

Reasonable Suspicion Determination for Supervisors of CMV Operators



The DOT Drug and Alcohol Testing Regulations exist to:

Protect the health and safety of all employees, customers and the public.



Today's Goal

1. To provide training and information that fulfills the FMCSA (Federal Motor Carrier Safety Administration) Reasonable Suspicion training requirements.
2. To provide you with knowledge and skills necessary to make fair “reasonable suspicion testing referrals” of covered employees.
3. To review documentation “best practices”



Employer's Goals

- Maintain a safe, secure and productive environment for employees.
- Evaluate and discuss performance with employees.
- Treat all employees fairly.
- Act in a manner that does not demean or label people .



Reasonable Suspicion Testing

- The employer's determination (to test) is based on "*specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech, or body odors of the driver*"
- The observations for reasonable suspicion "testing" must be made by a trained supervisor or company official



Non-Compliance Problems

- Underutilized by entire industry despite mandated supervisor training
- Referrals made by untrained supervisors or company officials
- Reason for referrals not documented by supervisor
- Delays in testing not documented.

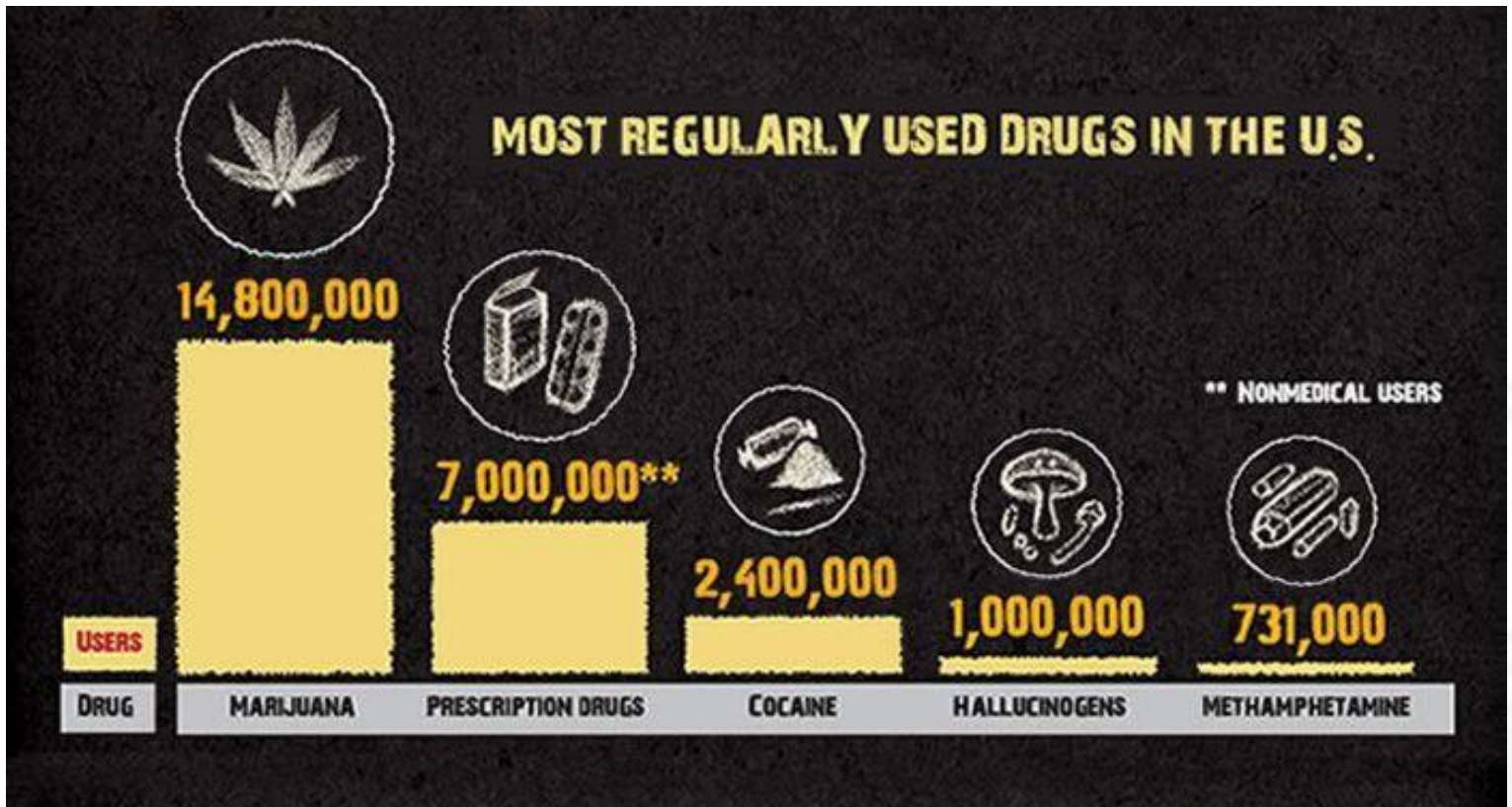


Reasonable Suspicion Training: ALCOHOL



**Alcohol is the
MOST ABUSED DRUG
in the United States**

Reasonable Suspicion Training: DRUGS



Prohibited Behaviors

Drugs:

- All five drugs tested under DOT rules are illegal, therefore, they are prohibited at all times (no medical exception*)
- Employees may be tested anytime they are on duty or subject to duty.



***This includes medical marijuana, which is prohibited**

Prohibited Drugs Tested

Confirmatory cut-off (ng/mL)

Marijuana	15
Cocaine	100
Opiates	2000
Amphetamines	250
Phencyclidine (PCP)	25

Drug Detection Periods

Amphetamines: 2 - 4 days

Cocaine: 12 - 72 hours

Marijuana:

- Casual user: 2 - 7 days
- Chronic user: Up to 30 days

Opiates: 2 - 4 days

PCP:

- Casual user: 2 - 7 days
- Chronic user: Up to 30 days.



Reasonable Suspicion Training: DRUGS

**According to Federal Drug
and Alcohol Clearinghouse
Drug Violations Increased
by 10.2% from 2020-2021
Marijuana- 29,511-31,085
Cocaine- 7,940-8,765**

Reasonable Suspicion Determination

Observe

Personally observe unusual behavior. If you learn second hand information, verify it yourself.

Confirm

Physical, behavioral, speech and or performance indicators are consistent with what you know about substance abuse. You do NOT need to know which substance is being used.

Reasonable

You do not need to be correct that someone is under the influence. You just need a *reasonable* basis for a testing referral.



Reasonable Suspicion Determination

Document

Observations must be described in a written report. Use a form to capture and document this information.

Confront

Inform the driver of your suspicion and exactly what you observed. Immediately remove from safety-sensitive duties. If there is reasonable suspicion, there is no negotiation. The test must be completed.

Test

Immediately order appropriate test/tests.



DOCUMENT

Document, Document, Document!

Make sure your observations concerning the employee's appearance, behavior, speech, or body odors are “specific, contemporaneous, articulable”.

Maintain documents in connection with decisions to conduct reasonable suspicion tests for at least two (2) years.



CONFRONT: How to Approach a Driver

- Stick to the facts. This is what I see or found.....
- Drug use is illegal. End of story.
- Show concern for the driver.
- Listen respectfully, understanding that there is no excuse that change your mind.
- Can say that you have no choice-because it is YOUR job...

CONFRONT: How to Approach a Driver

- Use private setting to preserve confidentiality.
- It may be helpful to involve a Town Manager, Selectboard member, or HR in the discussion.
- State that you are not accusing the driver of anything but, must follow Federal requirements.
- Ask non-threatening questions.
- Use calm voice and display concern.
- Ignore inflammatory remarks or acts of belligerence on the part of the driver.



TEST

Weekdays 8:00am-4:00pm

Call DISA at 1-800-211-4469

Weekends or Weekdays 4:00pm-8:00am

Call DISA 24-hour emergency line at 1-800-967-3135

If mobile van is available, they will come to you.

If not, DISA will direct you where to go for the test.

Either way, the test must be done ASAP.



Considerations

- Do not let the employee drive themselves to or from testing site otherwise the municipality may be liable should an accident occur.
- If employee is sent home after a reasonable suspicion test, transportation should be provided or arranged.
- If employee insists on driving, inform them that you will call local law enforcement. Do not physically attempt to stop them.



Review

- Be Proactive – order testing when required
- Don't act on a “hunch” or “hearsay”. Second hand info must be personally verified
- Interview in privacy – Expect denial
- Document your observations and discussion with employee
- Don't try to determine what drug is being used
- Base decision to test on whether there is reasonable evidence to suggest the person is under the influence



Review

- Only one trained Supervisor is required, but a witness is recommended.
- Company policy – Escort to/from collection site
- Company policy – Remove from SS duties
- Follow your Drug & Alcohol Testing Policy



DISA CONTACT INFO

Main Number: 800-211-4469

Program Admin- Rebecca Harper 3642

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24-HOUR ON-SITE Drug & Alcohol Testing

Post-Accident – Reasonable Suspicion

Toll Free Emergency Line

800-967-3135



Questions?

**Any Scenarios
that you would
like to discuss?**

