the signs and symptoms associated with drug and alcohol use may be explained by other factors such as fatigue, family problems, physical illness, emotional problems, or other personal stressors. A reasonable suspicion test is a tool for eliminating possible drug or alcohol use as a cause for the presenting signs and symptoms that call an employee's fitness or well-being into question. The supervisor should not accuse an employee of drug or alcohol use or offer a diagnosis of substance abuse, addiction, or alcoholism. The supervisor's role is to identify the specific observations of employee behavior or appearance, confront the employee concerning the requirement to undergo reasonable suspicion testing, and fully explain the consequences of the employee's refusal to comply.

Many supervisors believe that they must be skilled "drug recognition experts" or trained in administering a field sobriety test in order to make sound, effective decisions about reasonable suspicion testing. It is not necessary or expected that supervisors be able to establish "probable cause" or provide evidentiary evidence that the employee is impaired by alcohol and/or drugs.. For example, it is not necessary to know all the specific physical and behavioral symptoms associated with each drug or type of drug. The symptoms of illegal drug use cover a wide range of physical and behavioral responses, and frequently drug users engage in polydrug or multiple drug use, using more than one type of drug, either in combination or in a serial pattern. The supervisor's responsibility is to be alert to changes in the employee's behavior and/or appearance, not to a specific set of symptoms associated with each drug or drug class.

Making a determination that a reasonable suspicion test is necessary involves specific interaction with the employee. This interaction is often confrontational and is usually the most difficult aspect of reasonable suspicion testing for supervisors. Confrontation about an employee's misconduct often is embarrassing and uncomfortable for many supervisors, especially if that misconduct involves drug/alcohol use. Discomfort about someone's alcohol or drug use or abuse is not limited to supervisor/employee relationships. Experiences with friends or family members who drink too much or who use and abuse illegal drugs leave people feeling frustrated, annoyed, angry, helpless

and confused about how to approach them on the issue. Our own experiences with drugs and alcohol effect our beliefs and our actions in response to other's drug and alcohol use.

The key to successful confrontation about an employee's suspected drug/alcohol-related misconduct is to focus on the specific observations of employee behavior and appearance. The supervisor should not accuse the employee of substance use, misuse or abuse. The supervisor should clearly and objectively articulate his/her observations and inform the employee that drug and/or alcohol testing will be conducted. If the employee protests that the signs or symptoms identified are due to other causes, such as fatigue, physical illness, or personal problems, the supervisor should listen to the employee, respond empathetically, and explain that if that is the case, the test will serve to rule out alcohol or drug use as a possible cause of the presenting behavior or appearance. The supervisor should remain firm in his/her resolve to carry through with the decision to conduct the reasonable suspicion testing. If the employee states that he/she will not take the test, the supervisor must clearly state the consequences of the employee's refusal to submit to the test. Even if the employee admits that he/she has violated the company's substance abuse policy, the employee must go for the test, or else it is deemed a refusal to test.

The supervisor should also be prepared to explain the procedures for completing the testing, including such matters as transportation to and from the testing location, any documentation being made, and the employee's responsibilities. The employee may ask about the consequences of a "positive" test. The supervisor should be knowledgeable of the company's policy and the procedures for carrying it out. Often times, employees being confronted about their behavior and appearance are defensive or hostile. The supervisor needs to stay focused on the observations that have led to the determination to test, and follow through with arrangements to have the testing conducted as soon as possible. Remember, if the employee is under the influence of drugs or alcohol, the defensive, hostile responses may be related to the effects of the substances. It is helpful to have another supervisor assist you with, or at least witness, your interaction with the employee.

## SUMMARY

### Supervisor's Role

- Reasonable suspicion test is not an accusation of drug or alcohol abuse
- Reasonable suspicion test does not diagnose abuse or addiction
- Supervisor's role is to:
  - **identify the specific observations of employee behavior and appearance**
  - **confront the employee concerning the requirement to undergo the test**
  - **fully explain the consequences of the employee's refusal to comply**
- Supervisor does not need to identify the specific drug (e.g. cocaine, marijuana) associated with the

behavior or appearance

- Supervisor should be alert to changes in the employee's usual behavior and appearance
- Discussions with the employee should remain focused on his/her behavior and appearance
- Collaboration with another supervisor is helpful, but not required

## **GETTING HELP FOR EMPLOYEES**

Often times the supervisor's interactions with employees will lead to discovery that an employee needs or wants help in resolving problems impacting on their workplace performance and productivity. Supervisors need to know what resources are available for their employees and what the company's policies and procedures are for referral to an employee assistance program (EAP), or other source of help. Information about resources, both those available through the company health or benefits plan, and community organizations, should be available to all employees subject to alcohol and drug testing programs.

Chemical dependency, including drug addiction and alcoholism are medical conditions or illnesses that are manifested by certain clinical and social functioning symptoms associated with a disease syndrome. Workplace patterns commonly associated with the chemically dependent or substance abusing employee include: [chronic lateness; excessive absences; decreased productivity; poor work performance, and problems in interactions with co-workers, subordinates or supervisors]. While these changes or workplace patterns often are indicators of substance abuse or chemical dependency, they are not specific observations of the employee that can be used to require reasonable suspicion testing. These patterns are clearly indications of a problem or troubled employee-- one that needs increased monitoring and/or supervisory intervention to explore the nature of the problems and get the employee needed assistance with resolving them. Increased attention to, and monitoring of, the problem employee may lead to specific observations of behavior or appearance that require a reasonable suspicion test. So, while time and attendance problems and changes in performance and productivity levels are cues to possible substance abuse disorders, they are not, in and of themselves, triggers for a reasonable suspicion alcohol test. Employees who have time and attendance problems, whose general productivity has decreased, or who exhibit other work performance problems should be counseled and, as appropriate, offered assistance to deal with any personal problems (including substance use or abuse) that are impacting on their work performance.

The DOT rules require that employees who engage in prohibited drug and/or alcohol related conduct must be evaluated by a Substance Abuse Professional (SAP). It is the employer's responsibility to identify a SAP(s) who can conduct the evaluation and assessment required by the rules. Many Employee Assistance Programs (EAP) have staff members who met the DOT qualifications for a Substance Abuse Professional. Supervisors should know who the SAP is, where he/she is located, and the procedures for referring the employee. Even if the company policy imposes termination of employees who violate the alcohol use policy, there is an obligation to refer the employee for the SAP evaluation. The issues of payment for SAP evaluation, access to recommended treatment or rehabilitation, and aftercare or follow-up services must be addressed in the company policy.

**SUMMARY**  
**Getting Help for Employees**

- Workplace signs of chemical dependency and substance abuse include:
  - chronic lateness
  - excessive absences
  - decreased productivity
  - poor performance levels
  - problem interactions with others
- Time & attendance problems & changes in performance and productivity levels cannot trigger a reasonable suspicion test, but should lead to referral to an Employee Assistance Program
- Employees must be provided information about EAP and other resources for getting help with substance abuse problems
- Employers must designate a Substance Abuse Professional (SAP)
- Employees who violate the DOT alcohol and/or drug rules must be evaluated by a SAP
- EAP/SAP referral procedures, payment issues, and personnel actions are determined by company policy

# **SIGNS AND SYMPTOMS OF PROHIBITED DRUG USE**

## **BEHAVIORAL SIGNS AND SYMPTOMS**

Behavioral signs or symptoms associated with controlled substance use fall into four categories: changes in psychomotor activity; changes in interaction with others; changes in speech and verbal communication patterns; and changes in affect or personality. Because drugs affect the central nervous system they are called psychoactive substances. They cause changes in how the brain sends and receives messages. Some of these changes affect the body's ability to move and function.

### **Psychomotor Changes:**

Stimulants, for example, generally speed up the body's motor activity. A cocaine or amphetamine user feels energized; there is often a restless, hyperactive, over-charged quality to their movements. They can't sit or stand still; they fidget, in the extreme, their movements appear jerky and misdirected.

Sedatives or narcotics, on the other hand, slow down motor functions. An opiate or heroin user's movements will appear slow and methodical, they may "nod off" or seem stuporous. They may stumble when they walk or seem to be unsteady, having trouble with their balance.

Hallucinogenic drugs such as PCP or LSD often produce bizarre behavior in which the person's movements are out of sync with the environment. They may appear to be miming, responding to things or people that aren't even there; their movements may be exaggerated and dramatic.

Marijuana users may not show distinct motor functioning changes. In general, however, marijuana intoxication produces slowed psychomotor responses; delayed reaction times; poor eye-hand coordination; and unsteadiness.

### **Social Interaction Changes:**

Controlled substance use frequently causes changes in the way a person interacts with others. Social interaction patterns are not necessarily specific to the drug, but rather much more dependent on the individual's response to the effects of the drug. Thus, many of the changes in interactions associated with drug use are seen across the classes of drugs.

Controlled substances may produce irritability, hostility, withdrawal from social interaction; or they may produce talkative, boisterous, or silly behavior; or even paranoid, suspicious or hyper-sensitive reactions to others. Like the old saying about alcohol goes: "Some drunks are laughing, fun-loving drunks; others are crying and maudlin; and still others are mean and nasty". The same is true for

drug users. The key here is to be alert to changes in the employee's normal or usual interaction patterns. If the employee is usually low-keyed, laid back, easy to get along with; and is now irritable, hostile and aggressive in his/her interactions with co-workers, supervisor, or subordinates, something has changed. This observation, in combination with other changes in the employee's behavior or appearance would warrant a reasonable suspicion test.

**Speech Patterns:**

Changes in speech patterns are another sign of possible controlled substance use. Again, in general, stimulants tend to speed up speech patterns. Stimulant users frequently have rapid, pressured speech patterns. They can be talkative, almost to the point of sounding breathless or manic. Narcotic users, on the other hand, may have slurred, thick, or incoherent speech. Hallucinogens often produce nonsensical, dreamlike speech patterns that don't fit the situation. All of these changes in speech patterns may vary from drug to drug, and from very subtle to very exaggerated changes. In the extreme, psychoactive drugs may produce incoherent speech, slurred pronunciation, and even stuporous unresponsiveness.

**Personality Changes:**

The most difficult of the behavioral changes to specify are personality changes. These observations are often very difficult to make unless the supervisor has had frequent long term contact with the employee, and is aware of his/her general behavior patterns. There is no "rule of thumb" for identifying changes in affect or personality by type of drug. Controlled substances affect people in very different ways. Often an individual's response to a drug is determined, in large part, by their mood or personality traits prior to the use of the drug. A quiet, introverted, passive person may become out-going, aggressive and obnoxious after using drugs. Conversely, an out-going, assertive, loud employee may appear withdrawn, isolated, and out-of-touch after using controlled substances. What a supervisor needs to be alert to are changes in usual behaviors, and exaggerations or dramatic increases or decreases in traits or patterns.

## SUMMARY

### Behavioral signs and Symptoms

#### Psychomotor Changes

- Stimulants speed up the body's motor activity
- Sedatives or narcotics slow down motor functions
- Hallucinogens may produce bizarre motor movements
- Marijuana delays reaction times, impairs eye-hand coordination, and creates unsteadiness

#### Social Interaction Changes

- Changes in social interaction are not specific to the drug
- Changes in social interaction vary from individual to individual

- Supervisors should be alert to changes in the employee's usual patterns of interacting with others

### **Speech Patterns**

- Stimulants create rapid, pressured speech patterns
- Narcotics produce slow, thick, slurred speech
- Hallucinogens may produce nonsense, fantasy speech

### **Personality Changes**

- Personality changes are the most difficult to specify
- Supervisor needs to be alert to changes in the employee's usual personality traits or expression
- Personality changes due to drug use often are sudden and dramatic

## APPEARANCE SIGNS AND SYMPTOMS

In addition to behavior changes, the supervisor needs to consider changes in the employee's appearance when making a decision about reasonable suspicion drug testing. Like behavior, appearance changes range from subtle to extreme. When dealing with chronic drug use, these changes may occur gradually over time, often in subtle increments.

### **Personal Grooming:**

Generally, attention to personal grooming diminishes with drug use or abuse. However, dramatic, often inappropriate, changes in grooming style may signal drug involvement. Extreme hairstyles, makeup or clothing, inappropriate to the workplace, may be associated with drug use, usually linked to the user's identification with a lifestyle involving illegal drug use. This does not suggest that a supervisor's decision to conduct a reasonable suspicion drug test should be based on stereotypes of a "drug subculture" or "addict lifestyle". However, the usually well-groomed, appropriately dressed employee who now is disheveled and unkempt warrants a supervisor's increased monitoring and attention. Personal appearance, like many of the other signs and symptoms discussed previously needs to be viewed in the broader context of changes in the employee's overall performance and behavior.

### **The Eyes:**

Changes in the appearance of the employee's eyes should be considered when evaluating appearance. The eyes are one of the organs most susceptible to the physical effects of controlled substance use. Eye movements are often dramatically affected by drugs. In fact, it is eye movements, referred to as nystagmus, that are used by police "drug recognition experts" to make judgments about drug intoxication. These movements associated with the eyes' tracking abilities yield amazingly accurate results in predicting the type of drug ingested by the individual. However, the interpretation of eye movements requires considerable training and practical experience, and is not generally a skill that is developed by most supervisors.

Pupil size is characteristic of the eye that is more readily identified. Many controlled substances cause changes in pupil size; constricted or pinpoint pupils or dilated or large pupil size. Normally eyes respond to light intensity by changes in pupil size. The effects of controlled substances frequently cause changes in pupil size that are incongruous with light intensity.

Other conditions of the eyes that may be associated with controlled substance use are: red or bloodshot eyes; excessive tearing or watery eyes; or eyes that appear unfocused or unresponsive. These symptoms may be associated with a variety of physical, environmental, or emotional causes, and should not be the sole factor for requiring a reasonable suspicion drug test.

**Other Physical Symptoms:**

Other physical symptoms such as profuse sweating (in the absence of physical exertion or extreme heat), shivering or shakes (not associated with extreme cold), or dramatic changes in skin color, such as flushed or pallid complexion, should not be ignored. These symptoms are not unique to controlled substances, however, when observed in combination with other signs of behavior or appearance, may suggest controlled substance use or withdrawal syndromes associated with drug abuse.

**Body Odor:**

The DOT rules include body odors as a factor to be considered in observations leading to a decision to conduct a reasonable suspicion drug test. The most meaningful issue here is associated with marijuana use. Marijuana, when smoked, gives off a distinct, recognizable odor, described in a variety of ways--pungent, sweet, acrid, etc. Marijuana smoke, much like cigarette smoke is detectable on a user's breath and clothing. The tell-tale odor of marijuana smoke is an observation that should be associated with possible use of a controlled substance.

## SUMMARY

### Appearance Signs and Symptoms

- Appearance changes due to drug use range from subtle to extreme
- Personal grooming often deteriorates or dramatic changes in hairstyle, clothing may occur
- Eyes are very susceptible to the effects of drugs
- eye movements such as tracking ability are affected
- pupil size is altered
- bloodshot, watery, or unfocused eyes
- Profuse sweating, the chills, flushed or pallid complexion may be due to the effects of drugs
- Marijuana has a distinct odor when smoked that clings to the user's breath and clothing

## **THE EFFECTS OF ALCOHOL**

Alcohol is a drug; a chemical substance that alters the way the human body functions. Although low doses of alcohol initially have a mildly stimulating effect, alcohol is a sedative or depressant drug. Alcohol produces dramatic effects as it alters the chemical reactions and physiology of the human body. Alcohol is water-soluble and enters the blood stream immediately upon ingestion through the mouth. Alcohol penetrates the blood-brain barrier and circulates to the brain tissue altering the chemical reactions in individual cells.

The effects of alcohol vary tremendously from person to person, depending upon a person's weight, sex, age, metabolism, and liver functioning. Alcohol's effects even vary in the same individual from occasion to occasion depending on such factors as: how rapidly the person drinks; what food was eaten when; the person's nutritional state; interaction with other drugs; sugar or carbonation in the alcohol beverage; the individual's emotional state; and tolerance developed from past alcohol use experience.

The more an individual drinks, the more intoxicated he/she becomes by the sedative effects of alcohol. It takes an average of 1½ hours for the alcohol in "one drink" of beer, wine, or distilled spirits to leave the body. Thus, the effects of alcohol when consumed at a rate of greater than one drink every 1½ hours is cumulative, as demonstrated by an increasing blood alcohol concentration. As a person's blood alcohol concentration (BAC) rises, his/her judgment, cognitive and psychomotor skills are increasingly impaired. The illustrations on the next page depict the effects of alcohol on the brain at increasing blood alcohol concentrations.

### **SUMMARY**

#### **Effects of Alcohol**

- Alcohol is a drug
- Alcohol initially acts as a stimulant
- Alcohol's overall effect is a sedative or depressant
- Alcohol affects the brain cells, slowing the body's chemical responses
- The effects of alcohol vary from individual to individual
- The effects of alcohol on an individual vary from occasion to occasion
- One drink metabolizes in approximately 1½ hours
- The higher the BAC, the more pronounced the effects of alcohol

## **SIGNS AND SYMPTOMS OF ALCOHOL INTOXICATION**

Most supervisors are familiar with the behavioral and physical symptoms of alcohol intoxication. However, most of the signs and symptoms we associate with intoxication or drunkenness, generally are not apparent until the person's alcohol concentration reaches 0.1 or greater. An individual's alcohol use history, medical status, and conditions surrounding the use of alcohol affect the physical and behavioral symptoms present at a given alcohol concentration.

The physical, behavioral and appearance signs of alcohol intoxication are commonly recognized. The physical symptoms include: unsteady gait, poor balance, staggering; poor eye-hand coordination, tremors, slowed reflexes; blood shot eyes and unfocused eye movements; slurred or incoherent speech; and odor of alcohol on the breath. The behavioral signs of alcohol intoxication include: poor judgment and lowered inhibitions; decreased reasoning or cognitive abilities; and personality changes. Appearance symptoms associated with acute alcohol intoxication include: disheveled clothing, poor personal grooming and flushed complexion.

## **SUMMARY**

### **Signs of Alcohol Intoxication**

- Clumsiness, staggering, unsteady gait
- Poor coordination, slowed reflexes, diminished reaction times
- Bloodshot eyes, impaired tracking ability
- Slurred speech, incoherent speech patterns
- Odor of alcohol on breath
- Poor judgment, increased risk taking behavior
- Decreased reasoning ability, forgetfulness
- Exaggerated emotion, excitement, belligerent attitude
- Disheveled clothing, poor personal grooming
- Flushed complexion, sweating

## **SIGNS AND SYMPTOMS OF ALCOHOL USE**

The signs and symptoms of alcohol use are subtler and more difficult to observe than the behavioral and physical symptoms of alcohol intoxication. Since the DOT rules address alcohol misuse, not intoxication, it is important for the supervisor to be alert to the more subtle changes in behavior and appearance that occur when alcohol, even in small quantities, is used. The DOT rules require that employees whose alcohol concentration is .02 or greater be removed from safety-sensitive duties. A supervisor needs to be able to identify behavioral and physical signs that may indicate an employee's recent use of alcohol. The key to identifying signs of alcohol use is to recognize changes in the individual's appearance or behavior.

### **Mental Functions:**

Judgment and decision making abilities are two of the first mental functions affected by alcohol. Judgment is a complex mental task that involves deductive and inductive reasoning. Judgment is also impacted by internalized societal controls and inhibitions. Because alcohol is a central nervous system depressant, these processes are slowed down, resulting in lowered inhibitions and faulty judgment. Cognitive processes are also affected by alcohol consumption. The brain's retrieval system responds more slowly; memory, computation and stimulus response are less efficient.

### **Sensory Functions:**

The next areas of the brain to be affected by the sedative effects of alcohol are the sensory perception centers. Visual, auditory, olfactory, and taste acuity are diminished. Vision is most noticeably affected by decreased object tracking ability and diminished night and peripheral vision. These vision skills are critical to functions involving operation of a moving vehicle or other safety related tasks. Hearing is also affected by alcohol consumption. As the alcohol concentration in the blood increases, the individual experiences difficulty in sorting background noise, and his/her hearing acuity is generally diminished. Because the person is having difficulty hearing others, he/she speaks more loudly to compensate. Research studies have demonstrated that alcohol affects the senses of smell and taste. The abilities to distinguish among different odors and tastes are decreased. Thus, people frequently will eat or drink foods that they ordinarily would not, when they use alcohol. Remember, alcohol is a sedative; the senses of taste and smell are dulled as the alcohol concentration increases.

### **Psychomotor Functions:**

As the person's alcohol concentration continues to increase, the areas of the brain that control psychomotor activity are affected. Generally, the brain centers that control muscle coordination and movement are more resistant to the sedative effects of alcohol. Speech is one of the first motor skills to be affected by alcohol. Changes in speech may include over-enunciation as well as slurring

or garbled speech patterns. Individuals often are aware that when they drink alcohol their ability to pronounce and articulate words decreases. Thus, they may attempt to compensate by concentrating on their pronunciation and articulation. The result may be stilted, exaggerated enunciation of words or phrases.

Eye-hand coordination, reflex reactions and other dexterity functions are also affected as the alcohol concentration increases. For example a person may begin to drop things, have difficulty picking things up, or show other signs of diminished fine motor skills. An individual's reaction times are slower; movements appear delayed or retarded.

Eventually when enough alcohol is consumed, gross motor skills are affected. A person's balance, gait and muscle coordination may be affected. Again it is important to recognize that these physical symptoms are not manifested until the alcohol concentration is considerably greater than .04; usually only when the BAC is 0.1 or greater.

#### **Odor of Alcohol:**

One of the easiest to recognize and most familiar of the signs of recent alcohol use is the odor of alcohol on the person's breath. Alcohol beverages have a distinct odor that persists on the breath after drinking alcohol. The intensity of the odor is not necessarily dependent on the amount of alcohol consumed, but rather on the recency of the use. Most people are aware that alcohol use leaves a "tell-tale" odor on their breath. Consequently, many drinkers use breath sprays, mints, mouthwashes or other breath fresheners to mask the alcohol odor. The supervisor should be alert to employees who frequently use breath fresheners, particularly if their use is routinely when they first come on duty, immediately after lunch or breaks, or when approached by supervisory or management personnel. Supervisors who do not drink alcohol beverages or are unfamiliar with the odor of alcohol should familiarize themselves with the characteristic odor of alcohol on someone's breath.

#### **Multiple Signs and Symptoms:**

All of the signs and symptoms of alcohol use discussed previously may be caused by other things. They may be manifestations of physical illness, stress, fatigue, emotional problems, etc. Even the odor of alcohol on the breath could be due to ketosis, a medical condition occurring in uncontrolled diabetes. If the supervisor observes these signs or symptoms, however, a reasonable suspicion test should be conducted. Remember, an alcohol breath test is a quick, non-invasive tool for ruling out or eliminating alcohol use as the possible cause of the presenting symptoms. It is a far greater potential tragedy to allow someone who may not be fit for duty to continue to perform safety-sensitive duties, than to be incorrect in identifying the cause of their behavior or appearance.

A good rule of thumb is to document at least two observations of behavioral or physical signs in making a reasonable suspicion alcohol test determination. By identifying at least two of the changes in employee behavior or appearance, the probability of alcohol use as a cause of the presenting symptoms is much greater. A possible exception to this rule of thumb is the odor of alcohol. This symptom is a more definitive indicator of recent alcohol use, and therefore usually warrants the reasonable suspicion determination.

## **SUMMARY**

### **Mental Functions**

Mental capacities affected by alcohol use include:

- judgment
- decision making skills
- memory
- computation

### **Sensory Functions**

- Alcohol affects sensory perception
- Vision: decreased object tracking, night & peripheral vision
- Hearing: diminished acuity, ability to sort background noise
- Smell: decreased sensitivity & selectivity
- Taste: decreased sensitivity & selectivity

### **Psychomotor Functions**

- Speech is one of the earliest motor skills to be affected
- Speech changes may include over-enunciation, slurring, or exaggerated speech patterns
- Coordination, reflexes and fine motor dexterity are diminished
- Reaction times are slower; movements appear delayed or retarded

### **Alcohol Odor**

- Alcohol beverages have a characteristic, distinct odor
- Odor of alcohol persists on the breath following alcohol use
- Individuals often try to mask the odor by using breath fresheners

### **Multiple Signs and Symptoms**

- Many signs and symptoms of alcohol misuse can be due to other causes
- A good "rule of thumb" is to document 2 symptoms
- Odor of alcohol on breath is the most definitive sign of recent alcohol use



## **THE HANGOVER**

The DOT rules prohibit an employee from consuming alcohol within 4 hours of reporting for safety-sensitive duties. This pre-duty abstinence rule extends to 8 hours for flight crew members under the FAA rule. This requirement has two objectives: to assist employees in ensuring that they do not have any remaining alcohol in their system when reporting for duty; and to help mitigate hangover effects from alcohol use prior to reporting for duty.

Unlike the effects a person experiences when they begin drinking alcohol, the effects after an individual stops drinking, particularly if alcohol use has been excessive, are generally unpleasant and debilitating. In fact, if the only effects of alcohol use were the effects experienced as a hangover, few people would make the decision to drink alcohol.

The behavioral and physical effects of a hangover are due to the chemical reactions that occur when the body metabolizes or rids itself of the toxic effects of alcohol. By-products of ethanol (alcohol) metabolism build up in the bloodstream and cells creating a variety of responses as the brain and other organs return to normal functioning. These byproducts have toxic effects and result in an identifiable syndrome commonly called a hangover.

Possible signs of a hangover include: disheveled appearance of clothing; deteriorated personal grooming; blood shot eyes; hypersensitivity to light; stale odor of alcohol; and mild tremors, or the shakes. Other symptoms associated with a hangover include: irritability; slowed thought processes; complaints of flu-like symptoms and general physical malaise; and social withdrawal. Hangover symptoms persist after the individual's alcohol concentration has returned to zero. A hangover generally results after excessive alcohol consumption, when the liver and other organs have to detoxify large amounts of the toxin. Even though the reasonable suspicion alcohol test may indicate an alcohol concentration of less than .02, it makes sense to require a breath test when a supervisor identifies behavior or appearance consistent with the signs and symptoms discussed above since these indicators may be associated with alcohol misuse.

### **SUMMARY**

#### **Hangover**

- Hangovers occur following excessive alcohol use
- Hangover effects can impact fitness for duty
- Cognitive, psychomotor, and bodily functions are affected
- Hangover symptoms persist after the BAC returns to zero

### **POLICIES AND PROCEDURES**

Knowledge of the criteria for reasonable suspicion testing, the purposes of such testing, and the behavioral and physical signs and symptoms associated with drug and/or alcohol use are very important to an effective reasonable suspicion testing program. However, they are not enough. Supervisors need to be familiar with the company's policy and procedure for carrying out a reasonable suspicion test when needed. Company policy needs to establish the procedures for transporting an employee to and from the collection site (whether on or off the worksite). When an employee is exhibiting signs and symptoms of possible drug or alcohol use, and may be unfit for duty, it is inappropriate for the employee to go unaccompanied to the collection site.

Another issue that should be determined by company policy concerns the employee's duty status after the testing has been completed. Unlike breath alcohol tests, urine drug test results are not immediately available. It will be 2-3 days before anyone knows the results. Is the employee returned to duty after the specimen is collected; at the next duty period; not until the drug test results are known? Is the employee placed on leave status? These are personnel decisions; they should be made and incorporated into company policy before reasonable suspicion testing situations arise. The supervisor needs to know both the policy and procedural requirements in order to carry out his/her responsibilities in reasonable suspicion drug testing.

Under DOT rules any employee who has a alcohol test result of .02 or greater must be removed immediately from performing safety-sensitive duties. Any employee who has an alcohol test result of .04 or greater must be removed from duty, and referred for an evaluation by a Substance Abuse Professional (SAP). The employee whose alcohol concentration is .02-.039 must be removed from safety-sensitive duties for a prescribed length of time, in accordance with the DOT rules. For an alcohol test result of .02-.039, the removal-from-duty requirements are as follows:

- **24 hours for all Commercial Drivers License (CDL) employees;**
- **8 hours for railroad employees;**
- **8 hours, or until a breath alcohol test result is less than .02 for transit, aviation, or pipeline employees.**

Any disciplinary actions such as suspensions, fines, termination, etc. are determined by company policy. Note that an employee whose alcohol test result is .02-.039 does not have to undergo another alcohol breath test prior to returning to safety-sensitive duty following the mandatory "out of service" period; nor is that employee subject to any follow-up testing upon his/her return to safety-sensitive duty. Under DOT rules, only employees who have violated the alcohol misuse provisions (including an alcohol test result of .04 or greater) are subject to return-to-duty and follow-up alcohol tests.

Alcohol test results from a reasonable suspicion test cannot be used as evidence to support an additional violation of the alcohol misuse rules. For example, a test result of .03, conducted shortly

after an employee has reported for safety-sensitive duty, cannot be used to document a violation of the 4-hour pre-duty abstinence provision of the rule. The .03 alcohol concentration is not definitive proof of the recent alcohol use; it may be alcohol remaining in the system from heavy drinking the night before.

**The company policy should address such issues as:**

- **How will the employee be transported to the alcohol test location, particularly if it is off-site?**
- **Who will accompany the employee to the test location?**
- **How will the employee be transported to his/her home or other location if a alcohol test result is .02 or greater?**
- **What are the procedures when an employee refuses a test?**
- **Will an employee be permitted to return to duty before the drug test results are received?**
- **Who will the Breath Alcohol Technician (BAT) contact when an employee's test result is .02 or greater?**

In a situation where a reasonable suspicion test is necessary the issues concerning transportation to and from the testing site are critical. The employee has been observed exhibiting signs and symptoms of possible alcohol/drug use. Requiring, permitting or allowing such an employee to operate a vehicle, for example could affect the company's potential liability. Any employee whose alcohol concentration is 0.02 or above should not be allowed to drive a vehicle. If the employee is being sent home after a reasonable suspicion alcohol test with a result of 0.02 or greater, transportation should be provided. If the employee insists on driving, he/she should be informed that the company may contact local law enforcement authorities.

## **SUMMARY**

### **Policy and Procedures**

- DOT Rules require temporary removal from safety sensitive duty for .02-.039 BAC
  - 24 hours for CDL drivers
  - 8 hours for railroad employees
  - 8 hours, or until re-tested with result <.02
- No SAP evaluation, return-to-duty, or follow-up test after .02-.039 BAC result

- No extrapolation from .02-.039 BAC result permitted
- Company policy should determine:
  - Discipline for .02-.039 BAC, positive drug or alcohol test, and refusal to test
  - Transportation to and from testing location
  - Procedures if employee refuses a test
  - Employee duty status while waiting for reasonable suspicion test results

## **TESTING FOR BOTH ALCOHOL AND DRUGS**

Many of the behavioral and physical signs of possible drug use are similar to, or the same as, the symptoms associated with alcohol misuse. Is it appropriate, therefore, to conduct both a urine drug test and a breath alcohol test in reasonable suspicion testing circumstances? If the observed signs and symptoms are consistent with both possible alcohol misuse and controlled substance use, a drug and an alcohol test should be conducted. In other words if the observations could be associated with either alcohol or drugs, both tests are appropriate. If, however, the odor of alcohol on the employee's breath is the documented observation, conducting a urine drug test in addition to the alcohol breath test is not appropriate. Doing both tests based on a belief that alcohol and drug use often occur together is insufficient justification for dual testing.

### **SUMMARY**

#### **Testing for Both Alcohol and Drugs**

- A breath alcohol and urine drug test can be done based on a determination to conduct a reasonable suspicion test
- Decision to conduct both tests must be based on observations of employee behavior and/or appearance consistent with both alcohol and drug use.
- General belief in polydrug use (alcohol & illegal drugs) is insufficient grounds to do both tests

## **Appendix A**

### **Workplace Scenarios**

The following scenarios provide examples of situations or circumstances that supervisors may encounter that suggest a need for reasonable suspicion testing. The examples are intended to give supervisors practice in evaluating the situation, making a determination concerning the need to conduct reasonable suspicion testing, and in carrying out a decision to administer a reasonable suspicion test.

These scenarios can be used as self-paced exercises for the supervisor participating in training by viewing the videotape presentation on Supervisory Training for Reasonable Suspicion Testing in combination with this Supervisors Guide; or the examples may be used as discussion exercises for supervisors participating in facilitated group training courses. The scenarios also provide excellent teaching material when used as role plays in a group training session.

The material that follows gives a brief description of a workplace situation involving a safety-sensitive employee subject to the drug and alcohol use standards of conduct outlined in the DOT rules. Following the description of the situation, a series of questions is presented to guide the supervisor through the decision-making process relative to making a reasonable suspicion test determination. Suggested answers to the questions are provided at the end of this appendix. While the examples presented are hypothetical, the information provided is intended to resemble "real-life" situations that may require supervisory interventions.

## **SCENARIO 1**

### **Sam Shakey**

Sam is a 23 year-old truck driver, recently hired through a community action program for assisting rehabilitated drug users. You know he is still in an aftercare program with the local drug abuse clinic. When you approach Sam to check on paperwork prior to dispatch, you notice that he is sweating profusely, his hands are shaking, and his eyes "look funny".

- 1. What would you say and do?**
- 2. What are the observations that led you to your decision?**
- 3. What impact does the fact that Sam came to your company as a recovering abuser have on your decision? What about Sam's rights under the Americans with Disabilities Act (ADA)?**

## **SCENARIO 2**

### **Steve Snow**

When you dash into the men's room, you notice that someone is in one of the stalls. The individual mutters some curses under his breath, and then a small plastic baggie with white powder falls on the floor.

- 1. What action would you take?**
- 2. What other information or observations do you need to make a decision about reasonable suspicion testing?**
- 3. What is your company policy concerning investigation of suspected possession of controlled substances?**

## **SCENARIO 3**

### **Arlene Apathy**

Arlene is a 35 year-old flight attendant. She has been with the airline 12 years, and is now a senior

attendant on many of her flights. Recently you have been getting reports from fellow crew members that she "isn't pulling her own weight" on the job, that she is late for the crew bus on lay overs, and that she "just doesn't seem to care." You have noticed that her grooming isn't up to airline standards. Today you have called her in for a supervisory session. You are shocked at the change in Arlene since you last saw her about a month ago. She is very thin, her hair and makeup are unkempt, and she seems lethargic and apathetic.

- 1. How would you begin the supervisory session?**
- 2. What are the observations indicating possible drug use?**
- 3. Would a drug test be indicated in this situation?**

#### **SCENARIO 4**

##### **Fred Fidget**

Fred is a 44 year-old terminal manager who also has a CDL, and drives one of the rigs when you're shorthanded. You have been conducting a two-day safety training seminar for all the managers in your district. Fred's classroom behavior and class participation have been annoying and disruptive. He laughs inappropriately, gets up and leaves the room frequently, drums his pencil or keys on the table, and is constantly talking to the people seated next to him. One of the other managers approached you during lunch and commented on Fred's behavior, saying, "Man, it seems like he's on something."

- 1. What would you do?**
- 2. Can a reasonable suspicion drug test be required since Fred isn't performing safety-sensitive duties today?**
- 3. What observations support a decision to conduct a test?**

#### **SCENARIO 5**

##### **Larry Lately**

Larry is a 32 year-old driver who has been with your company for 4 years. He has been a good employee, with only 2 accidents on his record. Over the past 2 months, Larry has been late 6 times, 4 of them on Mondays. Today, his wife called and said he had "car trouble"; he arrived 2 hours late. When you walked into the dispatch area to talk with Larry about his late arrival, you thought you detected a faint odor of stale alcohol on his breath. As you approached closer, Larry quickly popped some breath mints in his mouth, and started to complain about his car problems. You also noted that Larry's eyes were blood shot, he was unshaven, and his clothing looked like he had slept in it.

- 1. What observations of Larry's behavior and appearance did you make?**
- 2. What decision did you made about testing?**
- 3. What did you say or do after listening to Larry's car problems?**
- 4. What if Larry's explanation of his car problems included telling you that he had been up half the night getting the car home from the next town where it had broken down?**

### ***SCENARIO6***

#### ***Penny Party***

Penny is a 25 year-old security screener at a major metropolitan airport. She has worked for the company for 7 months. Penny has received several counseling reports for minor job performance problems. She "socializes on the job", frequently takes several extra minutes on her breaks, and has called in sick several times when on weekend duty rotation. She has a reputation among other workers as a "party girl", and frequently tells barroom jokes. On several occasions you have overheard her talking to fellow employees in the break and locker rooms about wild parties she attends and heavy drinking and next day hangovers. At a recent meeting with you about her 6-month probationary period performance report she was surly and defensive about her performance level.

- 1. What observations support a reasonable suspicion test determination?**
- 2. What supervisory intervention is indicated?**
- 3. What patterns of behavior are consistent with a substance abuse problem?**

**SCENARIO 7**  
***Harriett Hostile***

Harriett is a 52 year-old school bus driver who has been with the School District for 10 years. She has an excellent work record and is a favorite among the students and their parents. She is usually cheerful, outgoing and cooperative. This Friday afternoon you ask Harriett if she will do a "double run", returning to the school after her normal afternoon trip to pick up athletic team members after a practice game. You are surprised when Harriett refuses your request, curses you and the athletic coach, and tells you to "get off her case". As she storms out of your office, you notice an unopened beer can in her tote bag.

- 1. What documentation for a reasonable suspicion test do you have?**
- 2. What would you say or do next?**
- 3. What is the deciding factor in your decision?**

**SCENARIO 8**  
***Ron Reckless***

Ron, a 44 year-old male, has been a city transit employee for 10 years; first as a bus driver for 8 years, and now a motorman on the rail system. You have just received a call from one of the station supervisors that Ron overshot the last stop, had to back up the train, and departing passengers complained that the train had stopped suddenly on the tunnel approach, causing several passengers to be thrown off balance. You meet the train as it pulls into the last station and approach Ron in the cab. When you ask him to step out of the cab, he starts laughing, stumbles out of the cab, and belches loudly. In response to your question, "Are you feeling okay?" Ron responds, laughing, "Man, I never felt better."

- 1. Is a reasonable suspicion alcohol test indicated?**
- 2. Is a reasonable suspicion drug test indicated?**
- 3. What are the observations to support a drug and alcohol test?**

**4. Do you need more information before making a decision about reasonable suspicion testing?**

***SCENARIO 9***

***Doug Dropsey***

Doug is a 28 year-old aviation mechanic. He has worked for the airline for 3 years, but you have been his supervisor for only 6 weeks. This morning, as you are making your "rounds", you notice Doug dropping tools, muttering to himself. You check the records on the aircraft and note that this maintenance job is behind schedule. You approach Doug and ask him how it's going. Doug's complexion is flushed, his eyes are red and tearing. He doesn't respond to your greeting. When you ask him again if there are any problems, he looks at you, seems unfocused and distant, and mumbles an incoherent response.

**1. What do you do next?**

**2. What observations of behavior and appearance do you note?**

**3. Is a reasonable suspicion alcohol test warranted?**

***SCENARIO 10***

***Alan Alone***

Alan is a welder on the pipeline repair crew; he also has a CDL and on occasion is the crew chief and drives the equipment truck to the worksite. Two new members on Alan's crew have been complaining about working for him. They have accused him of drinking a few beers out on the line, of not knowing what he's doing, and treating them like "kids". You know Alan recently went through a divorce and you have received some calls from bill collection agencies looking for him. This morning, as you are checking the crews for dispatch to worksites, Alan hasn't clocked in. You ask around and someone says they saw him earlier and think he's in the vending machine room having coffee. When you go to the snack area, you see Alan sitting by himself, eyes closed, his head leaning on his hand. You approach him, say good morning, and tell him that he hasn't clocked in yet. He looks at you blankly and says, "Don't rush me. Can't a man even have a cup of coffee"?

**1. Is this a situation for a reasonable suspicion test?**

**2. What are the factors you should consider in making your decision?**

**3. What would you do next in this situation?**

## RECOMMENDED RESPONSES TO WORKPLACE SCENARIOS

### Scenario 1 - Sam Shakey

1. You should engage the employee in conversation and attempt to observe his actions and appearance closely. Saying anything like, "Sam you don't look like you feel well today; you're really sweating and you seem shakey."
2. Profuse sweating (assuming the temperature isn't extremely hot)  
Shaking of his hands  
An unfocused stare in his eyes.
3. No doubt this information may lead you to suspect Sam is using drugs again, or is having withdrawal symptoms. However, any decision to test should be based on your observation of Sam's behavior and appearance today.

Even though Sam acknowledged prior treatment for drug abuse and is entitled to "protection" and accommodation for his disability, current illegal drug use is prohibited. A positive drug test would be evidence of current (within the past 30 days) drug use. The ADA does not protect Sam from the consequences of current drug use, nor is current drug use a reasonable accommodation for his disability.

### Scenario 2 - Steve Snow

1. Ask the individual to come out of the stall. Observe him closely for behavior or appearance that indicates possible drug use. Tell the employee what you saw and state any behavior or appearance factors that cause you concern for the employee's fitness and well being.
2. You need to know if the individual is an employee subject to testing. You need to have specific observations of behavior or appearance that are associated with possible drug use. The plastic baggie alone is not sufficient grounds for a reasonable suspicion drug test for use of a controlled substance. The baggie could contain a harmless, non-controlled substance.
3. Your company may have written policy and procedures for dealing with suspected possession of drugs. If so, you should follow the proscribed procedures for documenting suspected possession. Remember, a reasonable suspicion test must be based on signs or symptoms of drug use, not simply drug possession.

### **Scenario 3 - Arlene Apathy**

1. You should acknowledge that you haven't seen Arlene for quite a while, and ask her how she is doing. The supervisory session should focus on your reasons for calling her in; reports that her performance is less than satisfactory. You should also add your own observation of her behavior and appearance.
2. Unkempt hair and makeup  
Obvious weight loss  
lethargic, apathetic attitude
3. The symptoms observed may be associated with alcohol misuse. However, unless Arlene is about to perform, is performing, or has just completed performing safety sensitive duties, the criteria for a reasonable suspicion alcohol test are not met.

### **Scenario 4 - Fred Fidget**

1. You should arrange to talk to Fred privately at the next break or opportunity. Ask him for feedback on his experience in the safety seminar. State your observation on Fred's behavior during the sessions. Solicit responses to your statements. Inform him of your test decision.
2. Yes. A reasonable suspicion drug test determination can be made at anytime the supervisor has official or job related interaction with the employer. Since illegal drug use is prohibited on duty, or off duty, at anytime, there is no requirement that Fred be performing safety sensitive duties (driving) at the time the test determination is made.
3. Disruptive, Inappropriate workplace behavior and conduct  
Inappropriate laughter  
Fidgety, restless, motor activity  
Talkative, hyper behavior

### **Scenario 5: Larry Lately**

1. **What observations of Larry's behavior and appearance did you make?**  
odor of alcohol on breath  
use of breath mints

bloodshot eyes  
unshaven  
disheveled clothing

**2. What decision did you make about testing?**

Reasonable Suspicion Alcohol Test

**3. What did you say or do after listening to Larry's car problems?**

"I'm concerned about what I see and smell, Larry. I want you to take a breath alcohol test."

**4. What if Larry's explanation of his car problems including telling you that he had been up half the night getting the car from the next town where it had broken down?**

Empathize with employee about his car problems. Stay focused on behavior and appearance that are of concern. Explain that if fatigue or stress are the problem, a breath alcohol test will eliminate alcohol misuse as a possible factor. Reiterate that your role is to ensure that Larry is fit for safety-sensitive duty.

***Scenario 6: Penny Party***

**1. What observations support a reasonable suspicion test determination?**

There are no contemporaneous, articulable observations made by the supervisor TODAY.

**2. What supervisory intervention is indicated?**

Closer monitoring of Penny's on-duty performance and behavior. Counseling statement concerning tardiness from breaks, sick leave usage on weekends, and inappropriate "socializing on the job".

**3. What patterns of behavior are consistent with a substance abuse problem?**

Possible indicators include:

- excessive sick leave usage; especially on weekends
- long breaks
- preoccupation with talking about alcohol-centered activities
- defensive about poor job performance

**NOTE: The facts and observations presented in this scenario DO NOT meet the criteria for a reasonable suspicion test under DOT rules.**

***Scenario 7: Harriett Hostile***

**1. What documentation for a reasonable suspicion test do you have?**

Cursing, inappropriate language (which is uncharacteristic of Harriett's usual demeanor), possession of alcohol

**2. What do you say or do next?**

Ask Harriett to return to your office. Confront Harriett with your observations. Inform Harriett that a reasonable suspicion alcohol test will be conducted. Explain that her behavior is inappropriate and very different from her usual actions on the job.

**3. What is the deciding factor in your decision?**

Seeing the can of beer in Harriett's possession while on duty.

***Scenario 8: Ron Reckless***

**1. Is a reasonable suspicion alcohol test indicated?**

Yes

**2. Is a reasonable suspicion drug test indicated?**

Possibly, although the behavioral symptoms are more usually associated with recent alcohol use or alcohol intoxication.

**3. What are the observations to support a drug and alcohol test?**

- inappropriate laughter
- stumbling out of cab
- loud belching
- inappropriate verbal response

**4. Do you need more information before making a decision about reasonable suspicion testing?**

There is sufficient documented observation of behavior and appearance consistent with alcohol misuse or drug use to require reasonable suspicion testing.

***Scenario 9: Doug Dropsey***

**1. What do you do next?**

Ask Doug to accompany you to your office or other private area. Ask Doug if he is okay; solicit a coherent verbal response. Identify and confront Doug with your observations of his behavior and appearance. Explain that a reasonable suspicion test will be conducted.

**2. What observation of behavior and appearance do you note?**

- flushed complexion
- red, watery eyes
- unresponsive to verbal greeting
- unfocused, distracted eye contact
- incoherent, mumbled speech

**3. Is a reasonable suspicion alcohol test warranted?**

Reasonable suspicion testing is definitely necessary. Both an alcohol and drug test are indicated since signs and symptoms are consistent with either drug or alcohol use.

*Scenario 10: Alan Alone*

**1. Is this a situation for a reasonable suspicion test?**

Possibly. More information and continued observation of and interaction with Alan is needed.

**2. What are the factors you should consider in making your decision?**

Observations of behavior and appearance; not past information from co-workers or subordinates; not general information about Alan's private, off-duty life (i.e. divorce, financial troubles). Blank look, irritable response, drowsy, slumped posture may be indicators of recent alcohol use, or of a hangover.

**3. What would you do next in this situation?**

Continue to engage Alan in conversation. Identify your current concerns:

- failed to "clock in"
- appears sleepy, fatigued
- seems irritable, upset

If Alan's response becomes hostile or aggressive, or if he acknowledges feeling ill or hungover, or if you detect odor of alcohol, require a reasonable suspicion test.

If no other signs or symptoms of possible alcohol misuse are presented, reiterate your concern for his well-being and fitness, and monitor closely throughout his shift.

## Appendix B

### SUPERVISOR'S OBSERVATIONS

#### Section 1

Employee Name: \_\_\_\_\_  
Employee Job Title: \_\_\_\_\_ Division/Work Unit: \_\_\_\_\_  
Date of Observation: \_\_\_\_\_ Time: \_\_\_\_\_ am / pm  
Location: \_\_\_\_\_ Employee performing safety-sensitive duties?  Yes  No

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#### Section 2

Observations: Check ALL that apply:

##### BEHAVIOR

- stumbled
- drowsy, sleepy, lethargic
- agitated, anxious, restless
- hostile, withdrawn
- unresponsive, distracted
- clumsy, uncoordinated
- tremors, shakes
- flu-like illness complaints
- suspicious, paranoid
- hyperactive, fidgety
  
- frequent use of mints, mouthwash, breath sprays, eye drops
- inappropriate, uninhibited behavior

##### APPEARANCE

- flushed complexion
- sweating
- cold, clammy, sweats
- bloodshot eyes
- tearing, watery eyes
- dilated (large) pupils
- constricted (pinpoint) pupils
- unfocused, blank stare
- disheveled clothing
- unkempt grooming

##### SPEECH

- slurred, thick
- incoherent
- exaggerated enunciation
- loud, boisterous
- rapid, pressured
- excessively talkative
- nonsensical, silly
- cursing, inappropriate speech

##### BODY ODOR

- alcohol
  
- marijuana

Other observations: \_\_\_\_\_

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#### Section 3

The observations, are documented above, were made of the employee identified in Section 1.

Supervisor's Name (printed or typed) Signature \_\_\_\_\_ Date \_\_\_\_\_

Additional Witness:

Witness Name (printed or typed) Signature \_\_\_\_\_ Date \_\_\_\_\_

#### Section 4

##### Test Determination:

- |   |  |
|---|--|
| <input type="checkbox"/> Reasonable Suspicion Alcohol Breath Test | <input type="checkbox"/> No Test Conducted                     |
| <input type="checkbox"/> Reasonable Suspicion Drug Urine Test     | <input type="checkbox"/> 8 hours elapsed                       |
| <input type="checkbox"/> No Test Required                         | <input type="checkbox"/> No collection available               |
| <input type="checkbox"/> Employee Refused Test                    | <input type="checkbox"/> Employee transported for medical care |
|   | <input type="checkbox"/> Other (explain) _____                 |
- 

#### Section 5

Employee transported to collection site by: \_\_\_\_\_

Time transported: \_\_\_\_\_ am / pm Collection site: \_\_\_\_\_