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The Impact of Drugs & Alcohol in Trucking

THURSDAY / OCTOBER 22 / 1-2PM CT



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Before We Begin

All attendees are in “LISTEN ONLY” mode.

You can type in questions by clicking on the question box on the top right of your GoToWebinar panel.

Q&A at the end of the webinar.

Additional questions can be emailed to: anaples@smscsafety.com

A recorded copy of the webinar and slides will be made available to all attendees.



AGENDA

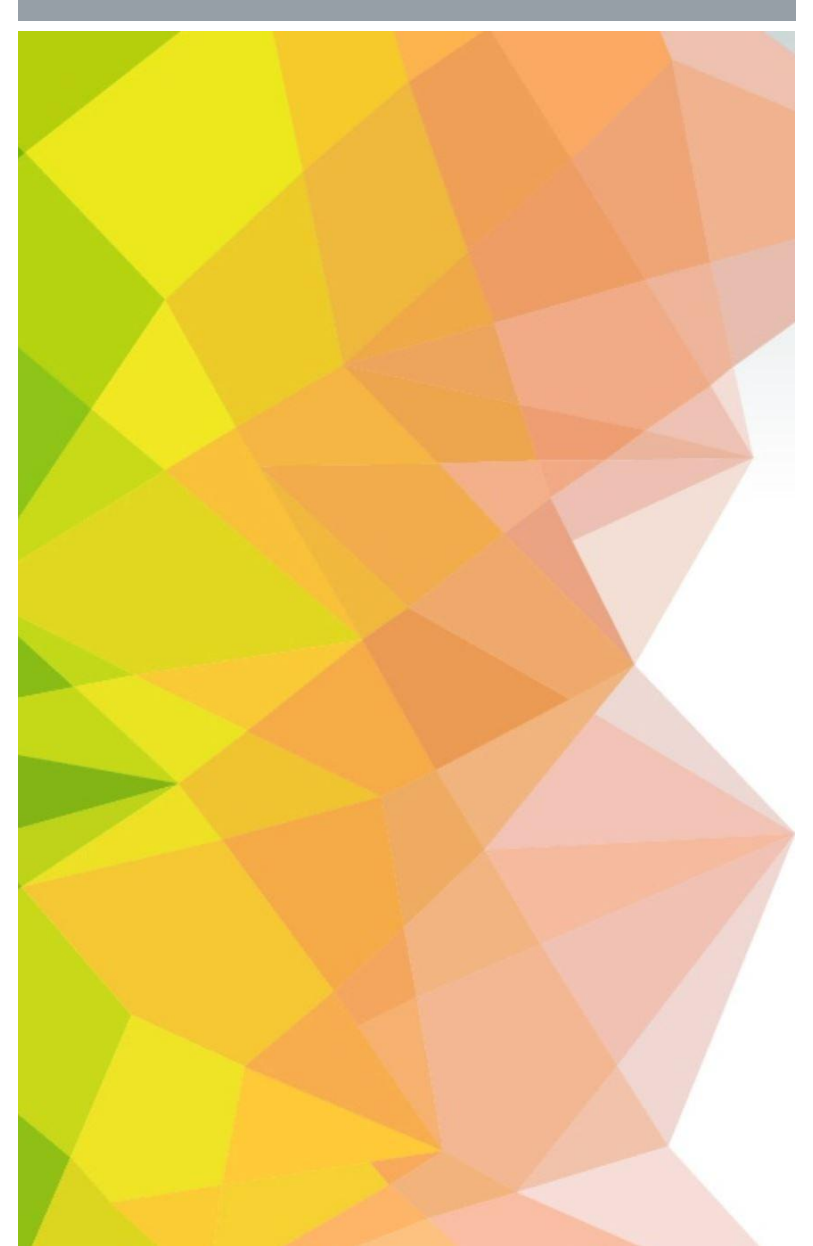
- FMCSA Drug & Alcohol Clearinghouse: A Quick Overview
- DOT Violations & the Return-to-Duty Process
- Marijuana & the Changing Regulatory Landscape
- Employment Decisions Following a Violation
- Prevention & Motor Carrier Risk Management



WHAT IS THE CLEARINGHOUSE?

WHY IS THE CLEARINGHOUSE IMPORTANT?

- The Clearinghouse is a secure online database that gives employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's permit (CLP) holders' drug and alcohol program violations.
- The Clearinghouse contains records of violations of drug and alcohol prohibitions in 49 CFR Part 382, Subpart B, including positive drug or alcohol test results and test refusals. When a driver completes the return-to-duty (RTD) process and follow-up testing plan, this information is also recorded in the Clearinghouse.
- The Clearinghouse enables employers to identify drivers who commit a drug and alcohol program violation while working for one employer, but who fail to subsequently inform another employer, as required.



HOW DO STATE DRIVER LICENSING AGENCIES (SDLAS) USE THE CLEARINGHOUSE?

- SDLAs must not issue, renew, upgrade, or transfer a commercial driver's license (CDL), or commercial learner's permit (CLP), as applicable, for any individual prohibited under FMCSA's regulations from performing safety-sensitive functions, including driving a commercial motor vehicle (CMV), due to one or more drug and alcohol program violations.
- SDLAs must, upon receipt of notification that a driver is prohibited from operating a CMV due to a drug and alcohol program violation, initiate the downgrade process to remove the CLP or CDL privilege from the driver's license within 60 days.
- Drivers completing the return-to-duty process before the downgrade process is completed would no longer be prohibited from operating a CMV and thus would no longer be subject to a downgrade.

CLEARINGHOUSE-II FINAL RULE



As of November 18, 2024, the Clearinghouse-II final rule (86 FR 55718) requires State Driver Licensing Agencies (SDLAs) to check the Clearinghouse before issuing, renewing, upgrading, or transferring a CDL, and before issuing, renewing, or upgrading a CLP. If a driver is in “prohibited” status, the SDLA must remove or deny commercial driving privileges until the driver completes the return-to-duty process and returns to “not prohibited” status

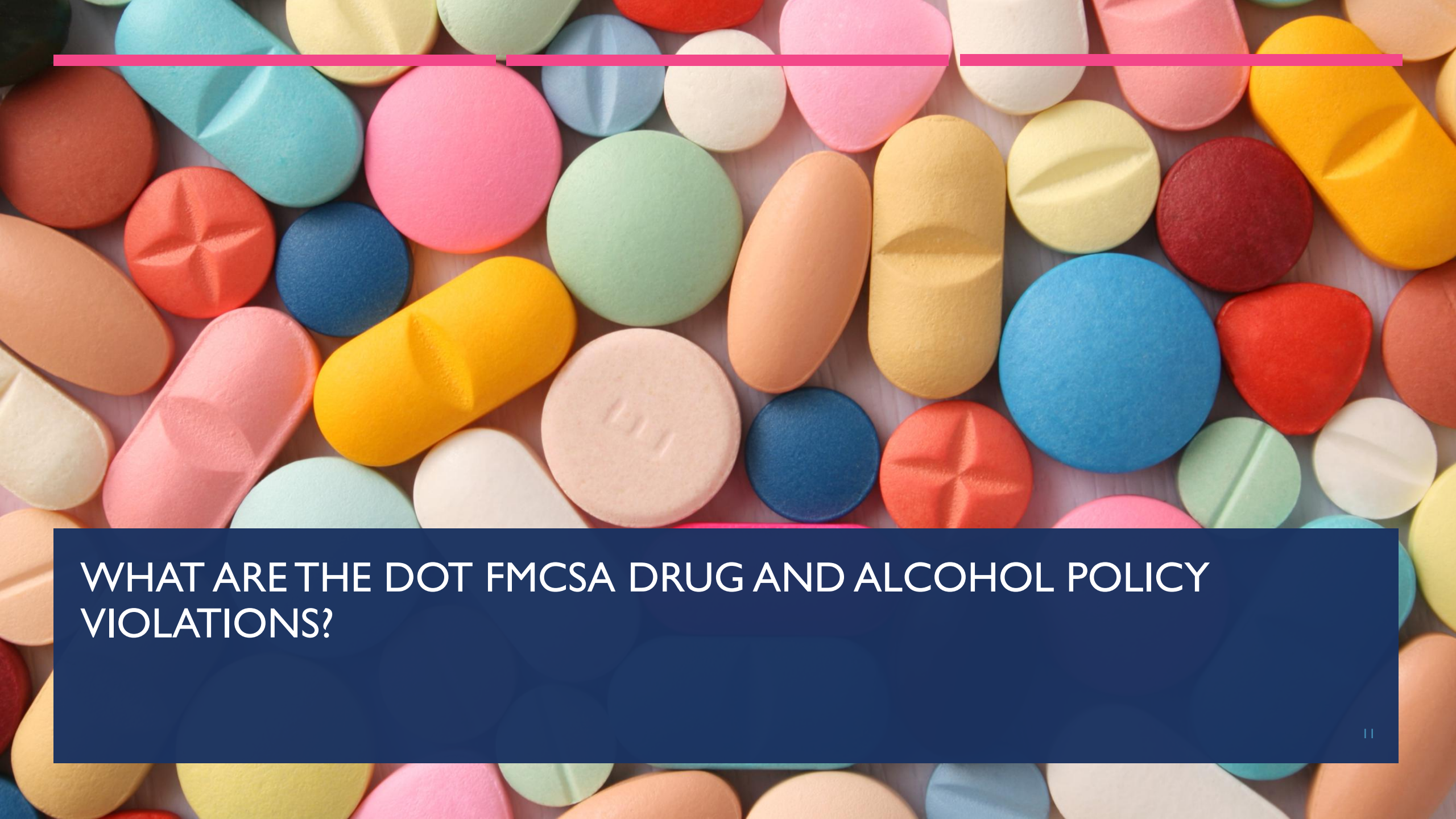


This means that, since November 18, 2024, having a “prohibited” Clearinghouse status will result in losing or being denied a CDL or CLP.



STEP BY STEP GUIDE ON HOW TO HANDLE A D/A VIOLATION

STEP I: VIOLATION, REMOVAL & NOTIFICATION



WHAT ARE THE DOT FMCSA DRUG AND ALCOHOL POLICY VIOLATIONS?

- **Positive Drug Test:**
 - Testing positive for any of the following substances: marijuana, cocaine, amphetamines, opioids, and phencyclidine (PCP).
- **Alcohol Concentration:**
 - Having an alcohol concentration of 0.04 or greater while performing safety-sensitive functions.
 - Operating a commercial motor vehicle (CMV) within four hours of consuming alcohol.
- **Refusal to Test:**
 - Refusing to submit to a required drug or alcohol test. Refusal can include failure to appear, failure to remain at the testing site, failure to provide a urine or breath sample without a valid medical explanation, and failure to cooperate with the testing process.
- **Use of Alcohol:**
 - Using alcohol within eight hours after an accident or until the employee undergoes a post-accident test, whichever occurs first.
 - Consuming alcohol while performing safety-sensitive functions.
- **Use of Controlled Substances:**
 - Using any controlled substance without a prescription from a licensed medical practitioner who is familiar with the driver's medical history and assigned duties.
- **Possession of Alcohol or Drugs:**
 - Possessing alcohol or controlled substances while on duty or operating a CMV, unless the alcohol is manifested and transported as part of a shipment.
- **Pre-Employment Testing:**
 - Failing to undergo pre-employment drug testing and obtaining a verified negative result before starting to perform safety-sensitive functions.
- **On-Duty Use:**
 - Using drugs or alcohol while on duty, including during breaks or meal periods.
- **Post-Accident Testing:**
 - Failing to undergo required post-accident testing for drugs and alcohol following an accident involving a fatality, or when a driver receives a citation for a moving traffic violation arising from the accident.

VIOLATIONS:

ACTUAL KNOWLEDGE

Actual knowledge is a critical concept in the DOT and FMCSA regulations, referring to direct evidence that a driver has used alcohol or controlled substances in violation of regulations.

It can come from direct observation, admission by the driver, information from previous employers, or other reliable evidence.

When actual knowledge is established, the employer must take immediate action, including removing the driver from safety-sensitive functions, referring them to a SAP, and reporting the violation to the Clearinghouse

REFUSAL TO TEST

Failure to Appear:	The driver fails to appear for any required test (pre-employment, random, reasonable suspicion, post-accident, return-to-duty, or follow-up) within a reasonable time after being directed to do so by the employer.
Failure to Remain at the Testing Site:	The driver leaves the testing site before the testing process is complete, without a valid reason or authorization.
Failure to Provide a Specimen:	The driver fails to provide a urine specimen for a drug test or a breath/saliva specimen for an alcohol test, without an adequate medical explanation.
Insufficient Specimen:	The driver fails to provide a sufficient amount of urine for a drug test or an adequate breath sample for an alcohol test, and there is no adequate medical explanation for the failure.
Failure to Cooperate:	The driver fails to cooperate with any part of the testing process, including obstructing the collection procedure or behaving in a confrontational manner that disrupts the collection process.
Adulteration or Substitution:	The driver adulterates or substitutes the urine specimen to alter the test results. This includes tampering with the specimen in any way.
Failure to Undergo Medical Evaluation:	When directed by the employer, the driver fails to undergo a required medical evaluation by a licensed physician as part of the testing process.
Failure to Permit Observation or Monitoring:	The driver refuses to permit an observed or monitored collection when required (e.g., following a prior refusal or invalid result).
Refusal to Sign Forms:	The driver refuses to sign the required certification on the Alcohol Testing Form (ATF)

Immediate removal from safety-sensitive functions.

Requirement to undergo a Substance Abuse Professional (SAP) evaluation and successfully complete the recommended treatment and education program.

Follow-up testing upon return to duty.

Possible suspension or revocation of commercial driving privileges.

Potential job loss and difficulty finding future employment in the transportation industry.

CONSEQUENCES OF VIOLATIONS

WHO REPORTS TO THE CLEARINGHOUSE?

Medical Review Officers (MROs):

- **Verified Positive Drug Test Results:** Report verified positive, adulterated, or substituted drug test results.

Employers:

- **Alcohol Violations:** Report alcohol test results with an alcohol concentration of 0.04 or higher.
- **Refusals to Test:** Report refusals to submit to drug or alcohol tests.
- **Actual Knowledge:** Report actual knowledge of drug or alcohol use (e.g., observation of use, admission by the driver, or other reliable evidence).

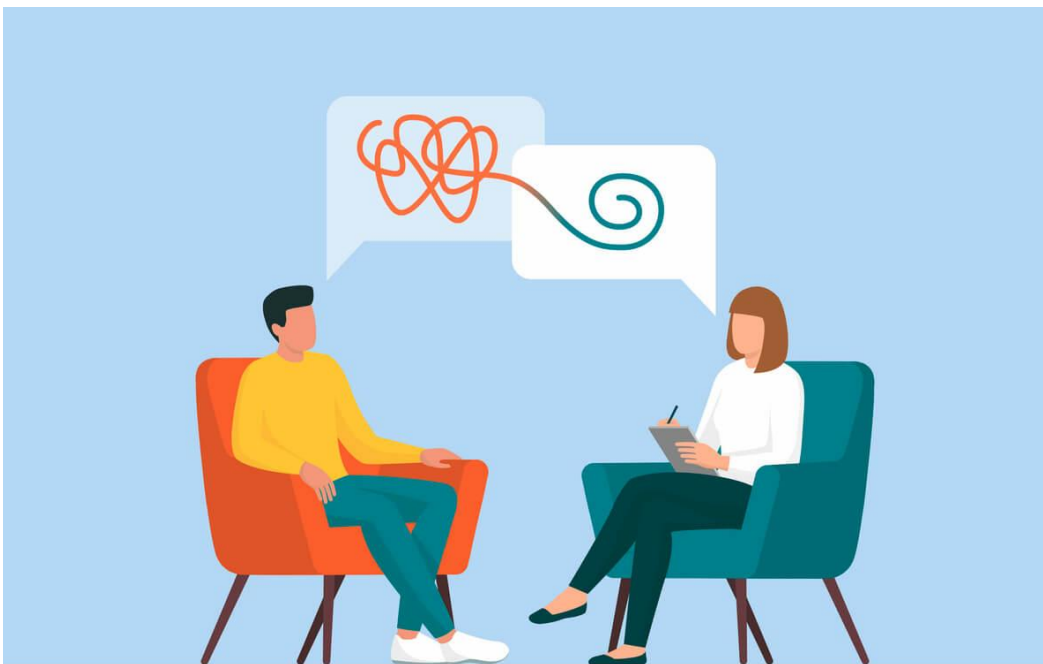
Substance Abuse Professionals (SAPs):

- **Return-to-Duty Process:** SAP reports the date of the initial SAP assessment and the date the driver is determined eligible for RTD testing. The employer reports the negative RTD result and eventual successful completion of the follow-up testing plan.

Consortia/Third-Party Administrators (C/TPAs):

- C/TPAs may report violations on behalf of small employers who use their services. They must ensure all necessary information is submitted to the Clearinghouse.

STEP 2: EVALUATION BY A SUBSTANCE ABUSE PROFESSIONAL (SAP)



- The driver contacts a DOT-qualified Substance Abuse Professional (SAP) to initiate the evaluation process.
- The driver must have an account they are able to access and must log in and select the SAP they plan on using.

ROLE OF A SUBSTANCE ABUSE PROFESSIONAL (SAP)

- **Initial Evaluation:**

- The SAP conducts a comprehensive face-to-face clinical evaluation of the driver. This evaluation assesses the driver's level of substance use, any related behavioral health issues, and the overall impact on their ability to perform safety-sensitive duties.

- **Developing a Treatment Plan:**

- Based on the initial evaluation, the SAP recommends an appropriate treatment and/or education plan. This plan may include various interventions such as inpatient or outpatient treatment, education programs, counseling, or support group meetings.

- **Referral to Treatment:**

- The SAP refers the driver to the recommended treatment or education program. The SAP ensures the driver is aware of and understands the requirements they must meet to comply with the return-to-duty process.

STEP 3: COMPLIANCE WITH SAP RECOMMENDATIONS

- Education/treatment, and testing are all part of the driver assessment.
- If an employer/driver disagrees with the assessment or recommendations of a Substance Abuse Professional (SAP), the employer/driver is still obligated to comply with the DOT regulations. The SAP's role and authority in the return-to-duty process are clearly defined by the DOT, and their evaluations and recommendations are considered binding.
- Under DOT regulations, there is no provision for a second SAP evaluation. The recommendations made by the initial SAP must be followed. The employer cannot seek another SAP's opinion to override the first SAP's recommendations.

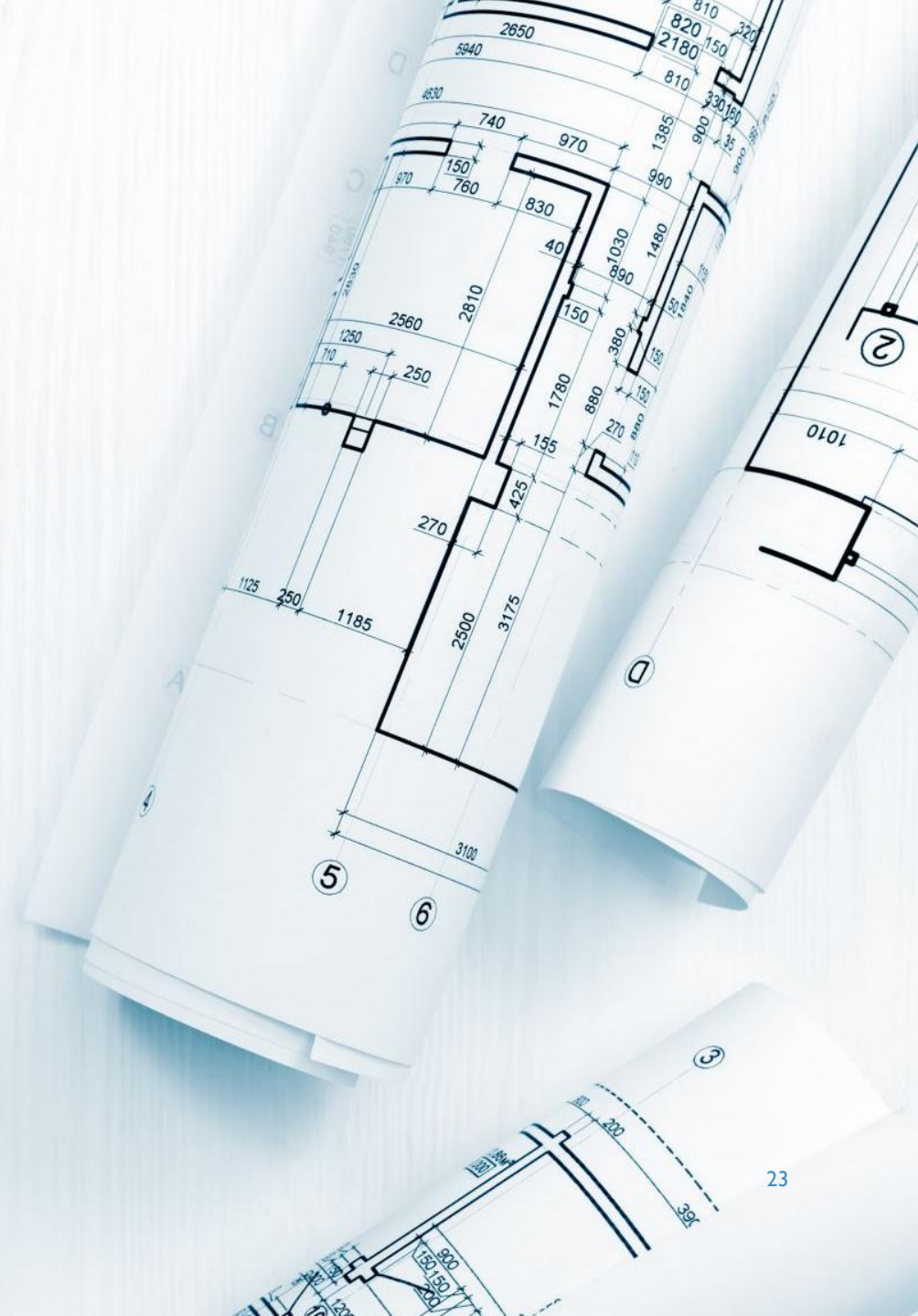
SAP DETERMINATION OF RETURN-TO-DUTY ELIGIBILITY

- The SAP must report to the clearinghouse:
 - Date of the initial SAP assessment
 - Date the driver is determined eligible for return-to-duty testing
- **Initial Assessment Completion:** Confirmation that the driver has undergone the initial SAP assessment.
- **Successful Compliance:** Documentation that the driver has complied with the SAP's recommended treatment and/or education program.
- **Follow-Up Evaluation:** Confirmation that the follow-up evaluation has been conducted and the driver has successfully complied with the SAP's recommendations..
- **Eligibility for Return-to-Duty Testing:** A statement that the driver is eligible to undergo a return-to-duty drug and/or alcohol test.

STEP 4: RETURN TO DUTY TESTING

- **Eligibility for Return-to-Duty Testing:**
 - If the SAP determines that the driver has successfully complied with the treatment recommendations, the driver is deemed eligible to undergo a return-to-duty drug and/or alcohol test.
- **Return-to-Duty Test:**
 - The driver undergoes a return-to-duty drug and/or alcohol test as required by DOT regulations. This test must yield a negative result before the driver can resume safety-sensitive functions.
 - New Hire and RTD – You can hire a driver that has a violation and if all other requirements have been fulfilled, send them for the RTD drug screen – remember, a RTD can be a Pre-Employment but a Pre-Employment cannot be a RTD

STEP 5: BACK TO WORK WITH A FOLLOW UP TESTING PLAN



FOLLOW-UP TESTING PLAN:

-
- The SAP develops the follow-up testing plan and provides it to the employer.
 - This plan includes the number and frequency of unannounced follow-up tests that the driver must undergo.
 - The plan must specify at least six follow-up tests in the first 12 months after returning to duty, with the possibility of extending the testing for up to five years, depending on the SAP's recommendations.
 - The plan should never be disclosed to the driver
 - Follow ups are not entered into the Clearinghouse, only completion of program is.

NON-COMPLIANCE

- Employers who fail to comply with these requirements or knowingly allow a driver to perform safety-sensitive duties while in violation can face significant fines.
- As of 2026, fines for such violations have increased. Employers that knowingly require or permit a driver to operate a commercial motor vehicle while the driver is under an out-of-service order may face civil penalties of up to \$23,647 per violation



A hand holding a green marijuana leaf with serrated edges in the foreground. In the background, a large blue and white semi-truck is visible, slightly out of focus. The scene is set outdoors with green foliage at the bottom. A dark blue banner is at the bottom of the image.

UNDERSTANDING MARIJUANA ON THE ROAD

WHY THIS CONVERSATION IS DIFFERENT IN 2026

Marijuana laws have changed rapidly at the state level.

Federal DOT requirements have not simply followed state legalization.

Motor carriers are trying to balance safety, compliance, driver retention, and workforce realities.

A legal product under state law can still create a federal DOT violation.

THE MOTOR CARRIER'S DILEMMA



Safety: Can this person safely operate a CMV?



Compliance: What does DOT/FMCSA require?



Workforce: Can we afford to lose an otherwise good driver?



Bottom line:

A positive test creates a regulatory consequence—but it also creates a business decision.

MARIJUANA: STATE LEGAL DOES NOT MEAN DOT PERMITTED

Recreational marijuana laws do not override DOT drug-testing requirements

Medical marijuana authorization does not excuse a positive DOT marijuana test

DOT-regulated drivers remain subject to federal testing requirements

Marijuana remains prohibited for DOT-regulated safety-sensitive employees

DOT drug testing is not an impairment test

Off-duty marijuana use can still result in a positive DOT drug test

A verified positive is still a DOT violation

The employee must be removed from safety-sensitive functions

Legal use does not equal DOT-authorized use

“BUT I WAS OFF DUTY...”

DOT drug testing does not differentiate

Medical Cards do not override a positive result

A verified positive is still a DOT violation

The employee must be removed from safety-sensitive functions

Medical use does not equal DOT-authorized use

“BUT I HAVE A MEDICAL CARD...”

MEDICAL MARIJUANA CARD AND CDL EMPLOYEES

- If you have a qualifying medical condition, there is no reason for a physician to deny you access to cannabis. You have access to your MM card if you reside in a state where it's legal, even if you have a CDL. However, you can wave goodbye to your career if you continue to test positive for marijuana.
- The United States Department of Transportation (DOT) left little to interpretation when discussing the use of medical marijuana. The DOT explicitly states that its 'Drug and Alcohol Testing Regulation' does not allow the use of medical marijuana under state law (49 CFR Part 40).
- The DOT says holding an MM card is not a valid medical explanation if a transportation employee tests positive for any prohibited drug.

DOT NOTICE

§ 40.151 What are MROs prohibited from doing as part of the verification process?

As an MRO, you are prohibited from doing the following as part of the verification process:

- (e) You must not verify a test negative based on information that a physician recommended that the employee use a drug listed in Schedule I of the Controlled Substances Act. (e.g., under a state law that purports to authorize such recommendations, such as the “medical marijuana” laws that some states have adopted.)

Therefore, Medical Review Officers will not verify a drug test as negative based upon information that a physician recommended that the employee use “medical marijuana.”

Please note that marijuana remains a drug listed in Schedule I of the Controlled Substances Act. It remains unacceptable for any safety-sensitive employee subject to drug testing under the Department of Transportation’s drug testing regulations to use marijuana.

Marijuana continues to account for a significant portion of positive drug tests among commercial drivers

Legalization may contribute to confusion among drivers regarding DOT requirements

Education is increasingly important as state and federal rules differ

Carriers should clearly communicate expectations before a violation occurs

MARIJUANA AND POSITIVE DRUG TESTS

WHAT HAS CHANGED WITH MARIJUANA?

Changed

- State marijuana laws
- Public acceptance
- Employee perception of risk
- Federal discussions surrounding marijuana scheduling

Has Not Changed

- Marijuana remains on the DOT testing panel
- DOT-regulated employees remain subject to marijuana testing
- State-authorized marijuana use does not excuse a positive DOT test

WHAT THE LAW SAYS

- Under **49 CFR §40.81**, DOT specimens can be tested in the U.S. only by laboratories certified by HHS under the National Laboratory Certification Program. DOT itself states that only HHS-certified laboratories may participate in the DOT drug-testing program.
- At the same time, HHS's current federal workplace testing framework is built around the authorized testing panel and **Schedule I and II drugs**. SAMHSA's current FAQ specifically says agencies may seek authorization for additional routine testing of a **Schedule I or II drug**, and its MRO guidance likewise describes additional testing in terms of Schedule I or II substances.

MARIJUANA RESCHEDULING – THE UNRESOLVED TESTING QUESTION

- Federal rescheduling of marijuana from Schedule I to Schedule III remains under consideration
- DOT maintains that it has statutory authority to continue marijuana testing regardless of scheduling
- DOT-regulated drug testing must be performed by HHS-certified laboratories
- The existing HHS federal workplace drug-testing framework is structured around its authorized testing panel and Schedule I and II substances
- This creates an unresolved implementation question if marijuana is moved to Schedule III
- DOT, HHS and federal policymakers have been examining how continued transportation testing would operate following rescheduling

WHY MOTOR CARRIERS SHOULD BE WATCHING THIS

- Marijuana rescheduling does **not currently change** DOT testing requirements
- Motor carriers must continue marijuana testing under existing DOT regulations
- The unresolved issue is what happens **if final rescheduling occurs**
- DOT asserts authority to continue testing
- The HHS laboratory-certification/testing framework may require regulatory or legislative action to ensure testing can continue without interruption
- Until federal agencies issue final rules or guidance, employers should not change their DOT testing programs



VIOLATION & EMPLOYMENT

**A POSITIVE TEST
DOES NOT
AUTOMATICALLY
MEAN
TERMINATION**

DOT requires immediate removal from safety-sensitive functions

The employee must complete the SAP and return-to-duty process before returning to safety-sensitive duties

DOT does not require an employer to terminate the employee

Employers may allow non-safety-sensitive work when appropriate

Employment decisions remain subject to company policy and applicable law

WHAT WORK MAY THE DRIVER PERFORM FOR AN EMPLOYER, IF A DRIVER HAS A DRUG/ALCOHOL VIOLATION?



- A driver who has violated the prohibitions of subpart B may perform any duties for an employer that are not considered "safety-sensitive functions."
- This may include handling of materials exclusively in a warehouse, regardless of whether the materials are considered hazardous as long as safety-sensitive functions are not performed.
- Safety-sensitive functions may not be performed until the individual has been evaluated by a Substance Abuse Professional (SAP), complied with any recommended treatment, has been re-evaluated by a SAP, has been allowed by the SAP to return to work and has passed a return to duty test.

RETURN TO DUTY VS PRE- EMPLOYMENT

- A **Return-to-Duty test is required** after a DOT drug or alcohol violation
- The driver must first be found eligible for RTD testing by the SAP
- **Only an employer can order the RTD test**
- If the driver was terminated, a **new employer can order the RTD test**
- That RTD test can also satisfy the new employer's pre-employment testing requirement
- A regular **pre-employment test cannot substitute for a required RTD test**

Key Point:

**RTD can satisfy Pre-Employment.
Pre-Employment cannot satisfy RTD.**

PREVENTIVE AND SUPPORTIVE MEASURES

Employee Assistance Programs (EAPs):

- Many employers offer EAPs to support employees in addressing substance abuse issues before they result in policy violations. These programs provide resources and assistance for employees seeking help with drug and alcohol problems.

Training and Education:

- Regular training and education for drivers on the dangers of drug and alcohol use, as well as the specifics of the DOT Drug and Alcohol policy, can help prevent violations.

RISK MANAGEMENT BEGINS BEFORE THE POSITIVE TEST

01

Maintain a clear and current drug-and-alcohol policy

02

Educate drivers about marijuana and DOT requirements

03

Train supervisors in reasonable suspicion

04

Establish clear procedures for responding to violations

05

Ensure consistent documentation and policy enforcement

06

Provide access to SAP, EAP, and community resources

WHAT MOTOR CARRIERS SHOULD BE REVIEWING

Is our drug-and-alcohol policy current?

Do employees understand DOT marijuana requirements?

Are supervisors properly trained?

Do we have a clear response process for positive tests and refusals?

Have we decided whether second-chance opportunities are available?

Do employees know where to seek help before a violation occurs?

A dramatic landscape featuring a long, straight asphalt road that stretches from the foreground into the distance, vanishing at the horizon. The road is flanked by green fields and a line of trees in the far distance. The sky is filled with heavy, dark, and textured clouds, with a bright, golden light source breaking through the clouds near the horizon, creating a strong contrast and illuminating the scene from below.

Safety is never a permanent state of affairs.

- Davos Seaworth



Questions



Scan for more
upcoming events!

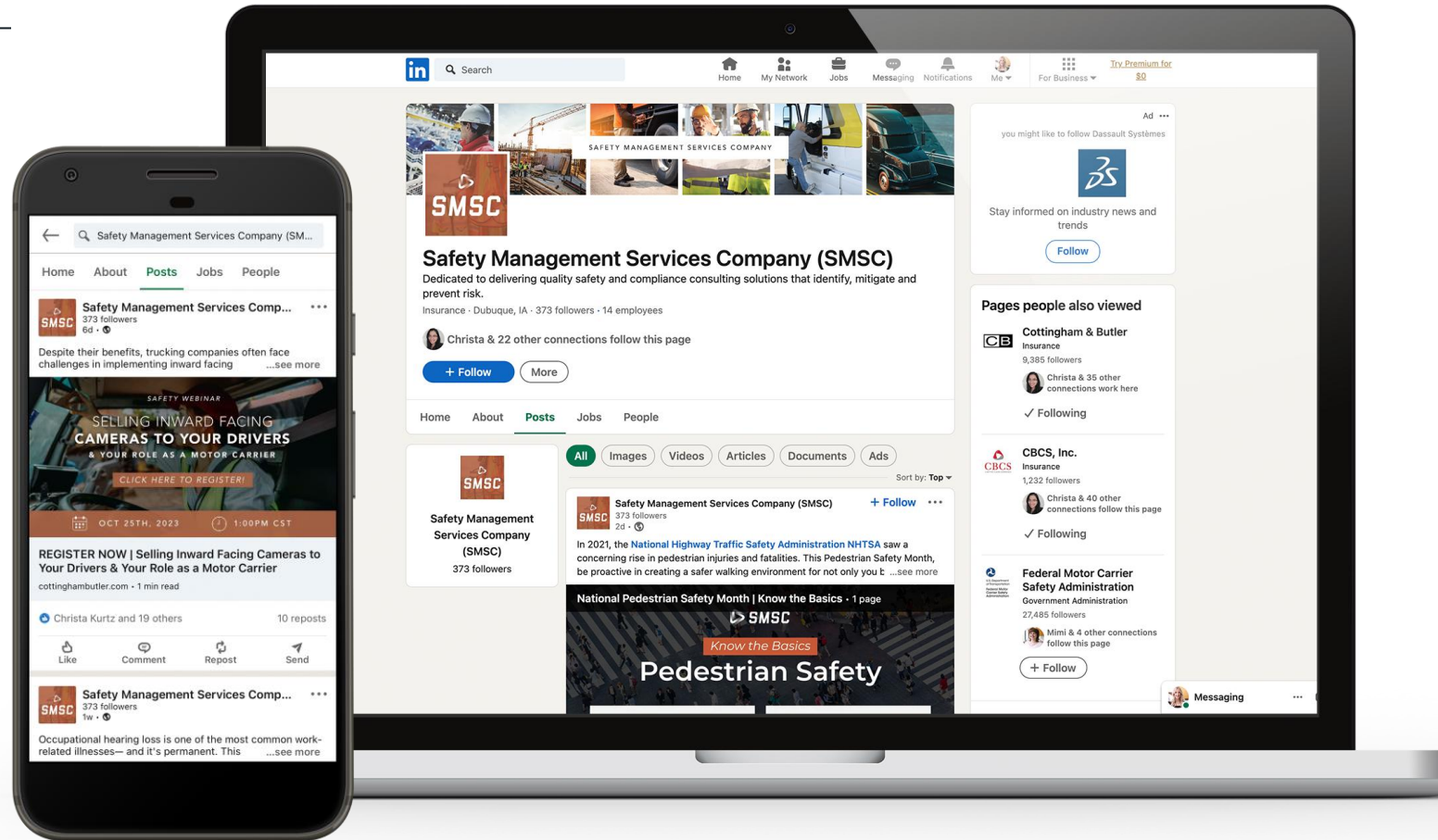


2026 Safety Webinar Series

Date	Webinar Title
January 21	TRUCKING / Cross-Border Safety: Strengthening ELP Standards and CDL Integrity
February 18	GENERAL INDUSTRY / Building a Safer Workplace: Reducing Workplace Injuries and Workers Compensation Claims for Drivers
March 17	TRUCKING / Navigating FMCSA Compliance Reviews
April 21	TRUCKING / Understanding CSA Scores and Their Impact
May 20	GENERAL INDUSTRY / Safety Leadership: Empowering Supervisors to Drive Change
June 17	TRUCKING / Crash Data Analysis: What Your Fleet's History is Telling You
July 14	TRUCKING / FMCSA HOS Exceptions & Operational Flexibility
August 18	GENERAL INDUSTRY / Safety Training That Sticks: Learning Principles in Action
September 15	TRUCKING / Securing the Scene: Best Practices After a Collision
October 22	TRUCKING / The Impact of Drugs & Alcohol in Trucking
November 17	TRUCKING / Mastering HOS & PC Rules: Split-Sleeper in Action
December 16	GENERAL INDUSTRY / OSHA Recordkeeping & ITA Compliance



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thank you