



August 5, 2022

Dr. Steve Cliff  
Administrator  
National Highway Traffic Safety Administration  
U.S. Department of Transportation  
Docket Management Facility, M-30  
West Building, Ground Floor, Room W12-140  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Re: Docket No. NHTSA-2022-0007

Dear Administrator Cliff:

Thank you for allowing the National Safety Council (NSC) to respond to the National Highway Traffic Safety Administration (NHTSA) Request for Comment (RFC) on barriers and solutions for toxicological testing on drug-impaired driving (DUID) investigations.

NSC is America's leading nonprofit safety advocate and has been for more than 100 years. As a mission-based organization, we work to eliminate the leading causes of preventable death and injury, focusing our efforts on the workplace, roadway and impairment. We create a culture of safety to keep people safer at work and beyond so they can live their fullest lives. Our more than 13,000 member companies and federal agencies represent employees at nearly 41,000 U.S. worksites.

NSC appreciates the fast action on this RFC included in the Bipartisan Infrastructure Law (Public Law 117-58), also known as the Infrastructure Investment and Jobs Act. The provision requiring regulatory action on addressing barriers and identifying solutions for toxicology testing carried support from both chambers of Congress and is critical to improving safety today.

To further reinforce the need for action, in May, NHTSA released troubling data showing continued increases in roadway fatalities, with fatal crashes where alcohol impairment was a factor increasing 22% between 2019 and 2021. Also, according to NHTSA, multiple-substance impaired driving increased during the COVID-19 pandemic from 18.1% to 24.6%.<sup>1</sup> It is clear drugs are involved in crashes, but because the DUID reporting is limited, we do not know the true impact. This is an oversight the National Transportation Safety Board called out in its 2013 report, *Reaching Zero: Actions to Eliminate Alcohol Impaired Driving*.<sup>2</sup> This shortcoming must be addressed, and this RFC is a step in that direction.

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<sup>1</sup> [https://www.nhtsa.gov/sites/nhtsa.gov/files/2021-06/Update\\_Traffic%20Safety%20During%20COVID-19\\_4thQtr-060121-web.pdf](https://www.nhtsa.gov/sites/nhtsa.gov/files/2021-06/Update_Traffic%20Safety%20During%20COVID-19_4thQtr-060121-web.pdf)

<sup>2</sup> <https://www.nts.gov/safety/safety-studies/Documents/SR1301.pdf>

Simultaneously, the U.S. is in the midst of an increasing drug overdose epidemic with the Centers for Disease Control and Prevention (CDC) estimating 107,600 people died from unintentional overdoses in 2021.<sup>3</sup> DUID data could also help inform countermeasures to save lives from drug overdoses. They can encourage NHTSA and CDC to collaborate on these issues as directed by the Senate Appropriations Committee Transportation and Housing and Urban Development Subcommittee fiscal year 2022 report.

Data gaps have consequences. Having better DUID data could help improve impaired driving education and responses and help respond to the overall drug overdose epidemic in the U.S. As a result of this RFC, labs should conduct drug testing no matter the blood alcohol concentration results, and these results should be reported to a common system to gain a holistic look at the DUID problem.

Last summer, the NSC Alcohol and Drugs Impairment Division (ADID) updated its survey of toxicology labs throughout the nation to create the recommendations for DUID testing in the U.S.<sup>4</sup> The recommendations are developed by polling toxicology labs throughout the U.S. about their current findings in DUID cases. With periodic updates, this work has shown how drug use has evolved and changed over the years and how it is impacting roadway safety. The most recent version of this survey was published in July 2021 in the *Journal of Analytical Toxicology*.<sup>5</sup> The top 20 most commonly identified drugs in DUID cases (in order of frequency) are listed below, and a full list is available in the article.

- THC
- Alprazolam
- Cocaine
- Methamphetamine
- Diazepam/nordiazepam
- Clonazepam/7-aminoclonazepam
- Fentanyl
- Amphetamine
- Hydrocodone
- Morphine
- Oxycodone
- Diphenhydramine
- Lorazepam
- Zolpidem
- Methadone
- Gabapentin
- Codeine
- Buprenorphine/norbuprenorphine
- Tramadol/O-desmethyltramadol
- Phencyclidine (PCP)

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<sup>3</sup> <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

<sup>4</sup> <https://academic.oup.com/jat/article/45/6/529/6292018>

<sup>5</sup> Ibid.

The most recent data from the ADID survey show toxicology labs value this guidance for their testing protocols (blood/urine testing): 12%/18% of labs meet or exceed the recommendations, 40%/36% of the labs were adjusting to meet the recommendations and 44%/45% were close to meeting the recommendations.<sup>6</sup> For a picture of the state of blood screening for the recommended substances, this graph shows the percentage of labs screening below, at or above the recommended levels or not testing at all. Below it is the chart for urine screening.

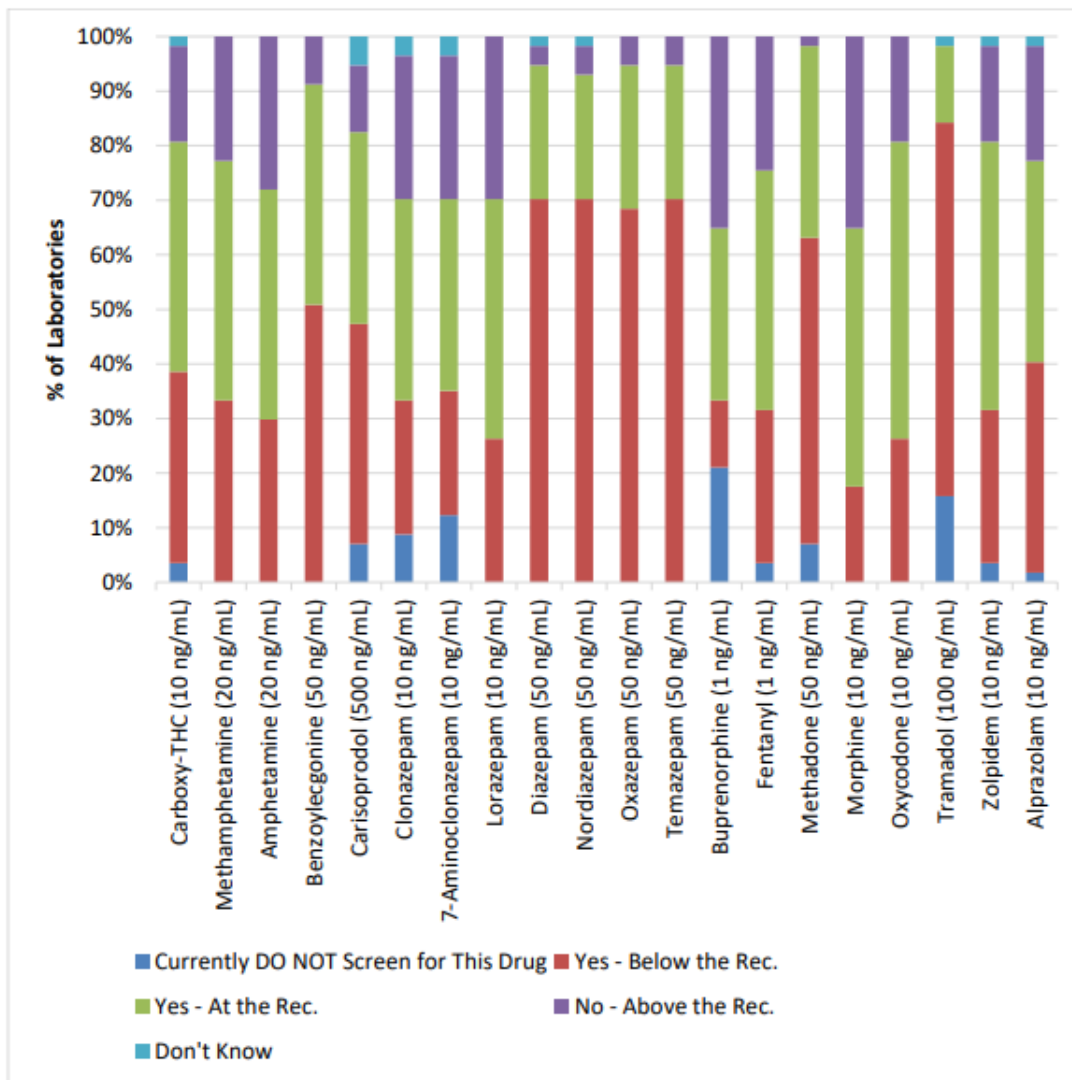


Figure 24 from “Updates for Recommendations for Drug Testing in DUID & Traffic Fatality Investigations, 2020” Labs meeting blood screening guideline recommendations

<sup>6</sup> [https://www.cfsre.org/images/content/research/toxicology/Survey\\_Report\\_Final.pdf](https://www.cfsre.org/images/content/research/toxicology/Survey_Report_Final.pdf)

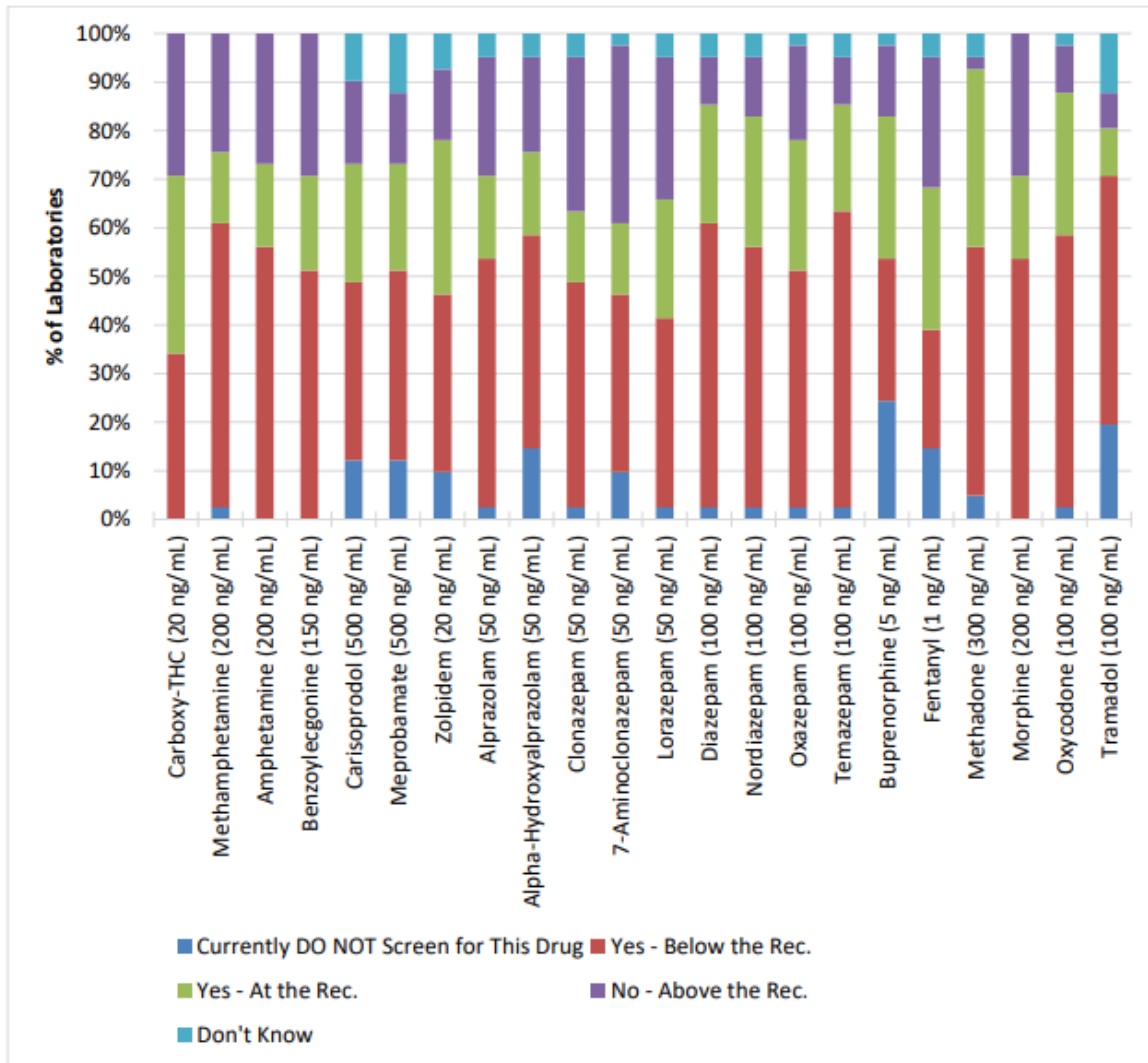


Figure 35 from “Updates for Recommendations for Drug Testing in DUID & Traffic Fatality Investigations, 2020” Labs meeting urine screening guideline recommendations

It is important to note only two labs in the survey conducted oral fluid testing. Advantages of oral fluid testing include ease of observation, quick collection, especially at the roadside, and testing can reflect more recent use. NSC believes more labs should be able to process oral fluid samples. Assistance should be provided to labs to support oral fluid expansion.

It is clear labs need assistance to meet these recommendations. Some reasons for not meeting these recommendations include lack of staffing and lack of instrument capacity or technology.<sup>7</sup> NHTSA funding can be identified and available for states to implement evidence based strategies to improve laboratory capabilities for testing of samples. NSC understands The Buy

<sup>7</sup> Ibid.

America Act limits some labs from acquiring the best equipment, and NHTSA should evaluate waiving this requirement and discuss feedback on this topic with Congress.

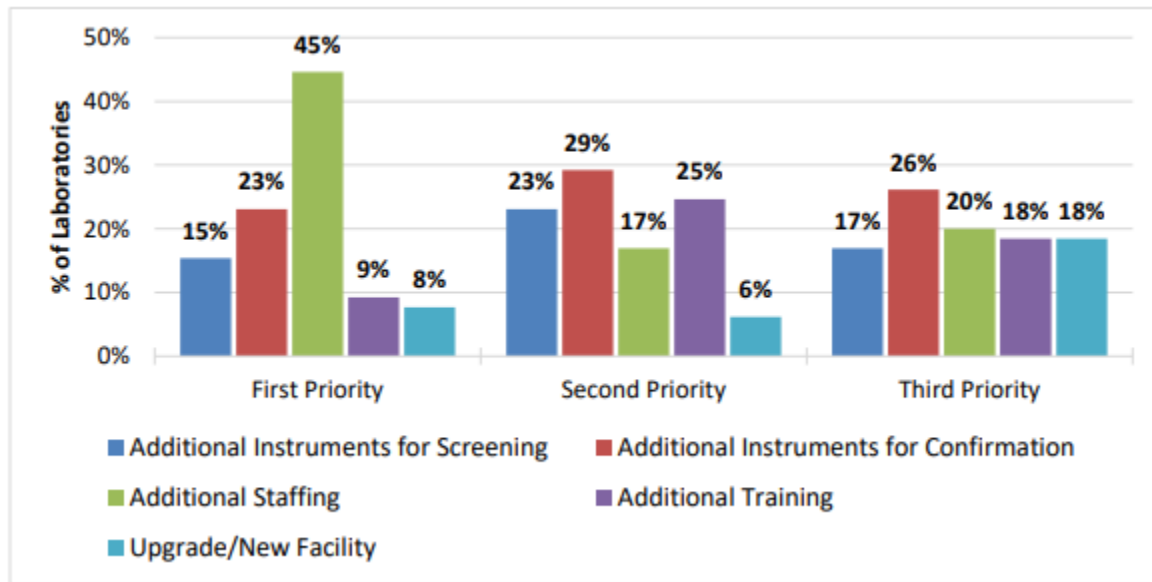


Figure 43 from “Updates for Recommendations for Drug Testing in DUID & Traffic Fatality Investigations, 2020” Top three priorities for additional resources to perform DUI and DUID testing

Creating national DUID guidance and moving to DUID testing requirements would help more labs fully implement these testing recommendations and provide a common understanding of DUID in the U.S. It is evident policymakers need common data sets to respond with more successful programs to eliminate DUID, to help with the drug overdose epidemic and to save lives. I applaud NHTSA for recognizing the importance of toxicologists in helping eliminate impaired driving and I urge all stakeholders to engage toxicologists in our shared efforts to eliminate impaired driving.

Please reach out to Jane Terry at the National Safety Council at [Jane.Terry@nsc.org](mailto:Jane.Terry@nsc.org) if you have any questions.

Sincerely,



Lorraine M. Martin  
President & CEO