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## FMCSA's Drug & Alcohol Clearinghouse

This webcast will cover ...

- A regulatory overview
  - Best practices in compliance
  - A case study in implementation
  - Question & Answer
- You will be muted during the event.
  - Please use the Q&A feature to send in questions. We'll try to answer them during the Q&A period if they are not covered in the presentation.
  - The slides and recording will be posted within 7 days at: [www.jjkeller.com/nptcinfo](http://www.jjkeller.com/nptcinfo)

Thank you for joining us!



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<p>Before we begin, clear your browser's cache (Ctrl + Shift + Delete)</p>	<p>Audio is streamed through your computer speakers (no dial-in number)</p>	<p>For optimal experience, launch the presentation in <b>Microsoft Edge, Chrome, or FireFox</b> (Mac)</p>	<p>Download the <b>webcast handouts and slides</b> from the resource box</p>
<p>If you need additional assistance, click the ? icon to access the <b>Event Help Guide</b></p>	<p>If you experience audio issues or slides are not advancing, <b>refresh your browser by clicking F5</b></p>	<p>Send your questions through the <b>Q&amp;A box</b> anytime during the event</p>	<p>Tell us how we did in the <b>post-event survey</b></p>

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### Meet Your Presenters



**Gary Petty**

President & CEO  
National Private Truck Council



**Tom Bray**

Six Industry Business Advisor  
J. J. Keller & Associates, Inc.



**Tom Moore, CTP**

Executive Vice President  
National Private Truck Council



**Eddie Davis, CTP, CDS**

Director, Maintenance and  
Reliability, Transport & Rail  
Marathon Petroleum



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### FMCSA Regulations

*Tom Bray*



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### What Didn't Change

- Drug and alcohol program requirements
  - Company provides driver with policy (§382.601)
  - No Schedule I drug use, no Schedule II or alcohol misuse (Subpart B to Part 382)
  - Drugs tested for (§40.85 and §40.87):
    - Marijuana (yes, it is still prohibited for truck and bus drivers)
    - Cocaine
    - Amphetamines (including Meth and Molly)
    - Opioids (including "semi-synthetic" opioids...hydros and oxys)
    - Phencyclidine (PCP)



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### What Didn't Change

- Required tests
  - Pre-employment drug test (§382.301)
  - Random drug and/or alcohol testing (§382.305)
  - Post-accident testing (when required by §382.303)
  - Reasonable suspicion training and testing (§382.307)
    - Requires trained supervisors (§382.603)
      - Required training: One hour on signs of drug use, one hour on signs of alcohol misuse

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### What Didn't Change

- Refusal (§382.107)
  - Nine ways a driver can refuse a test, including:
    - Just said no
    - Didn't show up at all or in time
      - Allowance is for "reasonable travel time"
    - Left before test and paperwork were complete
    - Would not provide sample at collection site
    - Could not/did not provide sample with no medical explanation (shy bladder/shy lung with no medical proof)
    - Failing to cooperate with collection personnel
    - Adulterating or substituting sample

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### What Didn't Change

- Actual knowledge – no test required, just documentation (§382.107)
  - Direct observation
  - Information from previous employer of failed or refused test
  - Traffic **citation** for operating a CMV while under the influence
  - Employee's admission (exception or EAPs)
  - Requires driver to be removed from driving immediately

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### What Did and Didn't Change

- Consequences of a positive test, refusal, actual knowledge situation
  - Immediate removal from driving (§382.501)
  - Incident reported to the Clearinghouse (this is a change!)
  - Complete return to duty process (§382.503)

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### What Did and Didn't Change

- Return-to-duty process (Subpart O to Part 40)
  - SAP evaluation and treatment
    - SAP reports: completion to the Clearinghouse (new)
  - Negative return-to-duty test
    - Employing carrier reports negative results to the Clearinghouse (new)
  - Follow-up testing in addition to being in random pool
    - Employing carrier reports that all follow-up tests are complete to the Clearinghouse (new)

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### Specific Clearinghouse Regulations

- Required by Congress
- Closes loophole that allowed disqualified drivers to continue driving by just not telling next employer about past employer
- Regulations found in Part Subpart G to 382
  - §382.701 to §382.727
- Requirements apply to drivers that operate CDL-required vehicles and the carriers that employ them

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### What is "The Clearinghouse"

- A database of driver that have:
  - Failed or refused a drug or alcohol test
  - Committed one of the other prohibitions in Part 382
  - Completed the return-to-duty steps
  - So far, ±90,000 violations and 88,000 drivers listed, of which ±18,000 have completed RTD process
- Accessible to carrier and enforcement personnel
  - Officers on the road see a driver is "prohibited" if failed, refused, committed, etc., and has not completed the return-to-duty process
  - To date, ±2000 prohibited driver caught on the road

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### Carrier Requirements

- Pre-employment query
  - Must be a full query
- Annual query
  - Can be a limited query, followed by full query if necessary
- Reporting of violations
  - Ones not involving the MRO or SAP

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### Queries

- Full
  - Carrier initiates the query
  - Driver authorizes release in the system (driver must be registered)
  - Carrier receives the query
  - If pre-employment:
    - No exception for road testing
    - Driver can only operate once Clearinghouse query is complete AND verified negative drug results are in hand
    - Carrier will be notified if positive to refusal entered into the Clearinghouse by another party within 30 days of pre-employment query

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## Queries

- Limited
  - Used for annual queries
  - Requires only a written authorization
  - Tells carrier if there is data in the Clearinghouse on the driver
  - Carrier must follow up with a full query within 24 hours if limited shows something is there
    - Driver must be immediately removed from driving if query is not completed within 24 hours, or the full query shows driver as prohibited

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## Carrier Reporting

- Carriers must report within 3 days:
  - Positive alcohol results
  - Actual knowledge situations (including alcohol use within 8 hours of a crash when a test was required)
  - Negative return-to-duty test
  - Refusals they are involved in
  - Completion of all follow-up tests
- Carriers are not the only ones reporting violations
  - MROs report positive drug tests and refusals they are involved in
  - SAPs report completion of the evaluation and treatment
  - Carrier contracted C/TPAs can do carrier reporting for them

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## Who Else Uses the Clearinghouse?

- Officers on the road
  - "Prohibited" status shows up in officer's version of CDUS and in QueryCentral
  - Will result in out-of-service order
- State licensing agencies (over the next three years)
  - Cannot issue, renew, transfer, etc. if Prohibited in the Clearinghouse
  - Must downgrade CDL within 60 days of being Prohibited and not reissue until Clearinghouse has proof of completion of the RTD requirements

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### How Carriers are Raising the Bar

*Tom Moore, CTP*



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### In the Clearinghouse So Far...

- 94,000 drug violations, 2,000 alcohol violations and 88,000 drivers
  - Positive results account for 82% of the violations
  - 14,000 for refusals and 2,400 actual knowledge violations
- Positives by type of test (in order):
  - Drug: Pre-employment, random, post accident
  - Alcohol: Random, reasonable suspicion, and actual knowledge
- Most common drugs: marijuana (51,000), cocaine (14,000), meth and amphetamine (17,000), semi-synthetic opioids (7,600)
- States with the most violations reported (in order):
  - TX, CA, FL, GA, IL, NC, OH, NY, PA, MI, TN, MO, AL



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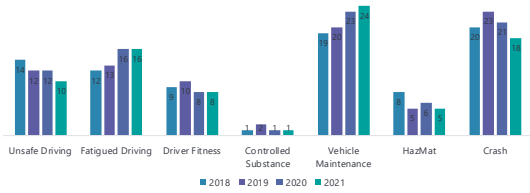
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### CSA Scores



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### How Fleets Are Raising the Bar

- Most carriers are registered
  - Do not link to the portal account – often gets jammed up as most of the portal accounts are not current
- Motor carriers need to update their drug- and alcohol-testing policies to include the clearinghouse requirements
- No rush to hire
- Screening candidates
- Encouraging Drivers to Register for the Clearinghouse
- Education and training



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### Raising the Bar (Continued)

- Random testing at percentages higher than the required rate
- Require non-DOT urine drug testing and BAT alcohol testing for all accidents that do not meet the DOT testing requirements
- Expanding the pool of candidates
- Zero tolerance
- Alternative testing methodologies



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### DOT Drug or Alcohol Tests




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### Understanding and Overcoming Barriers

- Problems with carrier entries
  - Failing to make entries due to uncertainty, lack of knowledge, or not being registered
  - Lack of supporting documentation
  - Unable to defend when challenged by driver

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A Fleet's Perspective  
*Eddie Davis, CTP, CDS*

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## Who We Are

- Marathon Petroleum
  - 573 Transports
  - 1500 drivers
  - 5 regions
  - 16 states
  - Avg 53 million miles
  - Specializing in Hazmat
  - Delta of drivers annually 100+



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## Clearinghouse



- Our Hurdles
  - Organization
  - Drivers
  - Leadership
- Successes
  - Delivering the "WHY"
- Continues Improvement
  - Developing a CBT
  - Identifying email hurdles
  - Driver tech training



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## How Marathon Implemented the Drug and Alcohol Clearinghouse

- Delivering the "Why"
  - Driver's reaction
- Hands on guidance
  - Drivers
  - Frontline Leaders
- Registering the Organization
  - MRO
- Follow-up



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## Results of the Program

- Took a full 12 months
- We missed some
  - Drivers coming and going
  - Violation reporting
- 1<sup>st</sup> Query
  - Zero loss of current workforce
- New Hire Query
  - 4 denied out of 100



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## How Marathon Is Raising the Bar

- Understanding operating environments
  - California v. other states
  - Union v. Non-Union
- Early Communication
  - Job postings
  - Screening and backgrounds
  - New hire training
- Simplification
  - Created CBT (computer-based training)
  - Utilizing personal emails v. work



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## Audit Experiences

- California CHP Audit
  - No findings around Clearinghouse
  - Took 2 days
  - No one since implementing
  - Taken the approach to perform internal audits



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### Question and Answer Session



**Gary Petty**

President & CEO  
National Private Truck Council



**Tom Bray**

Sr. Industry Business Advisor  
J. J. Keller & Associates, Inc.



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Executive Vice President  
National Private Truck Council



**Eddie Davis, CTP, CDS**

Director, Maintenance and  
Reliability, Transport & Rail  
Marathon Petroleum



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### More Questions?



**Tom Bray**

Sr. Industry Business Advisor  
J. J. Keller & Associates, Inc.  
[tbray@jkkeller.com](mailto:tbray@jkkeller.com)



**Tom Moore, CTP**

Executive Vice President  
National Private Truck Council  
[tmoores@nptc.org](mailto:tmoores@nptc.org)



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