Transcript for the National RTAP Webinar:
Updated U.S. DOT Drug & Alcohol Testing Regulation
December 12, 2017, 2:00-3:00pm ET

Liz Taylor: We're very fortunate to have Robbie Sarles here with us today to present on the updated U.S. DOT Drug and Alcohol Testing Regulation. Robbie is President and Owner of RLS & Associates Inc. which provides transportation management and operations consulting services to transportation providers throughout the United States. She's a nationally recognized trainer and an expert in the Federal Transit Administration Drug & Alcohol Testing Regulations. Robbie is principal-in-charge for statewide drug & alcohol testing regulatory compliance assessments for 13 states and have conducted over a thousand drug & alcohol program assessments, policy reviews and training programs nationwide.

She writes for the FTA published drug & alcohol program quarterly updates and was one of the co-authors of the Implementation Guidelines for Drug & Alcohol Regulations in Mass Transit and the FTA Drug & Alcohol Best Practices Manual. Ms. Sarles completed a master's in transportation engineering at the Ohio State University, a master's in city and regional planning at Ohio State University and a bachelor's of science in geography and psychology from Western Kentucky University. I could go on about Robbie's experience, but suffice it to say that she's an expert in this field and we're lucky to have her presenting today.

Sean Oswald is also going to be on the webinar and is fielding questions. He is Senior Associate at RLS & Associates and is project manager for RLS's drug & alcohol program engagements, so without further ado, I'm going to turn it over Robbie and she's going to be showing her screen today, so just give us one moment.

Robbie Sarles: Great, well, good afternoon everybody, again, this Robbie Sarles with RLS & Associates. I'm glad we have so many people signed on. Obviously, there's a lot of interest in this regulation and what it's going to mean in the very near future for us. I really want to start off by first verifying for everybody and making sure that it's clear that this presentation is made by RLS & Associates in association with National RTAP that we are not officials or representatives of the U.S. DOT or the U.S. DOT Office of Drug & Alcohol Policy and Compliance nor the FTA.

The opinions and the interpretations that are provided within this presentation are those of the authors of this presentation and do not in any way constitute official guidance from the Federal Transit Administration or the Department of Transportation. That being said, we're going to go ahead and get started here. We have a lot material to cover. What we're going to try to do is give a little bit of the background, give a summary of the changes and then try to summarize work place or the impact that's going to occur on the work place. Then we'll have, hopefully, a little bit of time at the end for questions and the like.

One of the things that we have done is through this presentation; I attempted to make it very clear where we interpret that there could potentially be an action item that employers may need to implement. Again, some of these things, if it's a situation where the regulation indicates its requirement, we'll specify that, but most of the

action items are going to be things that we recommend as best practices. I will absolutely do my best to make sure that those points are clarified, but if you see a red star on your screen; that might be something that you might want to make sure that you're taking note of and listening and taking special attention to.

There's that red star. The background, so why are we here? Well, we know that 49 CFR Part 40 is USDOT's D&A regulation. It really covers testing procedures. It covers the how to do the testing and so that is the part of the regulation. That is the regulation that has been updated. That is the part of the regulation that we will be discussing today.

"The When?" Well, first of all the notice of proposed rulemaking (NPRM) was published in January of 2017. That rule with the minor modifications became final and was published in the Federal Register in November of 2017 with an effective date for all changes occurring January 1 of 2018. We have a fairly short timeframe to be prepared for this effective date of January 1st, 2018.

"The Who?" Again, the regulation is 49 CFR Part 40, that means it covers all DOT modes including FTA, Federal Transit Administration, FMCSA, railroad, aviation, pipelines, coast guard, so essentially all of the DOT modes are covered by this change to Part 40. Anyone subject to Part 40 is in fact subject to this change. It has implications for employers, for employees, for medical review officers, substance abuse professionals and collection sites.

"The biggie." The one that folks were looking for and there were a lot of positive comments in the proposal making process with substantial support and so the final rule does include an expansion of the opiate panel to include or new opioids. Another thing that will be important is we've got a change in language now, given the fact that we've added these four new opioids, so now that is going to be the term that we're going to use going forward. The reason why there's a red star here is because any literature that you have, any policy that you have, any information that you provide your employees regarding the testing program, you will need to incorporate that change in terminology.

The term "opiate" is out and the term "opioid" is in. Okay, these are the four new opioids that are going to be added to the testing panel: Hydrocodone, hydromorphone, oxycodone, oxymorphone. Again, with common brand names such as Vicodin, Lortab, Dilaudid, Oxycontin, Percocet and the like and you can see them all listed here. Another change is that they have a modified the panel as far as how it relates to ecstasy. They've added "MDA" to the screening test, but they removed "MDEA".

Primarily, because of the additional cost and complications associated with the testing and the amount of usage of those particular substances. MDA has been added to the screen, but MDEA has been removed. Also, they took this opportunity in this opportunity in this final rule to revise and update several terms and definitions. The reason why we have a red star here is because any of you in your policies may have a definition section. If you do, then you'll want to make sure that your definitions are updated given these revisions.

One of the revisions for example is the referral to the term "DOT, the department or DOT agency". That means it's really encompassing all DOT agencies and any designee of a DOT agency. It also does clarify the coastguard's relationship with the DOT. Again, when we are now referring to the word drugs depending on how you might have that worded in your policy, the drug can now include the addition of the four opioids that we just spoke of.

Alcohol Screening Devices and Evidential Breath Testing Devices, currently, a list of those are published periodically in the federal register. Now, instead of that method of listing and notifying folks of those devices, now that list of approved devices is going to be on ODAPC's website to make it easier and more accessible for folks. Again, if you want to know what the current list of approved devices, alcohol screening devices and evidential breath testing devices are, you will need to go now to ODAPC's website for that list.

Similarly, when it comes to substance abuse professionals, there's a list of qualified agencies for drug and alcohol counselor license and certificates. There may be even for more fluidity in who meet those definitions and so to ease that they are now going to publishing that on ODAPC's website to give a little bit more flexibility in defining the qualifications for substance abuse professionals in the ODAPC's website going forward. The regulation also requires now that all service agents, that means the medical review officer, substance abuse professionals, your specimen collection folks, Breath alcohol technicians, all service agents are now required to subscribe to the ODAPC List-Serve.

Again, as a reminder, ODAPC stands for the Office of Drug & Alcohol Policy & Compliance. They do publish a List-Serve when there are changes in the regulation and so now service agents are all required to subscribe to that to make sure that they are informed of the latest changes. On the screen, you will see that site and if you go there, you'll be able to very easily follow along and we'll find how to subscribe. As an action item, a best practice is for employers to make sure that their service agents are in fact actually doing that.

Again, the regulation does not require it, but the employers notify the service agents that it would be a best practice for employers to ensure that their service agents have in fact done that. Another important clarification and change has been revolved around the inappropriate use of the FTA or DOT logo or any of the federal branding associated with drug and alcohol testing program that might in some way mislead folks that other programs or other policies or other things that actually are a product of the federal government.

Because of that confusion that has occurred up to this point, this regulation has made it very, very clear that all entities, all service agents, everyone are prohibited from using any reference or inclusion of any logos or anything that would imply or mislead folks that those items are in fact a product or endorsed or certified by the federal or DOT agency, so those are all prohibited. The reason why there is a red star here is that on occasion, we might see forms or other maybe training materials or very sundry things, where perhaps the DOT or FTA logo might have been used on those forms.

We want to make sure that it's very clear that those products are not endorsed nor certified by the federal government and so those need to be excluded and they're prohibited from use. You need to get those removed if in fact they are there. Also, for the larger entities, it had to conduct a number of tests, blind testing, blind specimen testing has been a past requirement, but as of this effective date, now blind specimen testing no longer required as part of Part 40.

Additional changes is one of the things that was critical is that there were a number of different definitions in different areas regarding the definition of prescription and so it was determined and this regulation adopts the definition of prescription that was used by the Controlled Substances Act. Going forward, that is the definition of prescription going forward. Also, there has been some issue with various test results that might have made some question and perhaps MROs may have needed some additional information in order to determine whether a substance was a legitimate present or not.

This regulation, basically, is making it easier and making it more questionable for the medical review officers (MROs) to do that additional testing without prior ODAPC consent. For example, if an MRO finds an issue when there's a concern about a potential methamphetamine falls positive due to donor prescription, over-the-counter medications, that MRO has the authority to go ahead and require that testing without getting ODAPC consent. The same thing with additional testing that could make the distinction between illicit THC and Marinol.

One area that folks have some significant concern about and I'll come back and address this a little later in the presentation, but revolves around the medical review officer's verification of prescriptions in that process. First of all, I'd like to indicate the majority of this process is same as it's always been. There was a little bit of an addition here that we're going to talk about in a second, but this is primarily the same as far as the provisions have always been here for a medical review officer. What we tried to do was to break it down into steps so that individuals could follow along with what is going to probably be happening here.

The first thing that's going to happen is when a medical review officer gets a test result back from the laboratory, they're going to go through the normal process that they always have to verify that test result as either positive or negative. There's nothing that has really changed with that process. Should however a result be verified as negative. MRO also will be making a particular determination, but if there is an indication that prescription medication may have been used as we know as long as it's a legitimate medical use for that prescription is going to be reported to the employer as negative.

There's also the requirement as there always has been that if and reviewing that, the MRO has determined that there could be a significant safety risk in their professional opinion that, that MRO is now going to notify employee of that potential significant safety risk or also if there could be a violation of any of the modal requirements as well that might make them medically unqualified. MRO will verify the test as negative or positive. If it's negative and if it's viewed that there could be this potential safety risk, they will communicate to that to the employee.

Step three, and again these are our steps not the DOT's, but what we view as the next step that is going to occur. This is the new part, once the employee is notified that there could be this potential safety risk. Now, the employee has a five-day period to facilitate contact between their prescribing physician and their MRO. The burden is on the employee to get to their prescribing physician and have that prescribing physician contact the MRO so that there can be a discussion from medical professional to medical professional about the potential safety risk that are associated with the use of this prescription medication.

The discussion between the prescribing physician might revolve around individual use of this medication, how long they've used it? Generally speaking whether or not the prescribing physician believes that there's a safety risk or not. It might also revolve around whether or not there might be an alternative dosage or directions for usage or perhaps even another medication. The goal here is to have to the two physicians, the MRO and the prescribing physician make a determination about whether there is a safety risk or not, and if there is, if it can be mitigated.

That's why there needs to be that MRO prescribing physician discussion. If in fact, after that discussion, the MRO believes that there is no safety risk and therefore, the MRO's concerns have been addressed, then there's no additional notification of the employer and the employer has not been notified and will not have any information about the MRO's initial concerns. However, if after the MRO has had their discussion with the prescribing physician, it's determined that there is still the possibility.

They're still a safety risk or that there's this additional concern, then at that point the MRO will make that determination and they will contact the employer indicating that this individual even though their test was negative that there is a potential safety risk associated with this particular employee performing their safety-sensitive duties.

Additional provisions of the regulation is that the DOT made it very clear that there are no other allowable specimens other than urine. Again, perhaps the Department of Health and Human Services (HHS) is allowing other procedures for other federal workplace employees, but that is not the case with the DOT. All DOT covered employees are the only testing that is allowable is urine. There is no blood, hair, sweat, there are no other options. Also, the regulation makes it very clear that the specimens that are collected as part of this testing process cannot be used for other purposes such as DNA testing. No, DNA testing is allowed on these urine specimens.

The regulation also then added three new fatal flaws and the reason why we've got a red star there is that if by chance you have fatal flaws defined in your policy then, again, you would need to update and add these three. If you do not have any fatal flaws discussing your policy, then you would not, of course need to do this. Essentially, these are flaws that are logical and they make it sense and they just needed to clarify the regulation just to make sure each of these were covered.

Again, if there's no chain of custody control form with the urine specimen at the labs. In other words, the specimen shows up, but there's no chain of custody and control form, that's the fatal flaw or if the chain of custody and control form shows

up, but there's no urine specimen, but one was collected, that would be a fatal flaw or if by chance there were two separate collections, but only one chain of custody and control form, so a matter of clarifying those rare, but things that can happen. There is also a clarification regarding what collection site personnel are supposed to do when there is insufficient volume.

Previously, they were to, if there was a possibility of adulteration, they were to keep it and send it off as well, but now it's been made very, very clear that there is insufficient volume always that initial assessment will be discarded. Obviously, the specimen that then is a collected following the insufficient volume procedures that are found in Part 40 that is the specimen of record.

There are also some changes with the chain of custody and control form to address and to reflect the changes that have been made in this final rule. One of them is they are basically taking the word DOT out of step one 1D. Basically, there's no necessity for that, it's kind of redundancy, it feels like taking out the word DOT there in 1D. Also, under step 5A where the results of the test are to be recorded, it's now being revised to add the additional four opioids that we discussed previously.

At times the change in custody and control forms needs to be very clear as far as when you need to use the new forms and when you need to stop using the old forms. That has in fact, that guidance or that has been provided in this regulation. The new chain of custody and control form, individuals, collection sites can start using it as early as January 1 of 2018. It doesn't have to be if you still got old chain of custody and control forms at the collection site. Those can still be used through June 30th of 2008. In doing so, it doesn't need to have a correction or doesn't need to be a memorandum for the record required for any of the old forms that are used through June 30th of 2018.

All of those old forms, the use of those need to be discontinued by July 1 and so beginning July 1 that's when the new forms has to be utilized. The reason why we have a red star here is it would be a good best practice to have discussions with your collection sites to make sure that they are making the appropriate arrangements to get those new forms and to make sure that they're actually in use by July 1 of 2018.

Yeah, there's some minor miscellaneous changes. Some outdated compliance dates have been changed, some minor editorial corrections. The links have been revised and updated as well as there were some minor changes and revisions Appendix items. Okay, so that's overview of the regulation and those changes. What I want to do right now is go over the changes that employers would be required to, this whole page that have a big red star on it. Okay.

Every employer who's covered by the DOT drug & alcohol testing rule, all of their policies should be looked at in fine detail and everywhere that there is the word "opiate" that needs to be changed "opioid". Okay, so that would be a required change. If in your policy you have a breakdown of the five-panel drug, the subcategories whether it includes the cut off levels or whether it's just a detailed description of them. If in fact, have those in your current policy, then they then need to be removed or edited to reflect these four additional opioids.

Also, if you have definitions included there are a number of those definitions that were updated or revised as we indicate earlier in this presentation until you want to make sure that all those definitions are in fact updated accordingly. Those are what we have interpreted and what appears to be required by the DOT. Obviously, everybody on this webinar should really refer to their own legal personnel and human resource experts to read the rule and to make sure that you make the necessary modifications consistent of what your interpretation of that regulation. Again, it's likely that especially with FTA, the next copy of the quarterly update. We'll also have a discussion of this as well.

What we have presented thus far is our humble interpretation of what the required changes will be. However, there are also a number of best practices that are not required by the DOT, but that are best practices that we would suggest employers might consider as they're looking to implement this program or this regulatory change within their organization. Primarily, how it addresses a significant safety risk and the additional procedure that is identified regarding the MRO and the MRO's interaction with the employee regarding significant safety risk and employee's responsibility to facilitate contact between the prescribing physician and the MRO.

If by chance in your policy, you already have a section of some kind that addresses over-the-counter (OTC) medication. We would suggest to you that, that might be a place where you might want to address those revisions.

If by chance you don't have a section like that in your policy, you might want to consider adding a section to your policy that does address being medically unqualified and significant safety risk that you define the process here and what are the requirements and what the employee's responsibilities are. Again, because we don't know everybody's policy, we can't give specific direction as far as what those policies say and where it needs to say it, but these are some suggestions that we have as far as a best practice.

Other best practices that are not specifically required by the regulation, but that we would advise, again, as a best practice, is that we would suggest that there needs to be some employee education regarding the regulatory changes. What that is going to mean as far as the employee's responsibility. ODAPC has created a very short notice to employees that is on their website and we've got that referenced later on in this presentation, but that's something that you might want to share with your employees.

You might also want to share with our employees and review with them your policy changes and have a general discussion on prescriptions and how they might need to interact and discuss their job duties and of the way this testing process might play out with their prescribing physician. It also might be beneficial to explain to employees that they want to make sure that their prescribing physician is as informed to the best of their ability as far as what their job duties are. If in the fact they're ever given a call or they're ever asked to talk with MRO, they're familiar and aware of what those job duties are so that they can communicate to the MRO regarding those potential safety risks.

Similarly, as we've indicated throughout the presentation, even though it may not be required, it would be prudent for employers to communicate with their service agents

to make sure that they are aware of the regulatory changes and what that means for them. Make sure that, again, it would be a best practice to give them a copy of the revised regulation and to give them the link on how to sign up for ODAPC's List-Serve. It might be a good practice to get some kind of documentation that, that service agent actually did sign-up.

I believe that it's important for employers and employees to know that when it comes to the issue of significant safety risk that the DOT has essentially given the final word to the MRO, in the words of the MRO's discretion. Now, we're anticipating that ODAPC will be publishing a revised MRO guidance and that we anticipate that, that will be forthcoming shortly to help MRO's understand what the expectation is and to help guide them through the process. However, not anticipate that, that guidance is going to give concrete definitive answers on how all of these determinations may be made, because, again, every case is going to have to be made on a case-by-case basis.

Again, if an MRO in their own personal judgment believes that it's a potential safety risk, that MRO will initiate this process. It's quite possible that different MROs might have different take on that set of circumstances. It's important that we realize and that's there's a discussion with your MRO to make sure that everybody's understanding how this is going to be addressed. There are some possible implications that I believe employers should be prepared for and that is it's quite possible. The reality is that some employees may have difficulty accessing their prescribing physician to facilitate that contact.

Also, there can be the issue of how old can a prescription be, will an MRO accept the prescription that's five years old or six years old if it says take as needed. There may be a problem with potentially even if the employee has not had recent contact for example with the prescribing physician, it's quite possible if there's that dialogue between the MRO and the prescribing physician, the prescribing physician may or may not feel comfortable in making an assessment of safety risk or not. All of these things are not spelled out in the regulation.

Again, it's up to the discretion of the MRO given the soon to be published MRO guidance, but we just want to make sure that there some potential possible implications here. What employers need to know of as early as January 1, they could potentially get a telephone call from an MRO that would indicate that an individual safety specimen employee might have a significant safety risk. Unless it has got to do with the USDOT and medical standards like the CDL medical standards essentially there is no USDOT regulation that then guides or tells that employer what to do when they get that phone call, so the regulation stops at the phone call.

You as the employer will then have to determine what it is you're going to do now that you've been told that one of your employees may pose a significant safety risk. It is a best practice and for you to think through and be proactive about what you're going to do is by chance you do get that telephone call and we know we can just say that it's not a DOT regulation at all, but a best practice has been that some employers are creating fitness-for-duty or wellness policy that will address that so that they can be proactive in the circumstances where they get that call. It, also, potentially could be subject to collective bargaining concerns.

The most important thing is to be prepared for what happens on January 1. Get that call and to be prepared with what it is that your organization feels most comfortable with. We highly recommend, since out of the offices of the regulation that this would be an opportunity where you really need to talk with your legal council and with your human resource experts within your agency in order to be able to determine how you as an organization are going to address the, at least, potential calls.

With that, I think that pretty much ends the formal part of the presentation. We will try to address questions to the best of our ability. Again, we'll try to get through as many as we can. If we can't get through them all, then you'll be able to email them. One of the things that we may be doing if people have a concern is it's possibly in January we may perform another webinar that does deal with a fitness-for-duty concerns and best-practices. Again, that would be outside of the purview of the regulation. It would basically be just a webinar on best practices, but if there's interest, we will maybe able to do that as early as January.

I do want to point out that, again, a reminder that this recording is on the National RTAP's website. There will be different versions or the version of this on these slides will be provided or available to webinar attendees. We also did reference the fact that there are a number of resources that might be available to you, so we want to make sure that you are aware that if you go to ODAPC's website, which is right here, you can actually get a copy of the final rule. There's a brief summary of the changes. There's information regarding the chain of custody and control form. Implementation, there's a discussion about policy changes and there's a discussion or the employee notice as well.

With that, we've opened it up to question.

Sean Oswald: Robbie, the most common question, beyond if the slides will be posted, is what if the employee cannot get in contact with the prescribing physician within that five-business day requirement.

Robbie Sarles: I think that's a very good question, it's a very practical question and at this point, the only thing we have is the regulation that says, they've got five days to facilitate that contact. One could assume from that and this is an interpretation, well, hopefully FTA and the DOT will continue to provide and shed light on that. Again, it would be, if there's no information provided by the prescribing physician … the MRO will have to be making their determination about whether there's a safety risk or not just based on information that they have available to them at the time.

Assumption is that if there's no contact and if they have not gotten any additional information that the MRO who had that concern will probably be contacting the employer at the end of that five-day period and we'll be telling that employer that there's a potential for a safety risk assessment here. Now what I want to point here is the ultimate decision about whether there is a safety risk and what you do about it really falls on the employer. In other words, the MRO is going to suggest to the employer that there is a safety risk, but it's up to the employer to make that final determination and then just decide what to do with that employee once they have that information.

Again, there's all kinds of opportunity for various internal procedures about what you do when you get that information. Some best practices have been to basically take that individual out of safety since they have duties until such time as that question can be answered to satisfaction of the employer. Some agencies may refer that employee for a complete fitness-for-duty assessment. I mean there are a number of different things that, that employer can do, but whatever those are we just need to know that they're really outside of the hospices of these regulations and that the employers will need to come up with those procedures on their own.

Sean Oswald: Another question is can you find a real example, a live example of what you think might cause someone to be a significant safety concern?

Robbie Sarles: I think a significant safety concern would be if the MRO has been able to validate that an individual may have a prescription or maybe even multiple prescriptions for opioids, but they have valid prescriptions. In time, maybe they have multiple valid prescriptions and so in that particular case, the test results would be negative, because there's a valid prescription.

There would be something regarding that prescription either the quantification or the number or anything else or something else that was that the MRO found out when they were discussing the usage of this medication with the employee that would cause them to have a concern. Again, it could be not only the use of prescriptions, to multiple prescriptions, maybe interactions of prescriptions or could actually be the condition that the employee was using the medications for.

Sean Oswald: The question is will the significant safety risk five-day issue with contacting the prescribing physician and the MRO, will that slow down getting the result of the test?

Robbie Sarles: I believe that the test results will be verified in its normal timeframe as either positive or negative, that the safety assessment should not impact that.

Sean Oswald: One says that the drivers taking prescription over-the-counter medication is only required at the time of the testing to notify the MRO or the prescribing physician or are they automatically unfit for duty for not having reported?

Robbie Sarles: The requirement to report any prescriptions or over-the-counter medications is unless it follows the CDL provisions really is an employer requirement as far as reporting prescription over-the-counter medications, so it really is up to the policy of the employer.

Sean Oswald: One other question said, well, if we have to make sure our service agents are on the list there, how can we actually document it beyond just asking them to sign up or probably as they asked that question, I found out, if you're already signed up and you go to the website and resign-up, the website will tell you, you're already signed up. That's the way you can document it, ask them to go sign up again. If it tells them they're already signed up, then they can print that screen and then keep on file. Of course, if they're not signed up, you can have them do so, and then when they sign up, the website will give you a confirmation screen saying you are now signed up, or you were already signed up.

Robbie Sarles: Again, that's a best practice.

Sean Oswald: The requirement is that sign up the best practices that you helped them sign up. The burden is on them, but we would definitely suggest that you help them. Other multiple questions is are there any sample fitness-for-duty wellness policy templates?

Robbie Sarles: Should we go forward with another webinar, a little bit later on in January, we will be discussing that, as well as at the FTA National Drug & Alcohol Conference that will be held May. There will be a whole session on this. FTA did publish a prescription over-the-counter medication toolkit a few years back that does have some sample policies in it, but obviously anything that was done years ago would have to be updated to reflect the provisions of this new regulation. Again, I'm sure that there will be more and more examples as individuals and as employers are able to respond to this and as that information is available. Hopefully, we'll be able to present some additional best practices in a webinar.

Sean Oswald: Another question, that adaptive website said that there should be no need for policy changes if the plan, if the drug & alcohol policy simply refers to Part 40 for procedures. The question is essentially, if our policy does say we will do testing in accordance to Part 40, do we need to change our policy versus if the policy actually breaks down with the procedure or how we'll we have to change our goals?

Robbie Sarles: Yeah, if you are correct, if you basically have covered all the testing procedures with one line that says, you will follow in accordance to Part 40 as amended and I want to make sure you kind off add that little part in here as amended and then you would not have to change anything else. I would just make sure that as you're reading through your policy that there just aren't other references to definitions that the word opiates and some of these other things that might be scattered drop the policy. I would make sure you give it a real good review to make sure that you haven't overlooked something.

Sean Oswald: Somebody asked about, how this impact or if it impacts medical marijuana?

Robbie Sarles: It does not impact medical marijuana at all. THC is still one of the five drugs that is tested for a positive or negative result. It's still going to be positive regardless of the source, unless it comes from a valid prescription from Marinol. As a reminder, our government does not recognize the medicinal use of marijuana other than for Marinol.

Sean Oswald: Is an employer required to exclude an employee from safety-sensitive duty during this five-day period?

Robbie Sarles: The way that it is supposed to work, the employer will not even know necessarily that there is a safety risk at this point. Again, the employer will be told that the test is negative or positive, or will tell that it's negative, but it's not until the MRO has had the opportunity to discuss within the five days, before the MRO will make a determination about whether or not there is a potential safety risk. The employer should not know during that five days that there is even necessarily a concern.

Sean Oswald: One last one came in, would the MRO consider a driver using methadone or Suboxone a safety risk?

Robbie Sarles: USDOT does not test for either of those substances as part of this testing process. Now if by chance in a discussion with the employee for something else that then becomes knowledge of the MRO then the MRO would again basically deal with that just like they would in the other possible safety risk, but that information would come from some other source other than the DOT that the laboratory test results, because we do test for those substance.

Sean Oswald: Okay, Liz, if you want to take it back over for your final slides.

Liz Taylor: Sure. Again, if you have any additional questions, you can email us at info@nationalrtap.org and we can either try to answer those questions or we can incorporate them in the future webinar that Robbie mentioned in January. At this time, I would like to thank Robbie and Sean for a great presentation today. Hopefully helpful for all of you and I want to thank you all for attending. As a reminder, the recording, the Q&A document and a version of these slides will be posted on our website at nationalrtap.org/webinars. That will be within one week, but hopefully later this week. Transcripts can be made available upon request.

I just want to also say that if this is your first National RTAP webinar or you're not familiar with National RTAP, we're a technical assistant center funded by the federal transit administration and our mission is to address the training and technical assistance needs of rural and tribal transit operators nationwide and to support state RTAP programs. Our resources and services include webinars as well training materials, newsletters, technical briefs, a peer network, web-based resources and tools, and a biennial conference.

So while you're looking at the recording and documents, please check out the other materials we have on our website. We appreciate you attending and wish you all happy holidays. Thank you again to Robbie and Sean, and I hope you'll have a nice rest of your afternoon. Thank you.