



U.S. DEPARTMENT OF TRANSPORTATION

**OFFICE OF THE SECRETARY OF
TRANSPORTATION**

**OFFICE OF DRUG AND ALCOHOL POLICY AND
COMPLIANCE**

**PATRICE M. KELLY, J.D.
ACTING DIRECTOR**

“DOT PROGRAM UPDATE”

FEDERAL DRUG TESTING ADVISORY BOARD

JUNE 12, 2015



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, appearing 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

FAA

Aviation

Employers/Employees

6,900/450,000

FRA

Railroad

Employers/Employees

750/111,300

FTA

Transit

Employers/Employees

3,224/290,765

PHMSA

Oil & Gas Pipelines

Employers/Employees

2,450/190,000

USCG

Maritime

Employers/Employees

15,000/150,000



CURRENT DRUGS TESTED

5-Panel/Categories

THC

Cocaine

Amphetamines

Opiates

Phencyclidine (PCP)

Drugs Confirmed

Marijuana

Cocaine

Amphetamine

Methamphetamine

MDMA

MDA

MDEA

Codeine

Morphine

6-AM (Heroin)

PCP

Red = Schedule I

Black – Schedule II



JULY-DECEMBER 2014 SEMI-ANNUAL LAB TEST DATA CONCLUSIONS

- The 30 HHS-certified laboratories report data of laboratory confirmed positives (NOT MRO-verified positives) every 6 months
- There were approximately 6.3 million tests last year, continuing a trend of increasing employment since 2009



JULY-DECEMBER 2014 SEMI-ANNUAL LAB TEST DATA CONCLUSIONS

- During the second half of last year, there were about 3 million tests – and approximately 57,000 were laboratory confirmed positives
- The overall positive rate rose slightly from 1.75% to 1.79% for these results BEFORE MRO verification



JULY-DECEMBER 2014 SEMI-ANNUAL LAB TEST DATA CONCLUSIONS

- THC continues to be the most identified drug
 - The positive rate rose slightly for the 2nd half of last year.
- The second most frequently identified drug is the category of Amphetamines (including Methamphetamines)
 - The positive rates for Amphetamines and Methamphetamines are currently at the largest percentage ever.
- Cocaine is the third most frequently identified drug
 - The positive rate for Cocaine has dropped slightly from the last reporting period.
 - This is the 2nd reporting period in a row in which Cocaine has declined.

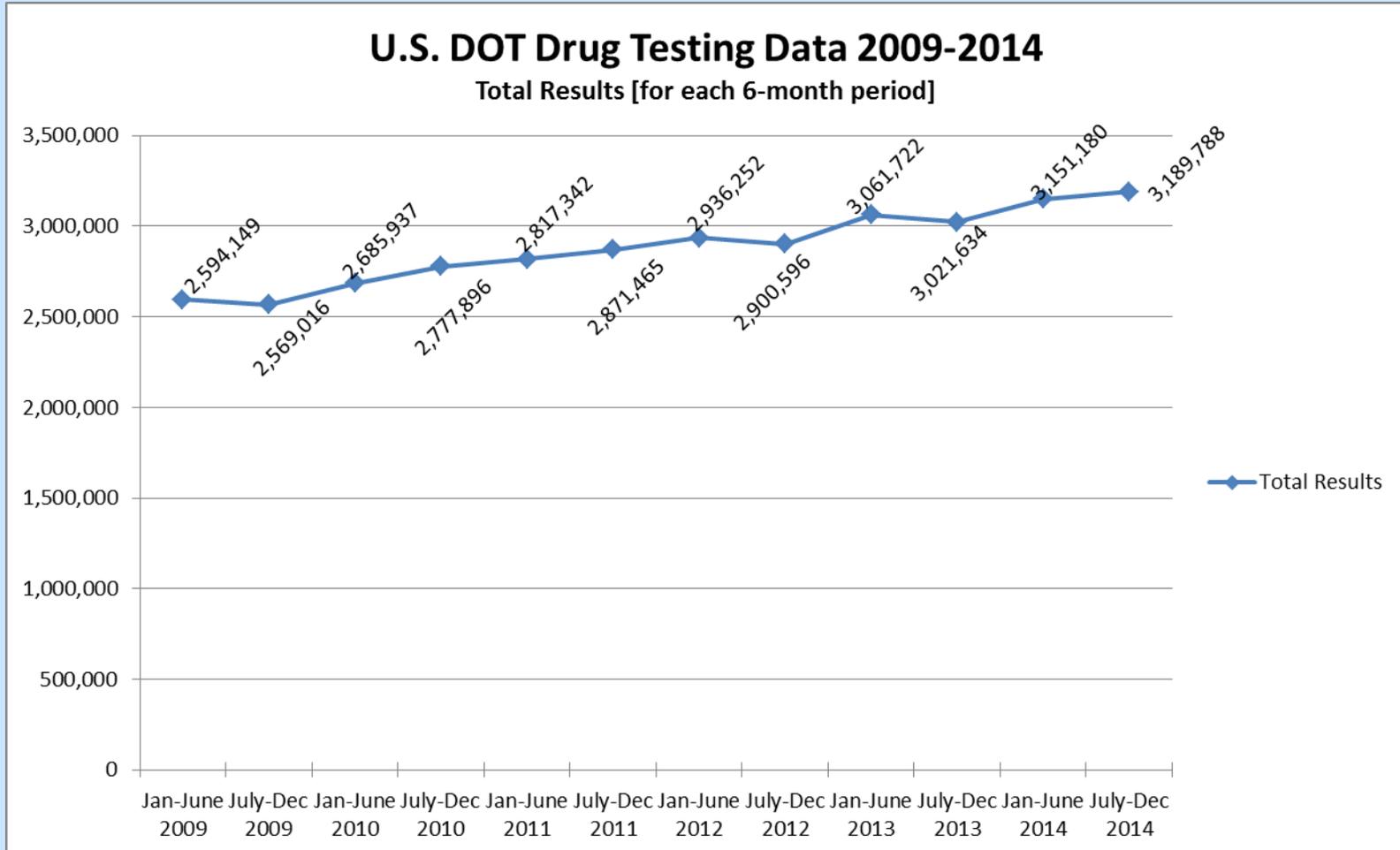


JULY-DECEMBER 2014 SEMI-ANNUAL LAB TEST DATA CONCLUSIONS

- The positive rate for Amphetamines has remained above that for Cocaine since January 2009
- The positive rate for PCP continues to test positive more frequently than the “Ecstasy” drugs combined
- Rate of specimen results reported by labs for “fatal flaws” remains low
- The rate of ‘tampered with’ specimens stayed the same for a 2nd reporting period.

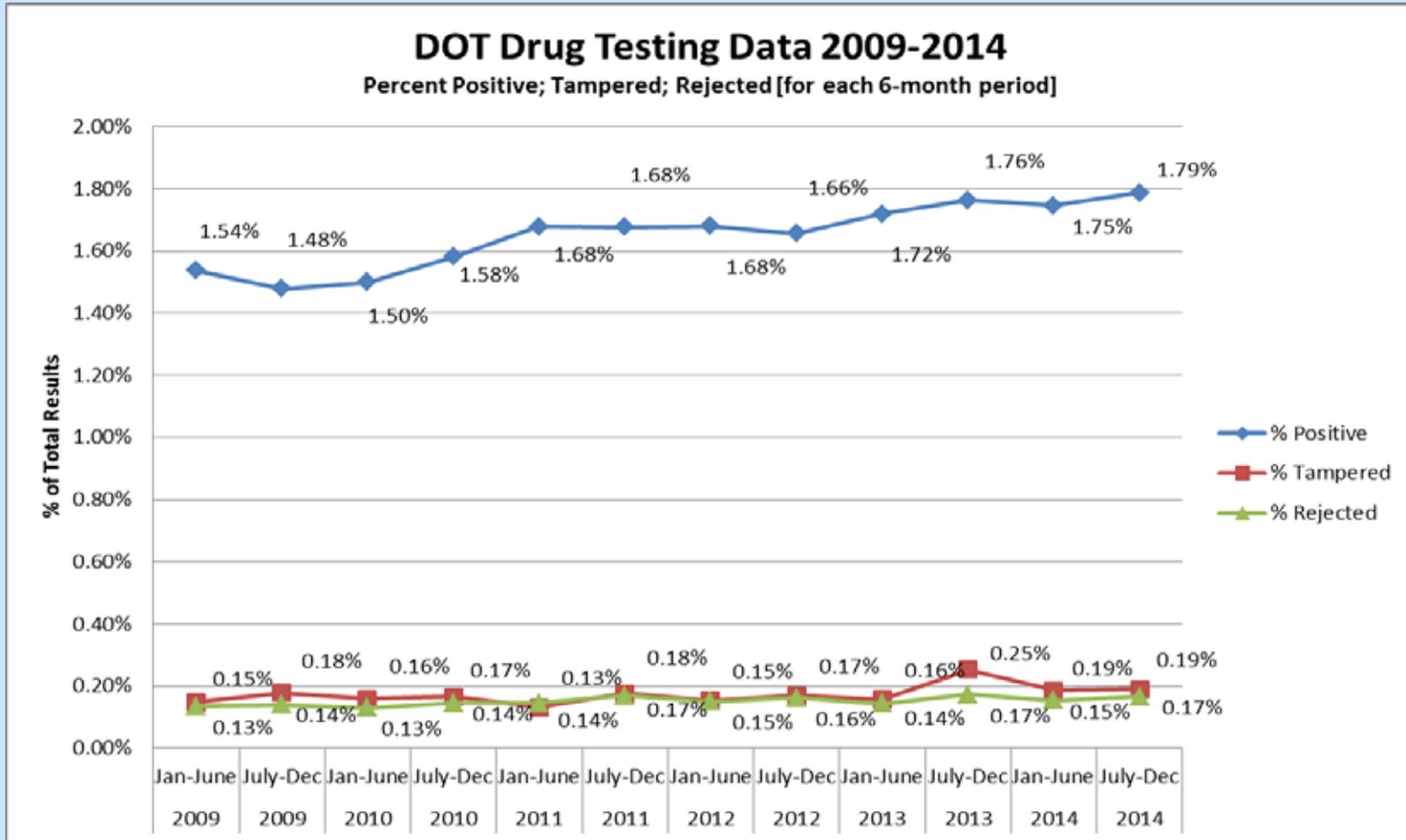


DOT DRUG TESTING DATA





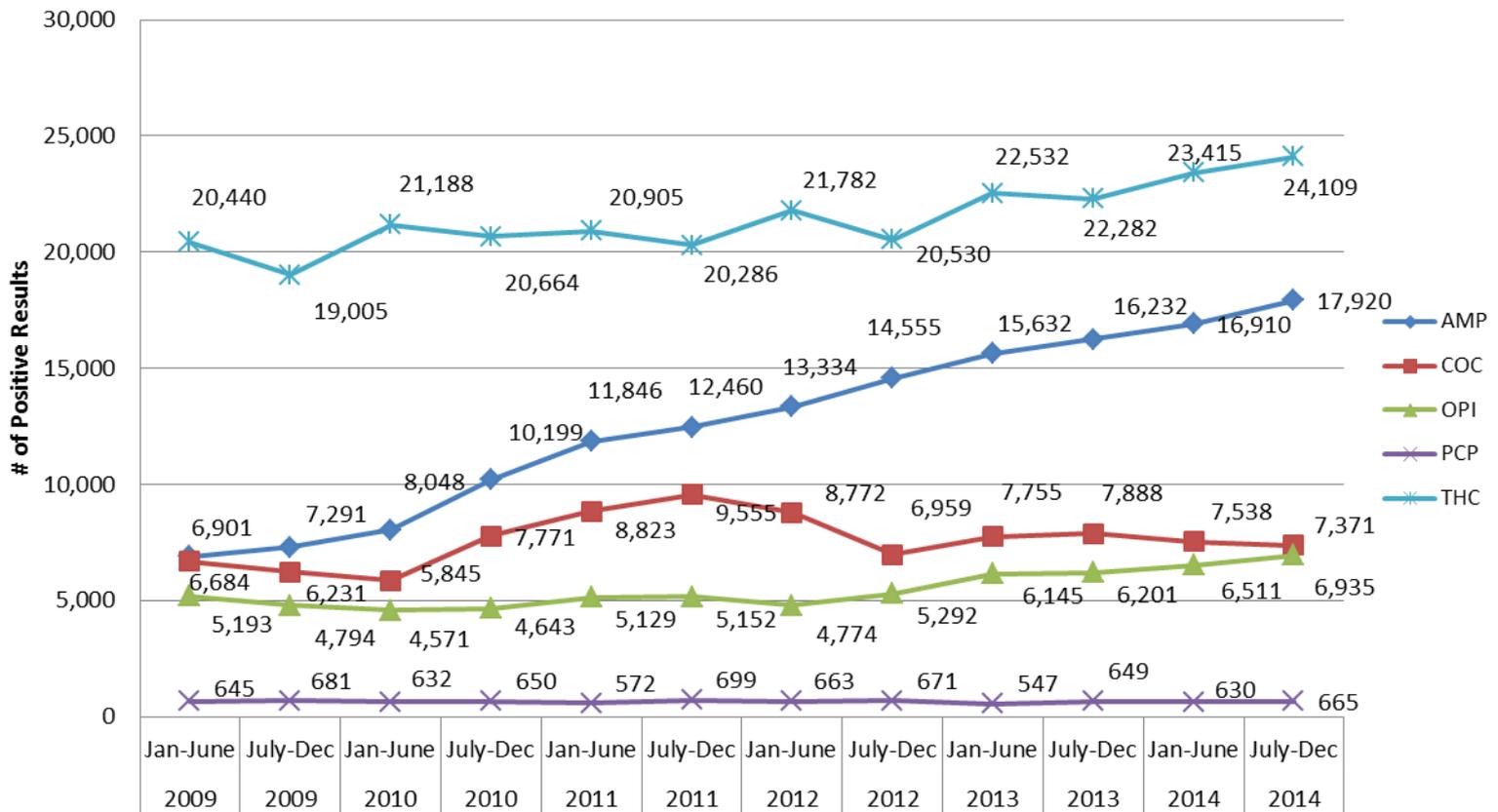
DOT DRUG TESTING DATA





DOT DRUG TESTING DATA

U.S. DOT Drug Testing Data 2009-2014
 Number Positive Results [for each 6-month period]

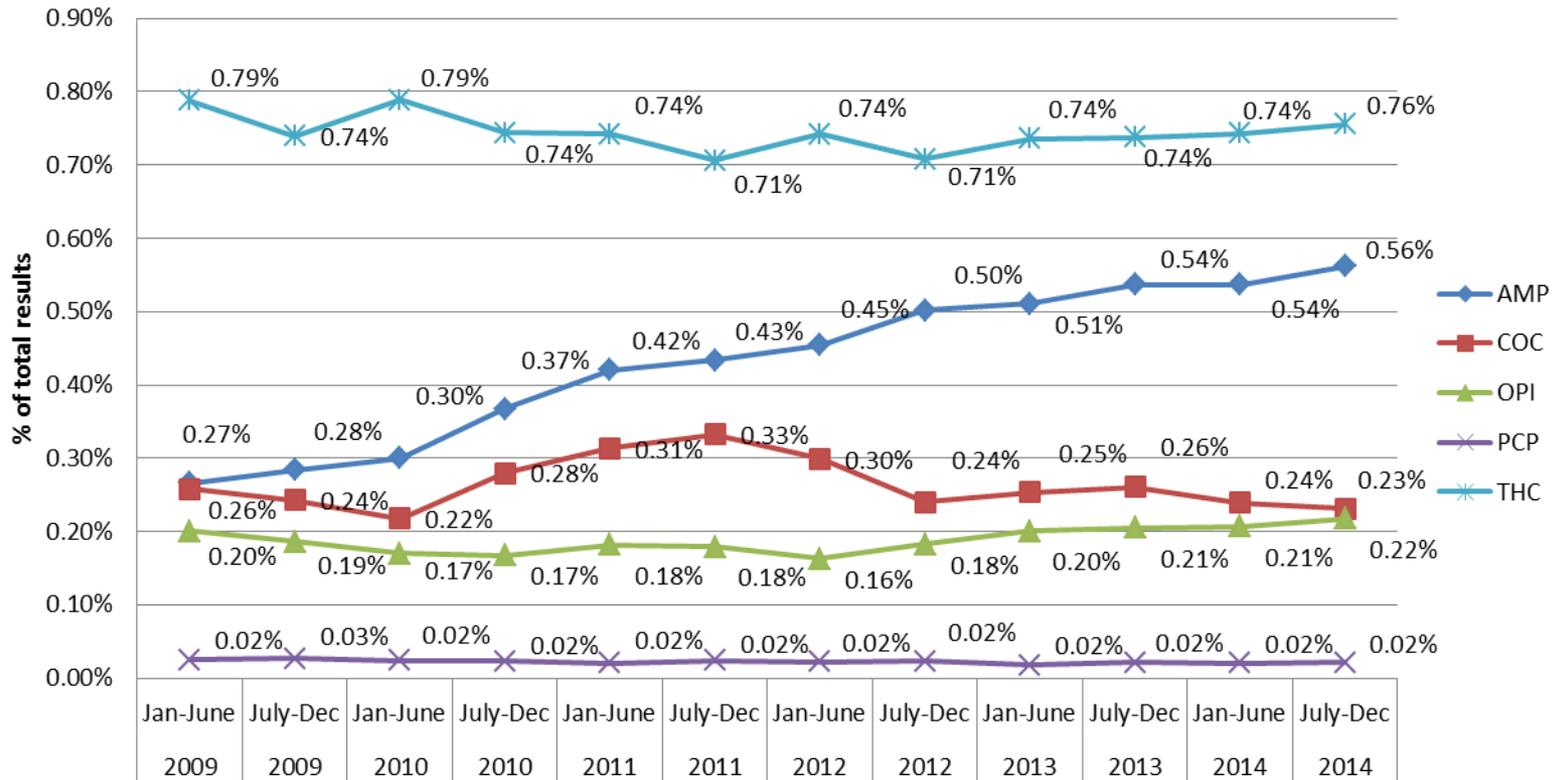




DOT DRUG TESTING DATA

U.S. DOT Drug Testing Data 2009-2014

Percent Positive [based upon total test results for each 6-month period]





The eCCF

- The DOT Final Rule became effective April 13, 2015.
- Employers, collectors, laboratories, and Medical Review Officers can use the eCCF **BUT ONLY WHEN** the employer's laboratory has been approved by the HHS National Laboratory Certification Program.



The eCCF

- The eCCF requires the same collection of information and distribution of information to the relevant parties as the paper CCF requires.
- This final rule does not require entities to use an eCCF!
 - A regulated entity may continue to use the paper CCF and must not use an eCCF until that regulated entity's laboratory is approved to use an eCCF.



The eCCF

- Use of the eCCF:
 - Employers must establish adequate confidentiality and security measures to ensure that confidential employee records are not available to unauthorized persons.
 - This includes protecting the physical security of records, access controls, and computer security measures to safeguard confidential data in electronic form.
 - An employer who uses an eCCF must ensure that the collection site, the primary and split laboratories, and MRO have compatible systems, and that the employee and any other program participants in the testing process will receive a legible copy of the CCF.



The eCCF

- Other Items:

- It is important to note that **electronic signatures are not acceptable throughout the rest of Part 40.**
- The use of the eCCF will create an exception so that electronic signatures will be acceptable on this form only and not throughout the rest of Part 40.
 - For example, when an MRO reports a result under 49 CFR Section 40.167, electronic signatures are NOT allowed on reports!



ODAPC STAFF

- **Patrice Kelly** - *Acting Director*
- **Bohdan Baczara** - *Acting Deputy Director*
- **Mark Snider** - *Senior Policy Advisor*
- **Cindy Ingrao** - *Senior Policy Advisor*
- **Vicki Bellet and Maria Lofton** - *Administrative*
- **John Sheridan, Bob Ashby, and Don Shatinsky** - *Consultants*
- **Anne Bechdolt** - *General Counsel*
- <http://www.transportation.gov/odapc>



ODAPC TECHNICAL ASSISTANCE

- In 2014, ODAPC's outreach included:
 - 197,817 list serves to companies and individuals
 - 12,115 emails, phone calls, Ask ODAPCs & other interactions with DOT Program Managers and our regulated public
 - 4,408 more than in 2013
 - 30,970 list serve subscribers
 - Almost 4,000 more subscribers than in 2013
 - NOW approximately 32,351 subscribers as of May 19, 2015
 - ODAPC's web page is regularly one of the Department's top 10 most viewed web pages, often among the top 5:
 - 597,321 visits to ODAPC's web page in 2014
 - 1,808,795 subpages viewed



DOT'S HORIZON ISSUES

- Drug Impairment Studies
- Testing for Additional Schedule II Drugs
- Alternative Specimens - Oral Fluids Testing
- eCCF Implementation
- Marijuana Issues



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