

QUESTION:

Suppose the SAP fails to make the required recommendation for education and/or treatment of an employee who has violated a DOT agency drug or alcohol testing rule, and simply sends the employee back to the employer for a return-do-duty (RTD) test. What is the employer to do?

ANSWER:

- The employer should not administer an RTD test under these circumstances.
- The employer should refer the employee back to the SAP with direction to prescribe education and/or treatment and conduct a re-evaluation of the employee to determine whether the employee has successfully complied with the SAP's instructions.
- If the employer has compounded the problem by having conducted the RTD test and returned the employee to safety-sensitive duties (i.e., only realizes that a mistake has been made some time after the fact), the employer should work with the SAP to "go back and do it right."
- This means that the employee should be removed from performance of safety-sensitive functions, referred back to the SAP for an education and/or treatment prescription, and re-evaluated by the SAP for successful compliance. Following the receipt of a successful compliance report from the SAP, the employer would conduct another RTD test before returning the employee to performance of safety-sensitive functions.