

# SAFETY GAZETTE

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Todd Bateson, EVP of Transportation for IAT Insurance Group was recently featured in *Insurance Journal* on managing liability from electronic logging devices (ELD) on commercial vehicles. In the article, Todd dives into the ELD rule, understanding the litigation exposure and how to mitigate the risks. Read the article here: <https://www.insurancejournal.com/magazines/mag-features/2019/11/04/547356.htm>

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## Up on the Roof Top...

by Nancy Ross-Anderson, Loss Control Specialist

You should be checking for more than Santa Claus.

Your roof is a critical part of your building maintenance that is often overlooked. Performing regular roof inspections, maintenance and cleaning can dramatically lower your overall facility costs, minimize the need for costly emergency repairs, and prolong the life of your roof. Did you know that most commercial roofs should be inspected at least twice a year? Here's what to look for while you are up on the roof, in the attic, or on the ground.

- Visible damage
- Debris and dirt
- Color fading, or chalking
- Alligatoring and degranulation of asphalt shingles.
- Vents, chimneys, skylights, fascia, drip edges, and decking
- Interior roofing such as rafters and roof trusses should be checked for signs of mold, mildew, and rot.
- Interior and exterior walls should be checked for signs of water damage.
- Gutters and drainage systems should be cleared.
- Roof mounted HVAC systems should be checked

This is not an all-inclusive checklist and different roofing systems may require specific items be checked. Whether you inspect the roof yourself or hire a professional is your decision.

A good place to start is by pulling up your building on Google Earth. Zoom in and look closely for areas of discoloration.

Have your roof inspected and repair damage as it is found. Deferring regular maintenance can be very costly in the long run. Plus, you need a good landing pad for Santa and those eight tiny reindeer.



This looks like support under the roof and sinking of the subsurface surrounding the support structure.

Indication of standing water.



## Drug & Alcohol Clearinghouse

by Cesar Rubio, Senior Loss Control Representative

The Federal Motor Carrier Safety Administration (FMCSA) established requirements for the Commercial Driver's License Drug and Alcohol Clearinghouse. All motor carriers and Commercial Driver's License individuals (CDL) are mandated to comply starting January 6, 2020. Registration opened in the fall of 2019.

### STEPS REQUIRED TO REGISTER

#### 1. Verify your information

- The Clearinghouse database will pull your contact and company information with your USDOT number. Verify the company information is up-to-date

#### 2. Designate you Consortia/Third-Party Administrator C/TPA

- This is required for all motor carriers if a third-party C/TPA needs to access the Clearinghouse on the motor carrier's behalf

#### 3. Register other users

- The main user will need to invite other company employees to register. This will allow other users to register as part of your company or organization and will access the Clearinghouse on your behalf

#### 4. Purchase a query plan

- Select a query plan that better suits the company needs
- There are two query plans – an Individual Query Plan and an Unlimited Query Plan
  - Individual query minimum cost \$1.25
  - Unlimited query annual premium cost \$24,500.00
- For more information: [How to Purchase a Query Plan?](#)

### REPORTING VIOLATIONS AND QUERIES RECORDS

- When to report drug and alcohol violations:
  - Positive alcohol test results of 0.04 or greater
  - Refusal to take an alcohol or drug test
  - Actual knowledge of a violation
    - Report positive test results within 2 business days
    - Medical Review Officers (MROs) must report the changed result within 1 business day
  - Report negative return-to-duty (RTD) test results
    - Substance Abuse Professionals (SAPs) need to report by the close of business day following the date of the initial assessment
- Successful completion of driver's follow-up

testing plans

- SAPs need to report by the close of business day following the determination the driver is eligible for RTD testing
- Requesting queries
  - Check applicants record if they are forbidden from operating a commercial motor vehicle (CMV)
  - Annual queries should be conducted on all CDL drivers
  - Both electronic and manual queries should be requested until January 6, 2023
    - Manual queries should be requested to the applicant's previous employer

For more information, visit [Drug & Alcohol Clearinghouse Learning Center](#).





## A Word of Caution About CBD Oil and DOT Drug Testing

by Chris Parker, Loss Control Specialist

The use of Cannabidiol (CBD Oil) is growing in popularity as a natural alternative to pain medication and other ailments. Truck drivers and fleet owners should be aware of potential liability and consequences for the use of CBD oil resulting in a positive drug test under U.S. Department of Transportation (USDOT) regulations.

Marijuana contains THC, a banned Schedule 1 substance under USDOT regulations. CBD oil derived from hemp can contain up to 0.3% concentration of THC, while marijuana may range anywhere between 5% and 30%. Regulations prohibit any THC for any reason.

Recent guidance issued by the Department to medical review officers stated that *“For purposes of your role in the evaluation process, you must assume that a verified positive test result has conclusively established that the employee committed a DOT drug and alcohol regulation violation. You must not take into consideration in any way, as a factor in determining what your recommendation will be, any of the following: Statements by the employee that attempt to mitigate the seriousness of a violation of a DOT drug or alcohol regulation (e.g., related to assertions of use of hemp oil, “medical marijuana” use, “contact positives,” poppy seed ingestion, job stress);”*

In other words, a driver testing positive for marijuana will not be able to assert the use of CBD oil as an excuse for failing a drug test. A failed test will result in a need to comply with the regulations including suspension of driving privileges until the driver has completed the prescribed return to duty process including a return to duty test showing negative results, satisfaction of the MRO’s treatment plan, and participation in follow-up drug screening program. Such test results will also be included in the DOT Drug and Alcohol Clearing House database. A failed test might also impact the motor carrier’s CSA scores.

A driver failing a post-accident drug test due to the use of CBD oil can be expected to greatly complicate any litigation that may ensue as a consequence of the crash.

Fleets are well advised to caution drivers on the use of CBD oil. A driver’s career may be in jeopardy and the fleet owner’s assets at risk if a drug test comes back positive. To avoid any misunderstanding surrounding the use of CBD oil, legalized medical or recreational marijuana, drivers should be advised of the following:

- Trace amounts of THC are often present in CBD oils and may show up in a DOT urine specimen for many days after use.
- MROs will not accept CBD oil use as a valid medical explanation for a positive DOT drug test, and
- Enforcement authorities may consider CBD oil in a commercial vehicle as possession. Officers are unable to determine the concentration of THC in the oil, and as of the time of this writing, there has been no official guidance for them to follow regarding the assumption of its presence or concentration in oils.

For these reasons, drivers are discouraged from using CBD oil.



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