



MEMORANDUM

OREGON DEPARTMENT OF FISH AND WILDLIFE

DATE:
FROM: Jerry Cotter, Safety and Health Manager
TO: Supervisors of CDL holders
SUBJECT: Reasonable suspicion training

Federal DOT regulations require supervisors of CDL holders to receive at least 60 minutes of training on alcohol misuse and at least 60 minutes of training on controlled substances use. The total training time is thus at least two hours. This training would then be used by supervisors to determine whether a reasonable cause exists to require a driver to undergo reasonable suspicion drug or alcohol testing per DOT regulations.

There are a few options for scheduling this training. Cascade Centers, the state's Employee Assistance Program (EAP) provider can provide this training as part of our contract. While there is no additional cost for this training, scheduling may be an issue since they only have two trainers who can be very busy. There are other providers as well, and their costs are generally about \$40 dollars per attendee for an open-enrollment class, or about \$100 per hour for a contract class. However, we can load up the number of attendees for a contract class, which would keep the cost per attendee low.

We occasionally have new supervisors that may need this training. In addition, there may be others who wish to take this training for professional development. While DOT requires it for supervisors of CDL-holders, drug and alcohol abuse can affect any employee and any supervisor may want to be aware of signs and symptoms of this problem.

Please let me know if you are in need of and/or interested in Reasonable Suspicion training. I can assist you with training options.

cc:

ODFW

Reasonable Suspicion CDL Packet

- ❖ **Reasonable Cause Road Map For Supervisors**
- ❖ **Reasonable Suspicion Indicators and Forms**
- ❖ **Post-Accident Testing**




**Reasonable Cause Drug and/or Alcohol Testing
Road Map for Supervisors
Information supplied by Bio-Med Testing Service Inc**

When a supervisor is faced with an incident that raises concern regarding the possibility of drug and/or alcohol use by an employee on the job, certain steps must be taken with respect to the safety of the company and its employees. The right to privacy of the employee, whether suspected of drug and/or alcohol use, must be respected at all times -- not only because the individual has this right, but any legal issues that may result from action taken must be defensible to the company.

1. Document in written form observable and objective signs and symptoms of possible drug use.
 - a. Objective findings include:
 - i. Negative change in job performance
 - ii. Slurred speech
 - iii. Pattern of unexcused absences
 - iv. Blood shot eyes without plausible explanation
 - b. Subjective findings or response to rumor are not acceptable for reasonable cause testing:
 - i. Co-worker reports another worker "parties" on weekends
 - ii. Person "looks like" someone who uses drugs
 - iii. Person was on break and was observed swallowing a pill
2. Assure that the documentation is legitimate and articulate; confer with another supervisor, if possible, to concur observable, objective signs. Notify company HR (Human Resources) immediately, if appropriate.
3. As soon as possible after objective signs and symptoms are documented, meet with employee to share observations.
 - a. Discuss in a calm, objective way, with the employee what you have observed, i.e.
 - i. "I have noticed that your job performance has not been up to par with what we have seen in the past," and give one or two examples, or
 - ii. "I have noticed unsteadiness in your gait and am concerned."
 - iii. "We are here to discuss the verbal/ physical agitation I noticed with" someone earlier today,
 - iv. "You have had _____ unexcused absences over the past _____ weeks/ months/ etc.
 - b. Try to keep your own demeanor calm and non-confrontational. As a supervisor, you will need to be professional and articulate -- and be able to objectively assess the reaction of the employee as you are discussing this with them.
 - c. If there is no plausible reason (and even if there is) let the employee know that you are required to determine if they are safe to conduct their work.
 - i. Document their nonverbal as well as verbal response (ex: Employee yelled at me that "everyone is against" them)

- d. Explain to the employee that they are on paid leave until you have received the test results (Paid leave may apply only if the results are negative.)
4. Escort, or arrange an escort, to the collection site for a drug and/or breath alcohol test under reasonable cause testing. Document the behavior of the employee while being transported, and when they are at the collection site.
 - a. After the test is completed, escort -- or arrange an escort -- to transport the employee home.
5. If the test results come back positive, and your policy specifies this, the "paid" leave will be rescinded to "unpaid."
 - a. If your policy allows, arrange for a last chance agreement.
 - b. Fully document your conversation with the employee regarding the positive test result.
 - c. Refer to an EAP if appropriate
 - d. Terminate if this is your company policy, but provide the employee with a hot line to call, or other hand out regarding help with drug abuse or alcohol mis-use.
6. If the test results come back negative,
 - a. Arrange for a second face-to-face meeting with the employee regarding the nature of their behavior that preceded the testing action.
 - b. Further explain the unacceptable work behavior or pattern of behavior or job performance.
 - c. Create a step-by-step performance plan with the goal of improving the documentation that preceded the request for a drug test.
 - d. Consider referring employee for an independent physical exam if the observable signs and symptoms appear to cause impairment and could lead to an accident.

Bottom Line:

1. Document  Document  Document 
 2. Stay cool and objective
 3. Keep your language and your behavior professional and respectful
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*This Road Map is intended only as a guide
Contact A WorkSafe Service, Inc. (503-391-9363) for guidance on specific situations*

*Be sure your specific drug policy is followed in every case of
reasonable suspicion testing.*

DRUG AND ALCOHOL ABUSE PHYSICAL AND BEHAVIORAL INDICATORS

Physical Signs or Symptoms

- Possessing, dispensing, or using prohibited substance
- Slurred or incoherent speech
- Unsteady gait or other loss of physical control, poor coordination
- Dilated or constricted pupils or unusual eye movement
- Bloodshot or watery eyes
- Extreme fatigue or sleeping on the job
- Excessive sweating or clamminess of skin
- Flushed or very pale face
- Highly excited or nervous
- Nausea or vomiting
- Odor of alcohol
- Odor of marijuana
- Disheveled appearance or out of uniform
- Dry mouth (frequent swallowing/lip wetting)
- Dizziness or fainting
- Shaking hands or body tremors/twitching
- Breathing irregularity or difficulty breathing
- Runny nose or sores around nostrils
- Inappropriate wearing of sunglasses
- Puncture marks or "tracks"

Quality and Quantity of Work

- Clear refusal to do assigned tasks
- Significant increase in errors
- Repeated errors in spite of guidance
- Reduced quantity of work
- Inconsistent, "up and down" quantity or quality of work
- Behavior that disrupts work flow
- Procrastination on significant decisions or tasks
- More than usual supervision necessary
- Frequent, unsupported explanations for poor work performance
- Noticeable change in written or verbal communication

Interpersonal Work Relationships

- Significant changes in relations with co-workers, supervisors, others
- Frequent or intense arguments
- Verbal abusiveness
- Physical abusiveness
- Persistently withdrawn or less involved with people
- Intentional avoidance of supervisor
- Expressions of frustration or discontent
- Change in frequency or nature of complaints
- Complaints by co-workers or subordinates

Interpersonal Work Relationships

- Cynical, “distrustful of human nature” comments
- Unusual sensitivity to advice or critique of work
- Unpredictable response to supervision
- Passive-aggressive attitude or behavior, doing things “behind your back”

General Job Performance

- Excessive unauthorized absences
- Excessive authorized absences
- Frequent Monday/Friday absence or other pattern
- Frequent unexplained disappearances
- Excessive “extension” of breaks or lunches
- Frequently leaves work early
- Increased concern about actual incidents of safety offenses involving the employee
- Experiences or causes job accidents
- Major change in duties or responsibilities
- Interferes with or ignores established procedures
- Inability to follow through on job performance recommendation

Personal Matters

- Changes in usual personal appearance (dress, hygiene)
- Changes in usual speech (incoherent, stuttering, loud)
- Changes in usual physical mannerisms (gesture, posture)
- Changes in usual facial expressions
- Changes in usual level of activity – much reduced or increased
- Changes in usual topics of conversation
- Engages in detailed discussions about death, suicide, or harming someone
- Increasingly irritable or tearful
- Persistently boisterous or rambunctious
- Unpredictable or out-of-context displays of emotion
- Unusual fears
- Lacks appropriate caution
- Engages in detailed discussion about obtaining or using drugs and/or alcohol
- Has personal relationship problems (spouse, girl/boyfriend, children, in-laws)
- Has professional assistance for emotional or physical problems
- Makes unfounded accusations toward others, i.e. has feelings of persecution
- Secretive or furtive
- Memory problems (difficulty recalling instructions, data, past behaviors)
- Frequent colds, flu, or other illnesses
- Comes to work with alcohol on breath
- Excessive fatigue
- Makes unreliable or false statements
- Unrealistic self-appraisal or grandiose statements
- Temper tantrums or angry outbursts
- Demanding, rigid, inflexible
- Major changes in physical health
- Concerns about sexual behavior or sexual harassment

Long Term Indicators Checklist

C. GENERAL JOB PERFORMANCE

YES NO

- ___ 1. Excessive unauthorized absences – number in last 12 months _____
- ___ 2. Excessive authorized absences – number in last 12 months _____
- ___ 3. Excessive use of sick leave – number in last 12 months _____
- ___ 4. Frequent Monday/Friday absence or other pattern
- ___ 5. Frequent unexplained disappearances
- ___ 6. Excessive “extension” of breaks or lunch
- ___ 7. Frequently leaves work early – number of days per week or month _____
- ___ 8. Increased concern about, actual incidents of safety offenses involving the employee _____
- ___ 9. Experiences or causes job accidents
- ___ 10. Major change in duties or responsibilities
- ___ 11. Interferes with or ignores established procedures
- ___ 12. Inability to follow through on job performance recommendation

D. PERSONAL MATTERS

YES NO

- ___ 1. Changes in or unusual personal appearance (dress, hygiene)
- ___ 2. Changes in or unusual speech (incoherent, stuttering, loud)
- ___ 3. Changes in or unusual physical mannerisms (gesture, posture)
- ___ 4. Changes in or unusual facial expressions
- ___ 5. Changes in or unusual level of activity – much reduced _____ or increased _____
- ___ 6. Changes in or unusual topics of conversation
- ___ 7. Engages in detailed discussions about death, suicide, or harming someone
- ___ 8. Increasingly irritable or tearful
- ___ 9. Persistently boisterous or rambunctious
- ___ 10. Unpredictable or out-of-context displays of emotion
- ___ 11. Unusual fears
- ___ 12. Lacks appropriate caution
- ___ 13. Engages in detailed discussion about obtaining or using drugs and/or alcohol
- ___ 14. Has personal relationship problems (spouse, girl/boyfriend, children, in-laws)
- ___ 15. Has received professional assistance for emotional or physical problems
- ___ 16. Makes unfounded accusations towards others, i.e., has feelings of persecution
- ___ 17. Secretive or furtive
- ___ 18. Memory problems (difficulty recalling instructions, data, past behaviors)
- ___ 19. Frequent colds, flu, or other illnesses
- ___ 20. Comes to work with alcohol on breath
- ___ 21. Excessive fatigue
- ___ 22. Makes unreliable or false statements
- ___ 23. Unrealistic self-appraisal, or grandiose statements
- ___ 24. Temper tantrums or angry outbursts
- ___ 25. Demanding, rigid, inflexible
- ___ 26. Major change in physical health
- ___ 27. Concerns about sexual behavior or sexual harassment

SIGNATURE OF SUPERVISOR

DATE

SIGNATURE OF HR ADMINISTRATOR

DATE

Short Term Indicators Checklist

**REASONABLE –CAUSE INCIDENT CHECKLIST
(STRICTLY CONFIDENTIAL)**

EMPLOYEE:

DATE/TIME OF INCIDENT:

SUPERVISOR #1, NAME AND TELEPHONE:

SUPERVISOR #2, NAME AND TELEPHONE:

This checklist is to be completed when an incident has occurred which provides reasonable suspicion that an employee is under the influence of a prohibited drug substance or alcohol. You should note all pertinent behavior and physical signs or symptoms which lead you to reasonably believe that the employee has recently used or is under the influence of a prohibited substance. Mark each applicable item on this form and add any additional facts or circumstances which you have noted. (Note: if there are long-term behavioral indicators of substance abuse, please complete the Reasonable-Cause Employee Observation Checklist.)

A. Nature of Incident/Cause for Suspicion

- 1. Observed/reported possession or use of a prohibited substance (including passenger complaint)
- 2. Apparent drug or alcohol intoxication
- 3. Observed abnormal or erratic behavior
- 4. Arrest or conviction for drug-related offense
- 5. Evidence of tampering on a previous drug test
- 6. Other (e.g., flagrant violation of safety or serious misconduct, accident or “near miss,” fighting or argumentative/abusive language, refusal of supervisor instruction, unauthorized absence on the job) (please specify)

B. Behavioral Indicators Noted

- 1. Verbal abusiveness
- 2. Physical abusiveness
- 3. Extreme aggressiveness or agitation
- 4. Withdrawal, depression, tearfulness, or unresponsiveness
- 5. Inappropriate verbal response to questioning or instructions
- 6. Other erratic or inappropriate behavior (e.g., hallucinations, disorientation, excessive euphoria, talkativeness, confusion) (please specify)

Short Term Indicators Checklist

C. Physical Signs or Symptoms

- 1. Possessing, dispensing, or using prohibited substance
- 2. Slurred or incoherent speech
- 3. Unsteady gait or other loss of physical control, poor coordination
- 4. Dilated or constricted pupils or unusual eye movement
- 5. Bloodshot or water eyes
- 6. Extreme fatigue or sleeping on the job
- 7. Excessive sweating or clamminess of skin
- 8. Flushed or very pale face
- 9. Highly excited or nervous
- 10. Nausea or vomiting
- 11. Odor of alcohol
- 12. Odor of marijuana
- 13. Disheveled appearance or out of uniform
- 14. Dry mouth (frequent swallowing/lip wetting)
- 15. Dizziness or fainting
- 16. Shaking hands or body tremors/twitching
- 17. Breathing irregularity or difficulty breathing
- 18. Runny nose or sores around nostrils
- 19. Inappropriate wearing of sunglasses
- 20. Other (please specify)

D. Written Summary

Please summarize the facts and circumstances of the incident, employee responses, supervisor actions taken, and any other pertinent information not previously noted. Please not the date, times and location of reasonable-cause testing or note if employee refused the test. Attach additional sheets as needed.

SIGNATURE OF SUPERVISOR	DATE	SIGNATURE OF HR ADMINISTRATOR	DATE
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§ 382.303 Guidelines for Post-Accident Testing.

(a) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for alcohol for each of its surviving drivers:

(a)(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(a)(2) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved;

(a)(2)(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(a)(2)(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(b) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each employer shall test for controlled substances for each of its surviving drivers:

(b)(1) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(b)(2) Who receives a citation within thirty-two hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved;

(b)(2)(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(b)(2)(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(c) The following table notes when a post-accident test is required to be conducted by paragraphs (a)(1), (a)(2), (b)(1), and (b)(2) of this section:

Table for Sec. 382.303(a) and (b)

Type of accident involved	Citation issued to the CMV driver	Test must be performed by employer
i. Human fatality	YES	YES
	NO	YES
ii. Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
iii. Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

(d)(1) *Alcohol tests.* If a test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(d)(2) *Controlled substance tests.* If a test required by this section is not administered within 32 hours following the accident, the employer shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(e) A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(f) An employer shall provide drivers with necessary post-accident information, procedures and instructions, prior to the driver operating a commercial motor vehicle, so that drivers will be able to comply with the requirements of this section.

(g)(1) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing requirements, and that the results of the tests are obtained by the employer.

(g)(2) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the employer.

(h) *Exception.* This section does not apply to:

(h)(1) An occurrence involving only boarding or alighting from a stationary motor vehicle; or

(h)(2) An occurrence involving only the loading or unloading of cargo; or

(h)(3) An occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle (as defined in § 571.3 of this title) by an employer unless the motor vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with § 177.823 of this title.