



U.S. Department of Transportation

Office of the Secretary of Transportation

Office of Drug and Alcohol Policy and Compliance

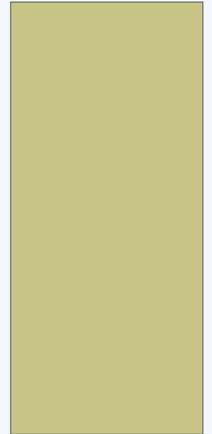
Patrice M. Kelly, J.D.

Director

“DOT Program Update”

Federal Drug Testing Advisory Board

June 11, 2019





ODAPC TECHNICAL ASSISTANCE

In 2018, ODAPC's outreach included:

- ✓ **16,097** emails, phone calls, Ask ODAPCs & other interactions with DOT Program Managers and our regulated public
 - ✓ **More than double the 7,290** contacts in 2012
 - ✓ **More than 64,000** list serve subscribers as of November 2, 2018
 - ✓ Last list serve was in May of 2019
 - ✓ **More than 72,000** list serve subscribers as of May 7, 2019
 - ✓ **More than triple** the number of subscribers than in 2012

ODAPC's website - the Department's most viewed website:

- ✓ **903,891** sessions on ODAPC's web page in 2018
 - ✓ **2,302,383** subpages viewed

Office of the Secretary of Transportation



49 CFR Part 40



49 CFR Part 382

49 CFR Part 219

49 CFR Part 199

49 CFR Part 655

14 CFR Part 120

46 CFR Parts 4,16



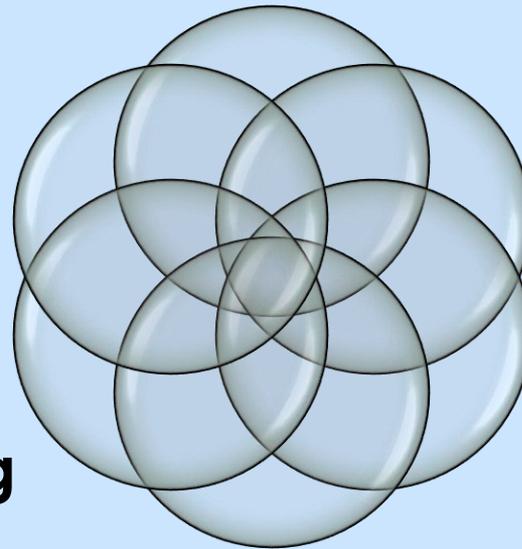
DOT'S HORIZON ISSUES

Marijuana Issues

**Fighting Opioids
in Transportation
Act (SUPPORT
Act)**

**Alternative
Specimen Testing
Methodologies:**

- Oral Fluids**
- Hair**



**Electronic
Reporting/Records**

**MRO On-Site
Reviews**

**Public Interest
Exclusions (PIE)**

**Driver
Clearinghouse
Database**



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

- The Federal Railroad Administration must publish a final rule to designate rail mechanical employees as safety-sensitive employees subject to testing.
- By March 31, 2019, ODAPC must establish and make publicly available on our website a database of the drug and alcohol testing data reported by employers for each mode of transportation.
 - In providing this data, the DOT must not release commercially sensitive data.



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

Fentanyl

- HHS: The Secretary of Health and Human Services must determine whether a revision to the Mandatory Guidelines for Federal Workplace Drug Testing Programs to expand the opiate category to include fentanyl is justified.
- DOT: If fentanyl is added to the testing panel by HHS, the Secretary of Transportation must publish a final rule revising part 40 of title 49, Code of Federal Regulations, to include fentanyl in DOT's drug-testing panel, consistent with the Mandatory Guidelines for Federal Workplace Drug Testing Programs.



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

Hair Testing

1. Reporting requirement:

Every 6 months until the final Hair Testing Mandatory Guidelines are published, the Secretary of HHS must submit a status report to the Senate Committee on Commerce, Science, and Transportation.

2. The requirement to eliminate passive exposure:

“To the extent practicable and consistent with the objective of the hair testing ... the final notice of scientific and technical guidelines ... shall eliminate the risk of positive test results, of the individual being tested, caused solely by the drug use of others and not caused by the drug use of the individual being tested.”



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

Oral Fluids Testing

1. The publication requirement:

By December 31, 2018, HHS must publish the final notice of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Oral Fluid to detect illegal or unauthorized use of substances.

2. The requirement to eliminate passive exposure:

“To the extent practicable and consistent with the objective of the testing ... the scientific and technical guidelines under that subsection shall eliminate the risk of positive test results of the individual being tested, caused solely by the drug use of others and not caused by the drug use of the individual being tested.”



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

Paperless Electronic Chain of Custody Forms

- HHS: Requires HHS to “ensure that each certified laboratory that requests approval for the use of completely paperless electronic Federal Drug Testing Custody and Control Forms from the National Laboratory Certification Program’s Electronic Custody and Control Form systems receives approval for those completely paperless electronic forms instead of forms that include any combination of electronic traditional handwritten signatures executed on paper forms.”
- Deadline: October 24, 2019



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

Electronic Records under Part 40

- DOT: Requires that 18 months after HHS approves the paperless electronic CCFs, DOT will issue a final rule revising Part 40 “to authorize, to the extent practicable, the use of electronic signatures or digital signatures executed to electronic forms instead of traditional handwritten signatures executed on paper forms.”



FIGHTING OPIOIDS IN TRANSPORTATION ACT OF 2018 PL 115-271

FMCSA CDL Drug and Alcohol Clearinghouse

- DOT-FMCSA: Requires not later than 180 days after the date of enactment, and biannually thereafter until the compliance date, the Administrator of the Federal Motor Carrier Safety Administration, to submit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure an updated schedule, including benchmarks, for implementing the final rule, a description of each early action FMCSA is taking to implement the final rule before the compliance date. (January 6, 2020 or the date of the national clearinghouse required under 31306a of title 49, U.S.C.)



Refresher on the DOT-HHS Relationship

- **The Omnibus Transportation Employees Testing Act of 1991 (OTETA) codified DOT's already existing relationship with the Department of Health and Human Services (HHS) as our scientists for the purpose of drug testing.**



Refresher on the DOT-HHS Relationship (cont.)

- **OTETA requires that the DOT follow HHS on certain specific aspects of the science of drug testing:**
 - “for laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines ... establishing”:
 - Comprehensive standards for laboratory controlled substances testing;
 - Minimum list of controlled substances for which individuals may be tested; and
 - Appropriate standards for certifying and reviewing labs



Refresher on the DOT-HHS Relationship (cont.)

- DOT tailors many procedural aspects of our regulated testing to fit the needs of the transportation industry employers and their employees:
 - Collection process
 - MRO verification of test results
 - Reporting that the employee may be medically unqualified under an applicable DOT agency regulation
 - Reporting of significant safety risks to third parties
 - The return-to-duty process



REFRESHER ON THE DOT-HHS TESTING RELATIONSHIP (CONT.)

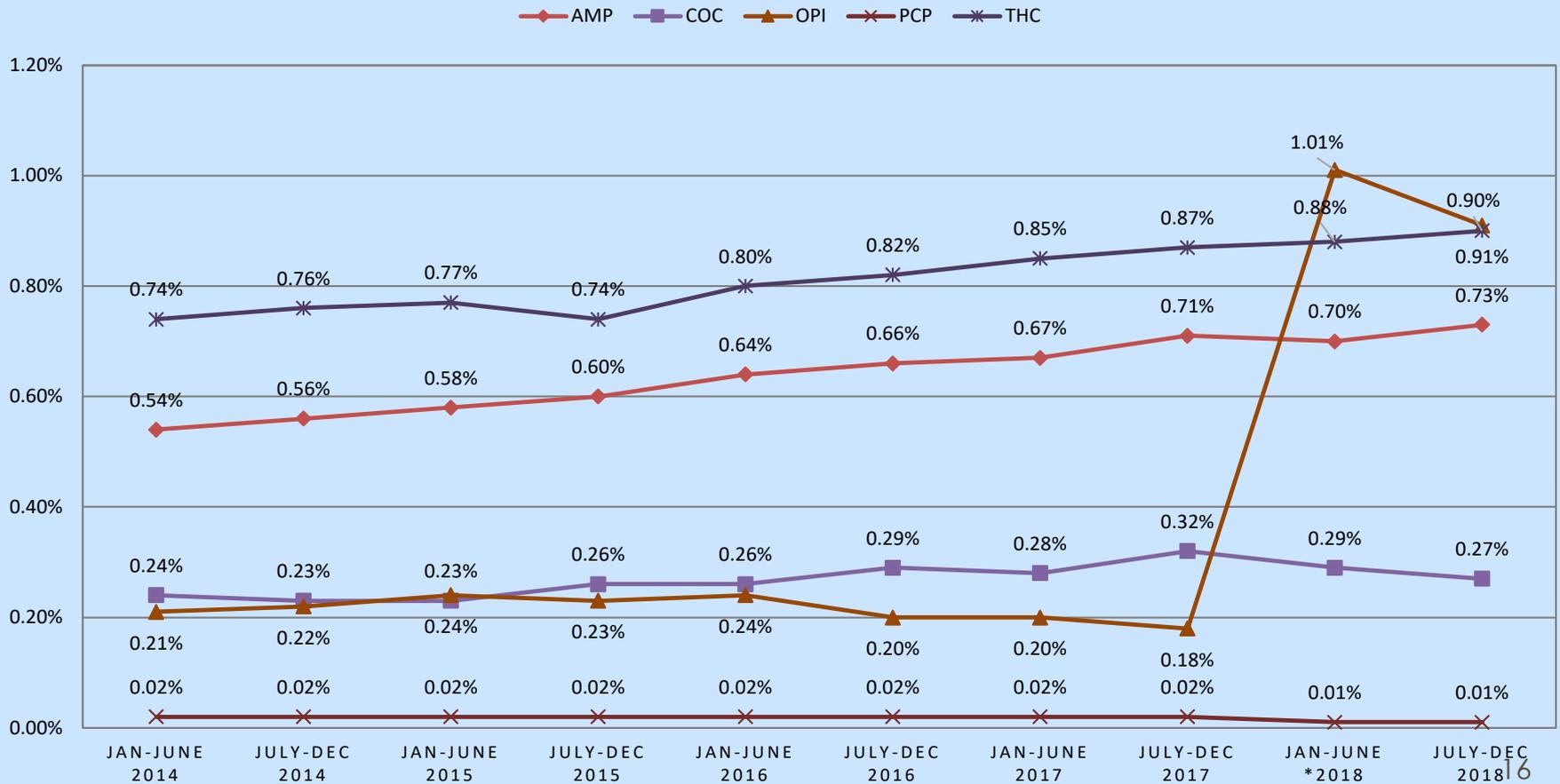
- We cannot follow HHS when the Omnibus Act prohibits it
 - For example: IITFs
 - The Omnibus Act requires “that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests.”
 - An IITF can conduct the initial screening for drugs in a urine specimen, but it is not certified to provide a confirmation test. Therefore, we could not follow HHS for this option.



U.S. DOT-REGULATED DRUG TESTING - LAB DATA 2014-2018

Percent Positive [based upon total rest results]

*Semi-Synthetic Opioid Testing Added 01/01/2018





Timeline: Drug & Alcohol Clearinghouse

December 5, 2016

Final Rule Published
Requirements, user roles established

March 2019

Information Phase

- Launch of Clearinghouse website
- Subscribe for email updates

Fall 2019

Registration Opens
Create your user account ahead of Implementation Date

January 6, 2020

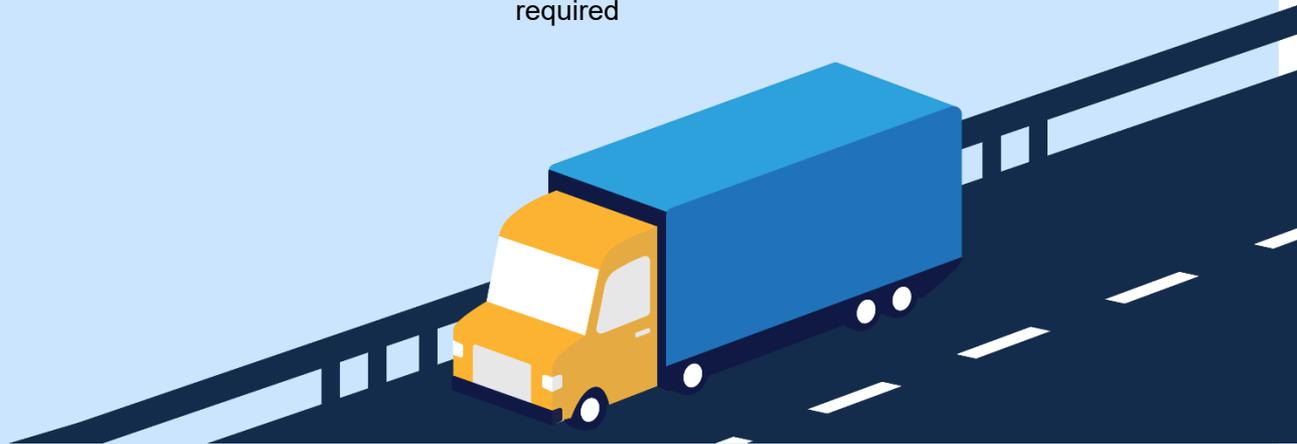
Implementation Date

- Mandatory reporting begins
- Both electronic and manual queries required

January 6, 2023

3-Year Post Implementation

- Clearinghouse contains 3 years of violation data
- Only electronic queries required





WHO WILL BE REQUIRED TO USE THE CLEARINGHOUSE?

- ☑ Drivers who hold CDLs or CLPs
- ☑ Employers of CDL drivers who operate CMVs
- ☑ Consortia/Third-Party Administrators (C/TPAs)
- ☑ Medical Review Officers (MROs)
- ☑ Substance Abuse Professionals (SAPs)
- ☑ State Drivers Licensing Agencies (SDLAs)

COMING
FALL 2019:
REGISTER
FOR THE
CLEARING
HOUSE

- Register your company and/or yourself
- Set up Assistants (employers, C/TPAs, SAPs, MROs)
- Encourage drivers to register





FOR MORE INFORMATION ON THE FMCSA CLEARINGHOUSE

- **Visit:** <https://clearinghouse.fmcsa.dot.gov>
 - Subscribe for email updates
 - Read the frequently asked questions
 - Download the Clearinghouse factsheet

Contact: clearinghouse@dot.gov



- Drug and Alcohol Testing
- Resources for Key Persons
- Regulations and Interpretations
- Guidance
- Part 40 Federal Register Notices, Court Decisions, Legislation
- FAQs
- Public Interest Exclusions
- Important Links
- Documents and Forms
- Videos, Posters, Brochures
- News and Events
- About Us

Home > Resources > For Partners > Drug and Alcohol Testing

Office of Drug & Alcohol Policy & Compliance

Overview

The Office of Drug and Alcohol Policy and Compliance advises the Secretary on national and international drug testing and control issues and is the principal advisor to the Secretary on rules related to the drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries. The Office publishes regulations and provides official interpretations on drug and alcohol testing, including how to conduct tests, and the evaluation and treatment procedures necessary for returning employees to duty after testing violations. The Office also coordinates the Department's involvement with the President's National Drug Control Strategy annually.

Most Viewed Documents

- [Drug and Alcohol Testing Regulations \(49 CFR Part 40\)](#)
- [Part 40 DOT - Employee Notice](#)
- [DOT "Medical Marijuana" Notice](#)
- [Part 40 DOT - 5 Panel Notice](#)
- [Employee Handbook](#)

Most Requested Information

- [2019 Random Testing Rates](#)
- [Substance Abuse Professional](#)



Federal Motor Carrier Safety Administration
DRUG & ALCOHOL CLEARINGHOUSE

COMING SOON
LEARN MORE ➔

- [DOT "Recreational Marijuana" Notice](#)
- [DOT "Medical Marijuana" Notice](#)
- [DOT Agency/USCG Drug and Alcohol Program Manager Information](#)
- [Subscribe to/Read ODAPC List Serve Notices](#)

Related Links

- [Opioid Overdose Prevention Tool Kit](#)