



U.S. DEPARTMENT OF TRANSPORTATION

“DOT Program Update” Federal Drug Testing Advisory Board

May 20, 2016

Office of the Secretary of Transportation

Office of Drug and Alcohol Policy and Compliance

Patrice M. Kelly, J.D.

Acting Director



**U.S. Department of Transportation
Office of the Secretary**



Why This Program Is Important



The transportation industry drug and alcohol testing program is a critical element of the Department of Transportation's safety mission. Pilots, truck drivers, subway operators, ship captains, pipeline controllers, airline mechanics, locomotive engineers, armed security personnel and bus drivers – among others – have an awesome responsibility to the public and we cannot let their performance be compromised by drugs or alcohol.

Working closely with industry, we have, over time, seen the number of crashes and accidents linked to drug and alcohol use by safety-sensitive employees decline. Still, human risk factors remain, so there is much work to be done, and we cannot rest until we have eliminated the dangerous risk posed by illegal drug use and alcohol misuse in the transportation industries we oversee.

Safety is our highest priority and we are committed to ensuring that transportation employees are drug and alcohol free. Employers should make sure that employees understand the personal and professional consequences of failing to comply, and supervisors must be trained to identify the signs of drug use and alcohol misuse.

Employers must also have strong drug and alcohol testing programs and employees must be removed from safety-sensitive duties immediately if they have violated drug and alcohol testing rules. Employees must not be returned to safety-sensitive duties until they have been referred for evaluation and have successfully complied with treatment recommendations.

Together, we can make a difference.

I know you will join me in supporting these important measures.

A handwritten signature in blue ink, which appears to read 'Anthony R. Foxx'.

Anthony R. Foxx
Secretary of Transportation
U.S. Department of Transportation
December 2013

Office of Drug and Alcohol Policy and Compliance



ODAPC PROGRAM SERVICES

- Advise Secretary and DOT Agency Administrators
 - Program issues at the National & International levels
 - Supply Reduction & Demand Reduction issues
 - DOT Agency / USCG Drug & Alcohol program activities
 - *ONE-DOT* Approach
 - Collect and Analyze Data & Information



ODAPC PROGRAM SERVICES

(CONTINUED)

- Develop “Plain-Language” Regulations, Guidance Documents, and Policy Interpretations
 - Provide Consultation and Liaison
 - Executive Branch Agencies and Foreign Governments
 - ONDCP; HHS; DHS; DoD; NRC; DOJ/DEA, & etc.
 - Mexico; Canada; Australia; England; Germany; Nigeria; China; New Zealand & etc.
- Industry Stakeholders / Customers
 - Support Issue Conferences and Training Events



DOT PROGRAM GOALS

- Ensure the **Safety and Security** of the traveling public.
- **Reduce the demand for drugs** by transportation workers.
- **Reduce alcohol misuse** in the transportation industry.
- **Create prevention and treatment opportunities.**
- Keep employees who test positive or refuse a test off duty until **successful compliance with treatment.**



DOT PROGRAM GOALS

(CONTINUED)

- Ensure the *Fairness and Integrity* of the testing process:
 - Maintain employee privacy and confidentiality
 - 4th Amendment Protections & Omnibus Act
 - Have “**Gatekeepers**” in place to ensure “due process”
 - HHS Certified Drug Testing Laboratories / NLCP
 - Evidential Breath Testing Devices
 - Medical Review Officers
 - Substance Abuse Professionals
 - Systems must **be auditable and reviewable** by DOT Agencies.
 - Develop “**plain-language**” regulations, policies, and guidance documents.



COMPONENTS OF A DOT PROGRAM

- Employer Policies
- Employee Prevention, Education and Information
- Supervisor Training on Substance Abuse
- Drug Testing Programs
- Licensed Physician Review of Drug Test Results
- Alcohol Testing Programs
- Removal from Safety Sensitive Duties for Violations
- Substance Abuse Professional Evaluation
- Rehabilitation Before Return to Duty



DOT PROGRAM HISTORY

- Part 40 & DOT Agency Drug Testing Rules (1988 & 1989)
- Omnibus Transportation Employee Testing Act of 1991
- Part 40 - Alcohol Testing Rules (1994)
- Final Rule - Major Re-write (2000) [Vice President's Plain Language Award]
- ONE-DOT Management Information System (2003)
- Semi-Annual Laboratory Data Collection (2008)
- U.S. Court of Appeals for the District of Columbia's Unanimous Decision (2009)
- "Medical Marijuana" Statement (2009)
- Final Rule [Harmonizing with HHS] (2010)
- "Recreational Marijuana" Statement (2012)
- Electronic Federal Drug Testing Custody and Control Form (April 13, 2015)



THE OMNIBUS TRANSPORTATION EMPLOYEES TESTING ACT OF 1991

1. Drug & Alcohol Testing of Safety-Sensitive Personnel
2. Privacy to the Extent Practicable
3. Test Types
4. HHS Laboratory Protocols & Drugs
5. Labs Certified by Health and Human Services
6. Split Specimen Collections [Drugs]
7. Ensure Safeguards for Alcohol Testing [Confirmation w/ EBT]
8. Privacy for Testing & Confidentiality of Test Results



DOT DRUG & ALCOHOL TESTING REGULATED INDUSTRY PROGRAM

FMCSA

Motor Carrier
Employers/Employees
700,000/3,900,000

FRA

Railroad
Employers/Employees
750/111,300

PHMSA

Oil & Gas Pipelines
Employers/Employees
2,450/190,000

FAA

Aviation
Employers/Employees
6,900/450,000

FTA

Transit
Employers/Employees
3,224/290,765

USCG

Maritime
Employers/Employees
15,000/150,000



CURRENT DRUGS TESTED

5-Panel/Categories

- THC
- Cocaine
- Amphetamines
- Opiates
- Phencyclidine (PCP)

Drugs Confirmed

1. **Marijuana**
2. Cocaine
3. Amphetamine
4. Methamphetamine
5. **MDMA**
6. **MDA**
7. **MDEA**
8. Codeine
9. Morphine
10. **6-AM (Heroin)**
11. **PCP**

Red = Schedule I
Black – Schedule II



LABORATORY TESTING

- Labs are required to pass NLCP Review
 - Initial
 - Semi-Annual
 - Quarterly performance testing
- HHS investigates deficiencies in certified labs
- Currently 30 HHS/NLCP certified labs



2009-2015 U.S. DOT ANNUAL LAB TEST DATA CONCLUSIONS

- Assumptions
 - Laboratory reported results – NOT MRO Reviewed
 - Includes “blind specimen” results
- Drugs tested in order of prevalence: Marijuana, Amphetamine, Cocaine, Opiates, Phencyclidine (PCP)
- The overall annual positive results have remained below 2.0%
- Marijuana continues to be the most identified drug
- Amphetamines - the second most identified drug since late 2008



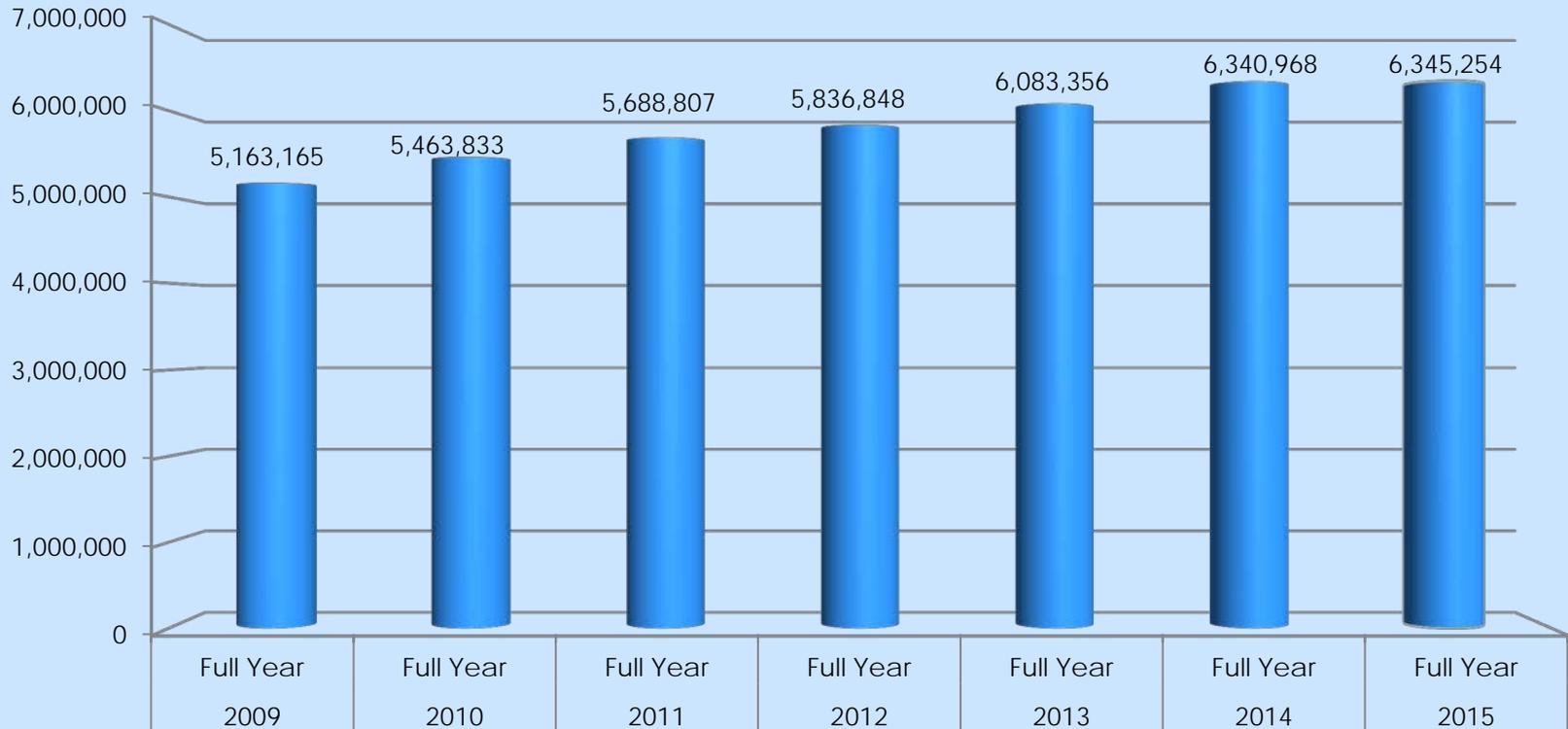
2009-2015 U.S. DOT ANNUAL LAB TEST DATA CONCLUSIONS

- The positive rate for Cocaine remained the same as in 2014.
- The positive rate for Opiates has been increasing since 2011.
- The positive rate for PCP remains low, with fewer than 1,400 people testing positive for it each year, but this hallucinogenic and pain-suppressing drug poses extreme safety concerns that merit the continued testing for it.
- The number of tests indicating some tampering (possible cheating) has remained below .5% but is a continuing concern.



U.S. DOT DRUG TESTING DATA

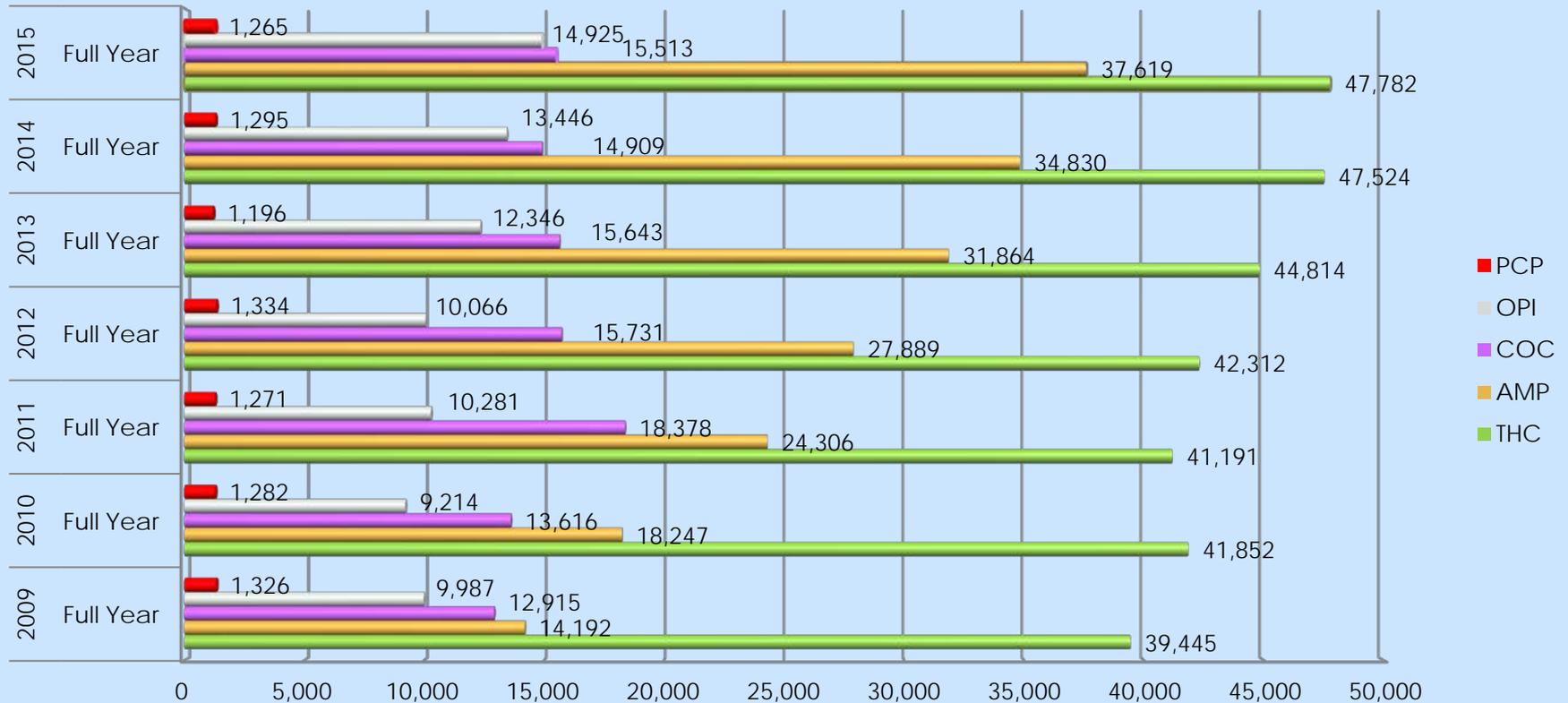
Lab Reported U.S. DOT Drug Testing Data 2009-2015
[Total Results]





U.S. DOT DRUG TESTING DATA

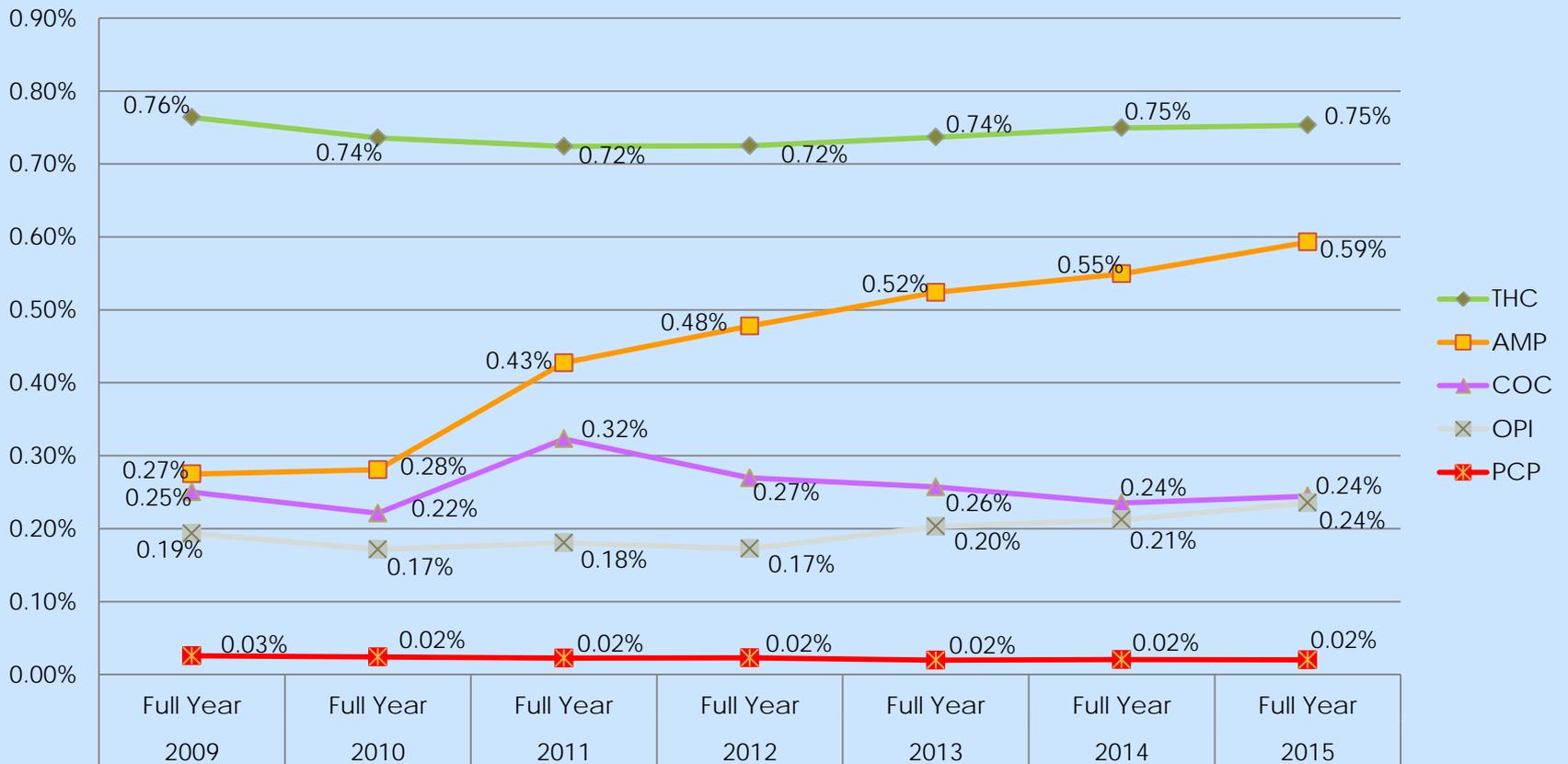
Lab Reported U.S. DOT Drug Testing Data 2009-2015
Number Positive Results [for each calendar year]





U.S. DOT DRUG TESTING DATA

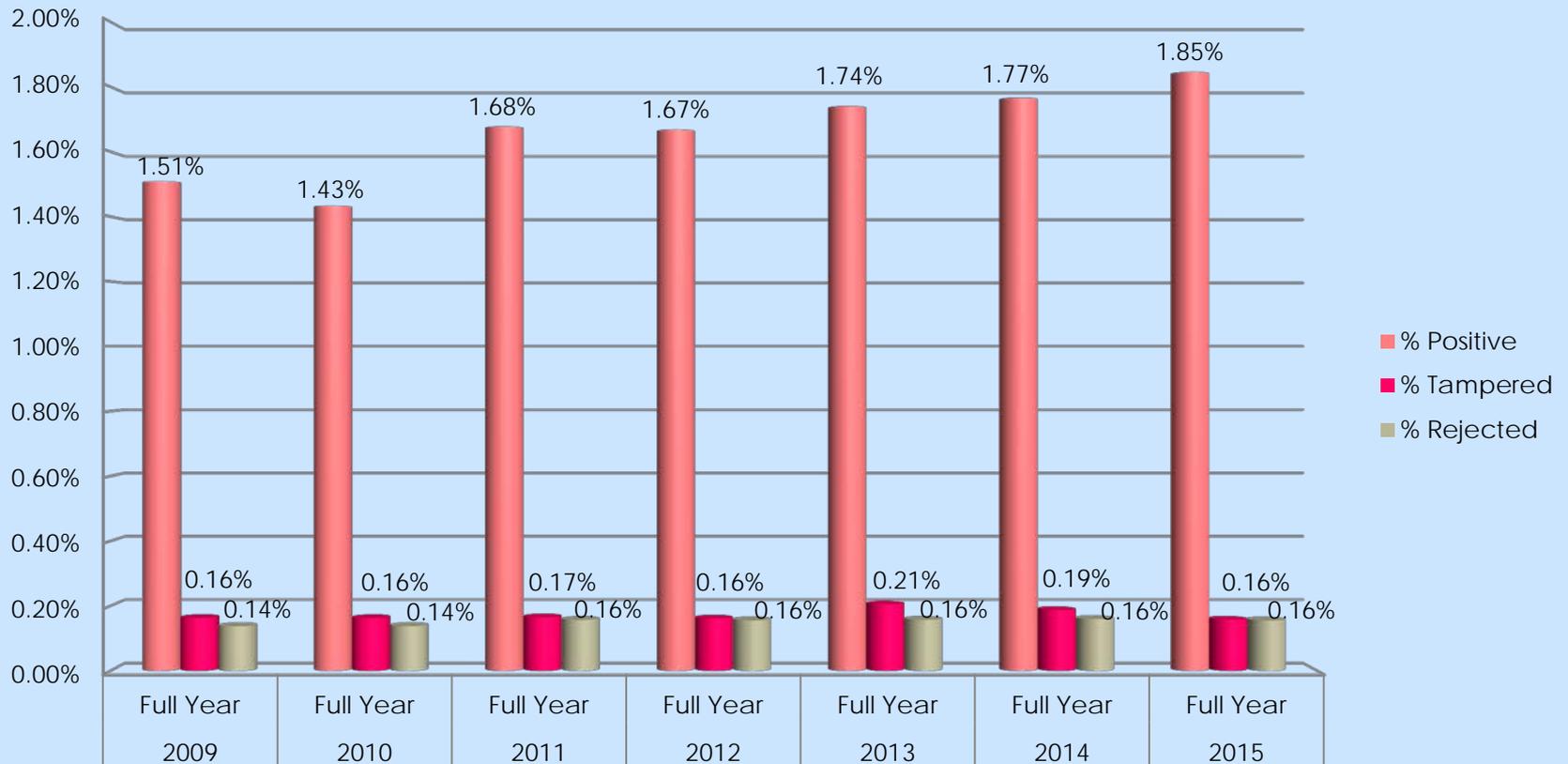
Lab Reported U.S. DOT Drug Testing Data 2009-2015
Positive Rate [based on total test results for each year]





U.S. DOT DRUG TESTING DATA

Lab Reported U.S. DOT Drug Testing Data 2009-2015
Percent Rejected, Tampered, Positive





U.S. DOT DRUG TESTING DATA

Lab Reported U.S. DOT Marijuana Results 2009-2015





DOT'S HORIZON ISSUES

- Marijuana issues
- Alternative Specimen Testing
Methodologies:
 - Oral Fluids
 - Hair
- Drug Impairment Studies
- eCCF Implementation
- Testing for Additional Schedule II Drugs
- Driver Clearinghouse Database



ODAPC STAFF

- Patrice Kelly – Acting Director
- Bohdan Baczara – Acting Deputy Director
- Mark Snider – Senior Policy Advisor
- Cindy Ingrao – Senior Policy Advisory
- Vicki Bellet and Maria Lofton – Administrative
- Bob Ashby and Don Shatinsky – Consultants
- Michael A. Smith – General Counsel
- <http://www.dot.gov/odapc>



ODAPC TECHNICAL ASSISTANCE

- In 2015, ODAPC's outreach included:
 - **14,536** emails, phone calls, Ask ODAPCs & other interactions with DOT Program Managers and our regulated public
 - **Almost double the 7,290 contacts** in 2012
 - **34,806** list serve subscribers as of April 27, 2016
 - **About 11,000** more subscribers than in 2012
- ODAPC's website - the Department's most viewed website:
 - **651,318** sessions on ODAPC's web page in 2015
 - **1,775,595** subpages viewed



U.S. DEPARTMENT OF TRANSPORTATION



Office Of Drug and Alcohol Policy and Compliance
1200 New Jersey Avenue, S.E.
Washington, DC 20590