

2023 Biennial FTA State and Tribal Programs and Transit Partnerships Conference

Drug & Alcohol Program Overview

August 16, 2023

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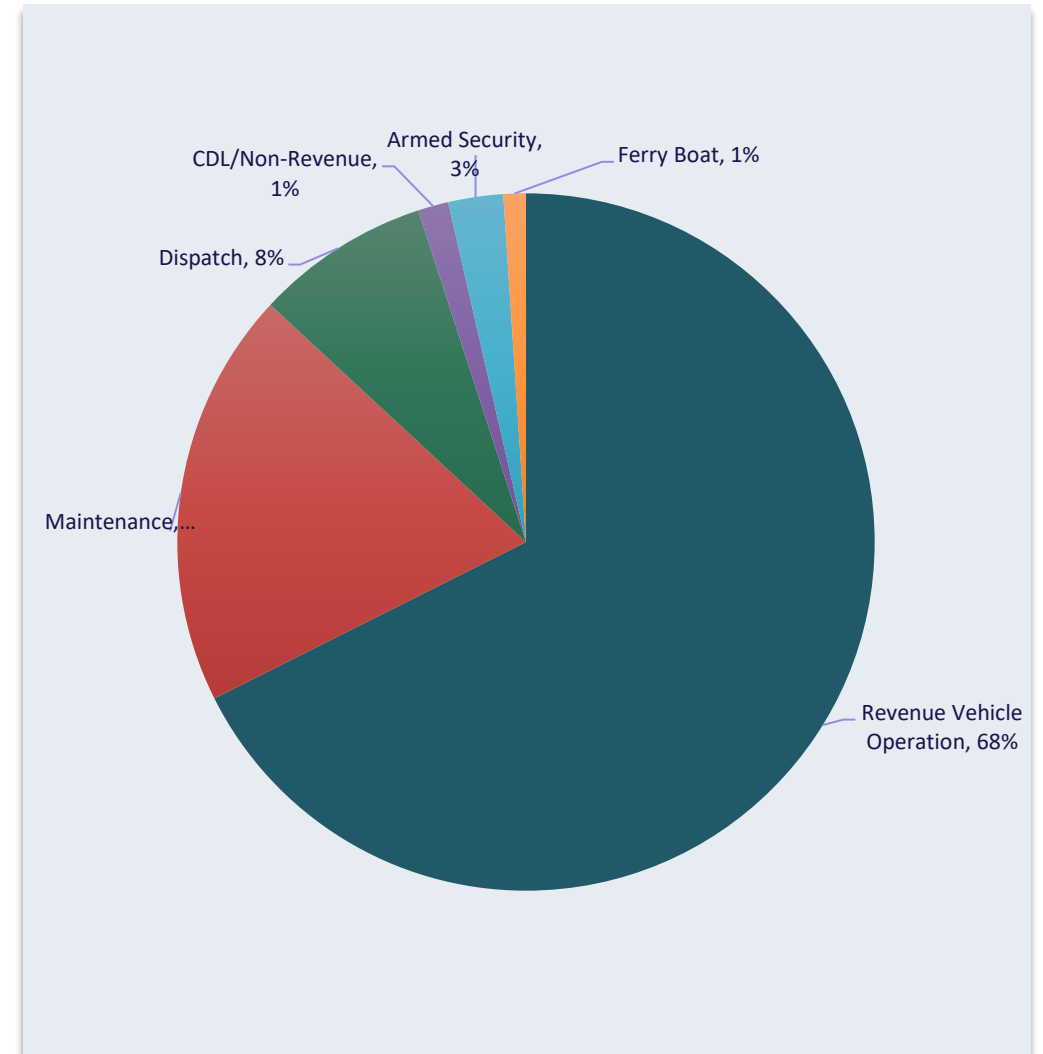
Topics

- Program Overview
- Technical Assistance/Resources
- Program Oversight/Audit Findings
- Compliance and Monitoring
- Contact Information

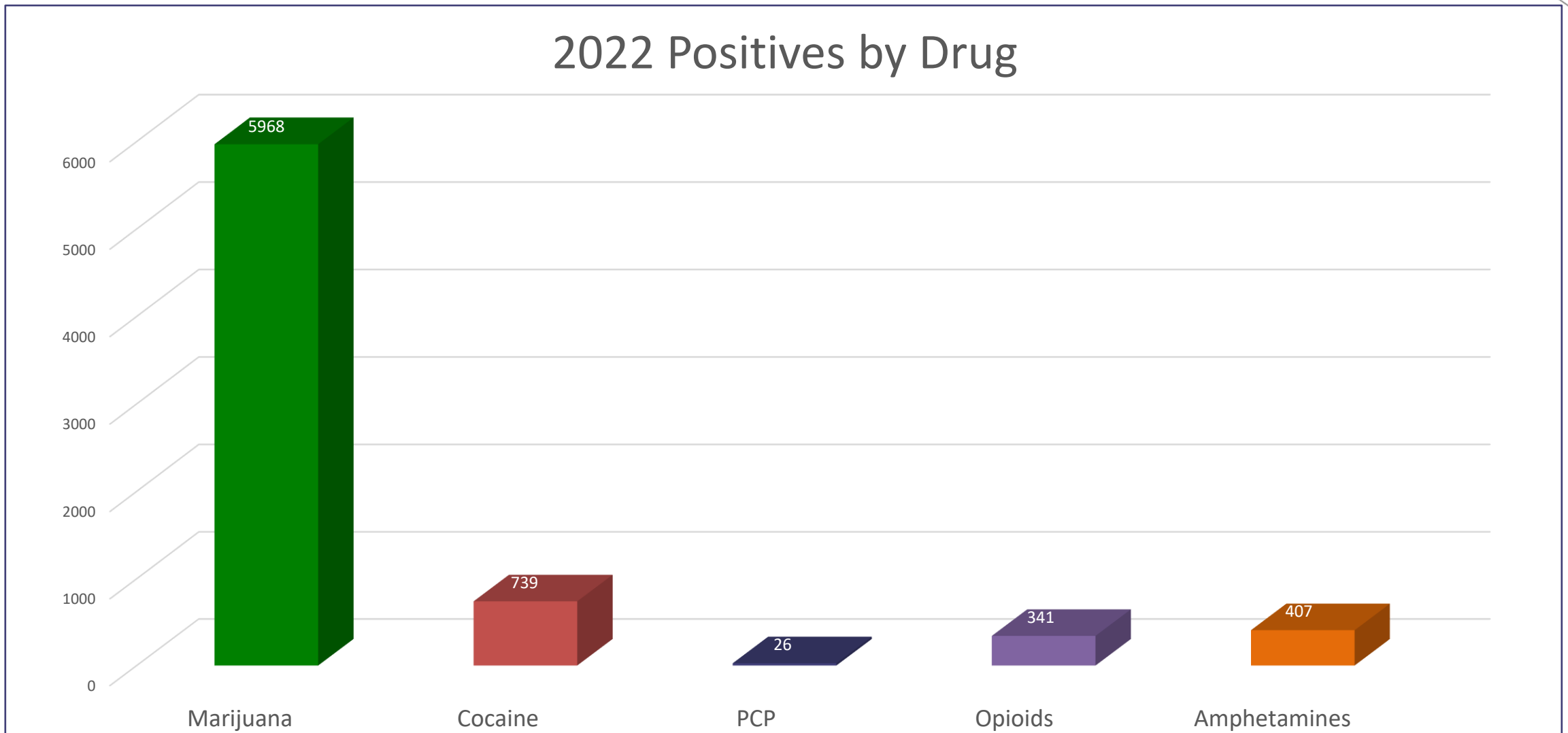
Program Overview

2022 MIS Reporting

- 670 grantees
- 3,372 employers
- 274,097 safety-sensitive employees
- 105,490 alcohol tests
- 303,643 drug tests

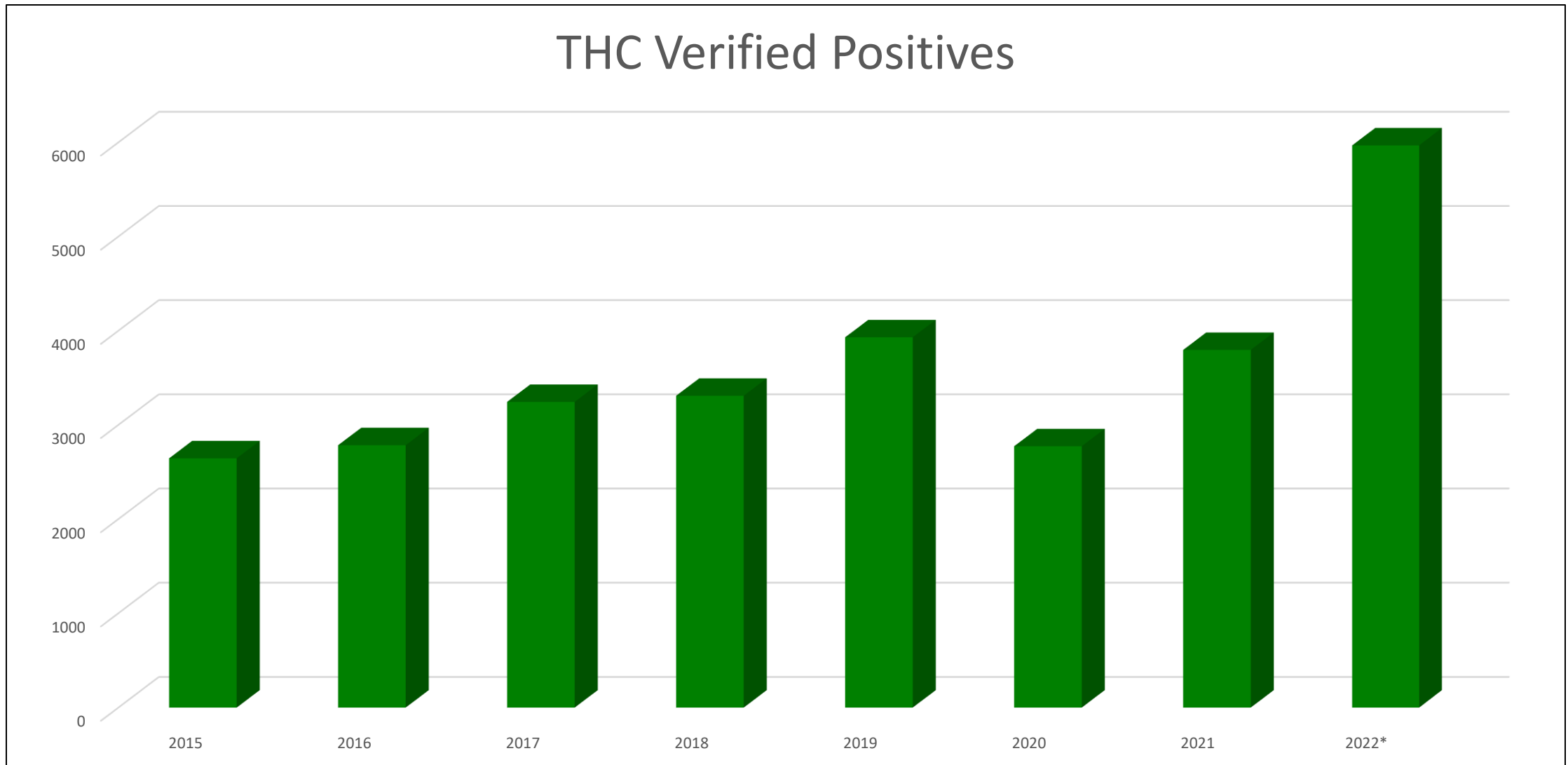


2022 Positives by Drug



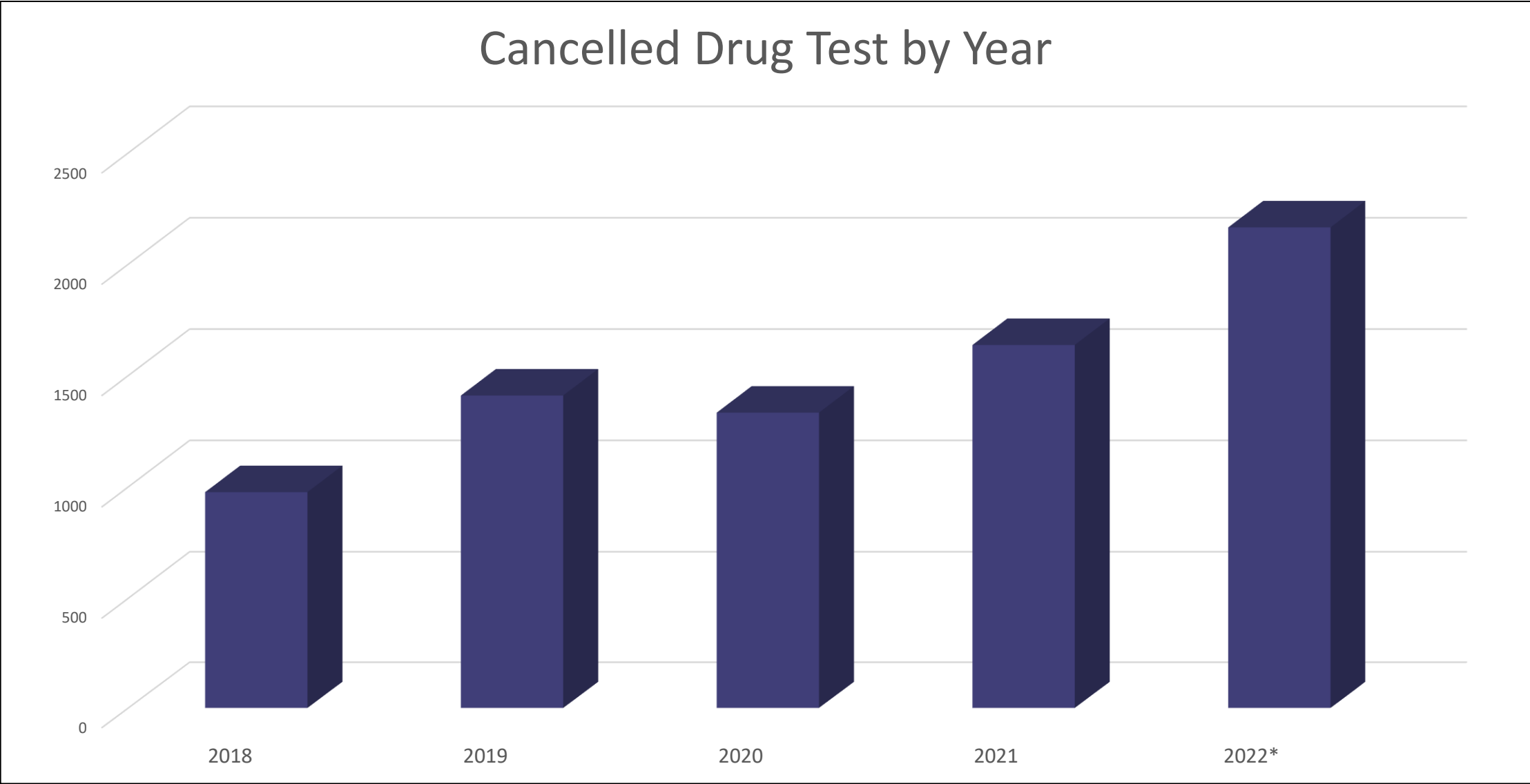
*As of 5/5/2023; 96.83% reported.

THC Verified Positives



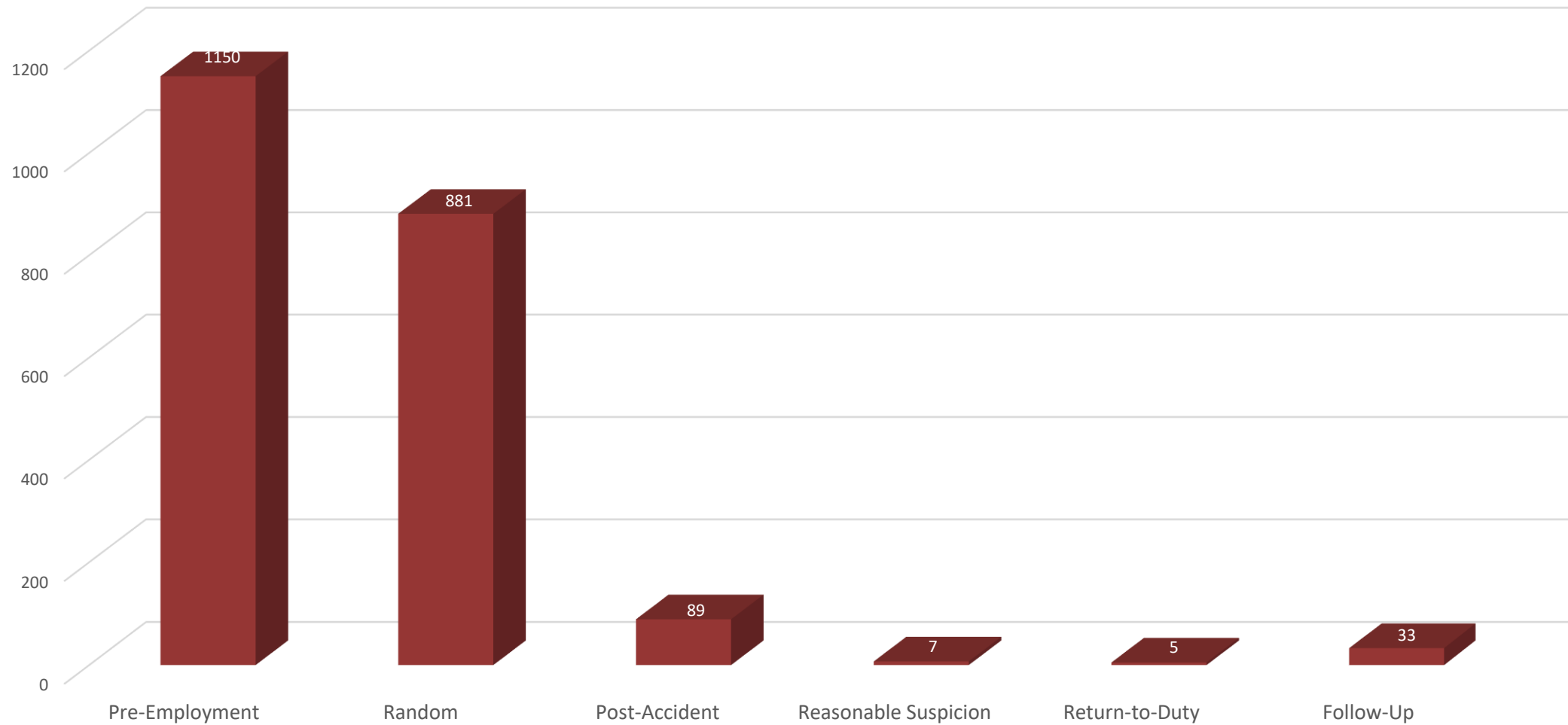
*As of 5/5/2023; 96.83% reported.

Cancelled Drug Test by Year



*As of 5/5/2023; 96.83% reported.

2022 Cancelled Tests by Test Type



*As of 5/5/2023; 96.83% reported.

Technical Assistance/Resources



Technical Assistance: D&A Program Website

- <https://transit-safety.fta.dot.gov>
 - Regulations and official interpretations
 - *Coming soon: Part 655 Q&A*
 - Quarterly newsletters
 - Training information
 - MIS reporting guidance
 - Tools and resources

Technical Assistance: Newsletters

- Regulation Updates, published quarterly
 - Regulatory clarifications
 - Upcoming events
- Special Editions, published as needed
 - 2018 Part 40 Updates (Jan 2018)
 - 2019 random rate increase (Oct 2018)
 - *Coming soon: 2023 Part 40 Updates*

FTA Drug and Alcohol / January 2023
REGULATION UPDATES / Issue 77

16th Annual FTA Drug and Alcohol Program National Conference

The 16th Annual FTA Drug and Alcohol Program National Conference will be held March 14-16, 2023, at the Wyndham San Diego Bayside, San Diego, CA. This year, the conference will be a hybrid event, with some sessions available to a remote audience. For more information and to register, visit the FTA Drug and Alcohol Program website at: <https://www.transit.dot.gov/drug-alcohol-program>.

Management Information System (MIS) Reporting Began on January 1

MIS reporting of FTA-authorized drug and alcohol testing results from calendar year 2022 began on January 1, 2023, when the Drug and Alcohol Management Information System (DAMIS) reporting website (<https://damis.dot.gov>) went online. MIS notification letters were mailed to FTA grantees at the end of December 2022 to the attention of the 'Certifying Official' as indicated in the previous year's MIS report. The letter contains current year DAMIS login information. MIS reports are due to FTA by March 15, 2023. Upon receipt of the notification letter, each FTA grantee must log in and review their list of subrecipients and contractors, if applicable, which is based on the previous year's MIS submissions. Grantees must notify FTA of any necessary revisions (i.e., additions or deletions) to this list by emailing fta.damis@dot.gov. FTA grantees are responsible for ensuring the accuracy of their MIS report as well as those submitted by their subrecipients and contractors. When reviewing reports, remember these common issues:

- The Certifying Official must be an employee of the employer for which the MIS is being submitted. The Certifying Official may not be a service agent.
- If you are a member of a consortium or use the services of a Third-Party Administrator (TPA), you must include this information in Section 1, the Employer section.

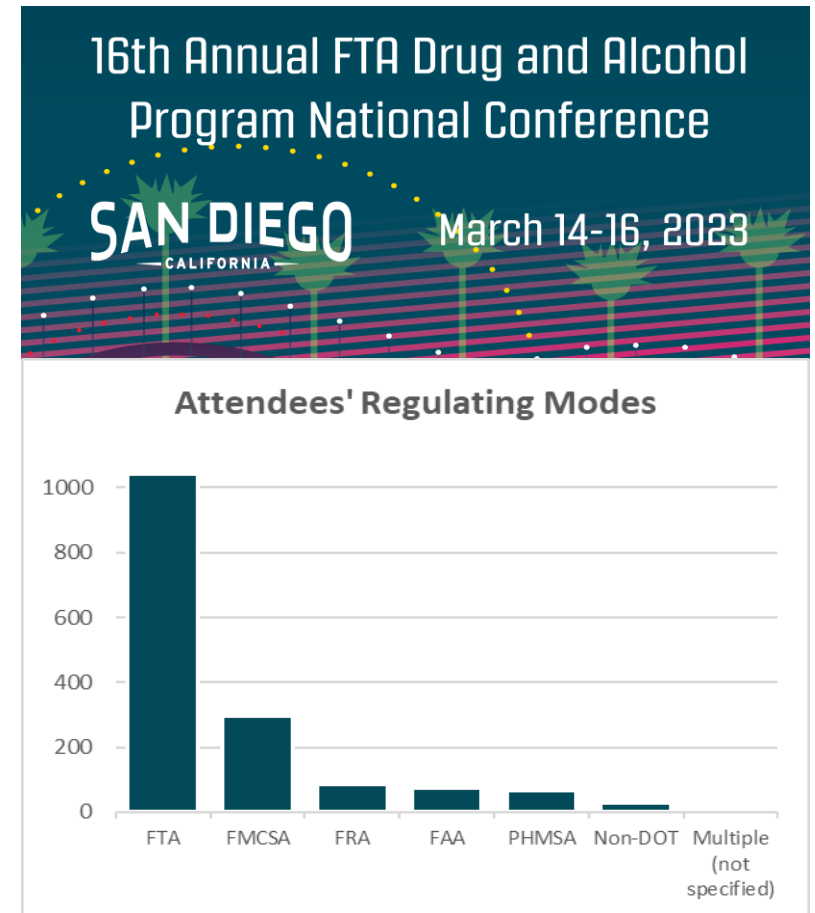
In this Issue

- 1 [Reminder: Clearinghouse Requirements Do Not Apply to FTA Employers](#)
- 2 [Clarifying FTA's Post-Accident Time Limits](#)
- 3 [Service Agents Must Individually Subscribe to ODAPC List-Serve](#)
- 4 [U.S. Department of Transportation Federal Transit Administration](#)
- 5 [U.S. Department of Transportation Federal Transit Administration](#)

1 FTA Drug and Alcohol REGULATION UPDATES

Technical Assistance: National Conference and Training

- 16th Annual: San Diego CA, March 2023
 - 570 in-person attendees, 550 virtual attendees
 - 22 unique sessions, 18 speakers
- Full-day & half-day training available
 - In-person or virtual
 - Schedule at <https://transit-safety.fta.dot.gov/drugandalcohol/training>



D&A Program Website: Tools & Resources

- Drug Abuse Awareness Video
 - Meets § 655.14 training requirement: 60-minute on effects and consequences of prohibited drug use
- Drug and Alcohol Policy Builder
 - Most frequently used tool on the website
- Sample forms and checklists for DAPMs

Technical Assistance: D&A Program Hotline

- Provides direct expertise to FTA-covered employers
 - General program requirements
 - Specific real scenarios (e.g., post-accident testing determinations, errors in testing decisions)
 - MIS reporting assistance:
 - Phone: 617-494-6336 or
 - Email: fta.damis@dot.gov



Program Oversight/Audit Findings



Program Oversight: Compliance Audits

- FTA audits approximately 60 grantees and states each year
 - To assess grantees' compliance with Part 655 and Part 40
 - To provide technical assistance
- Selection of grantees is based on a variety of factors, e.g.:
 - Time since last audit
 - Proximity to other selected grantees
 - “Red Flags”

Common Findings

- Policy outdated or not appropriate to Part 655 requirements
- Double-reporting of shared contractors
- See article “Do Not Double Report MIS Testing Results” in Issue 51 of the Drug & Alcohol Updates Newsletter
 - <https://transitsafety.fta.dot.gov/drugandalcohol/Newsletters/issue51/pdf/Issue51.pdf>
- Predictable distribution of random tests
- Failure to refer applicants to SAP after pre-employment positive/refusal
- Lack of access to SAP
- Lack of access to EBT
- Each Grantee/Sub-recipient must have reasonable access to a conforming EBT

Compliance Audits: Common Findings - Employers

- Pre-Employment Testing
 - Employees placed in SS duty before a negative result is received
 - No test result at all
 - Test conducted after 90+ day absence, but no removal from testing pool
- Previous Employer Checks
 - Blanket consent forms
 - Electronic signatures to provide consent
 - Do not ask if applicants failed/refused a DOT pre-employment test

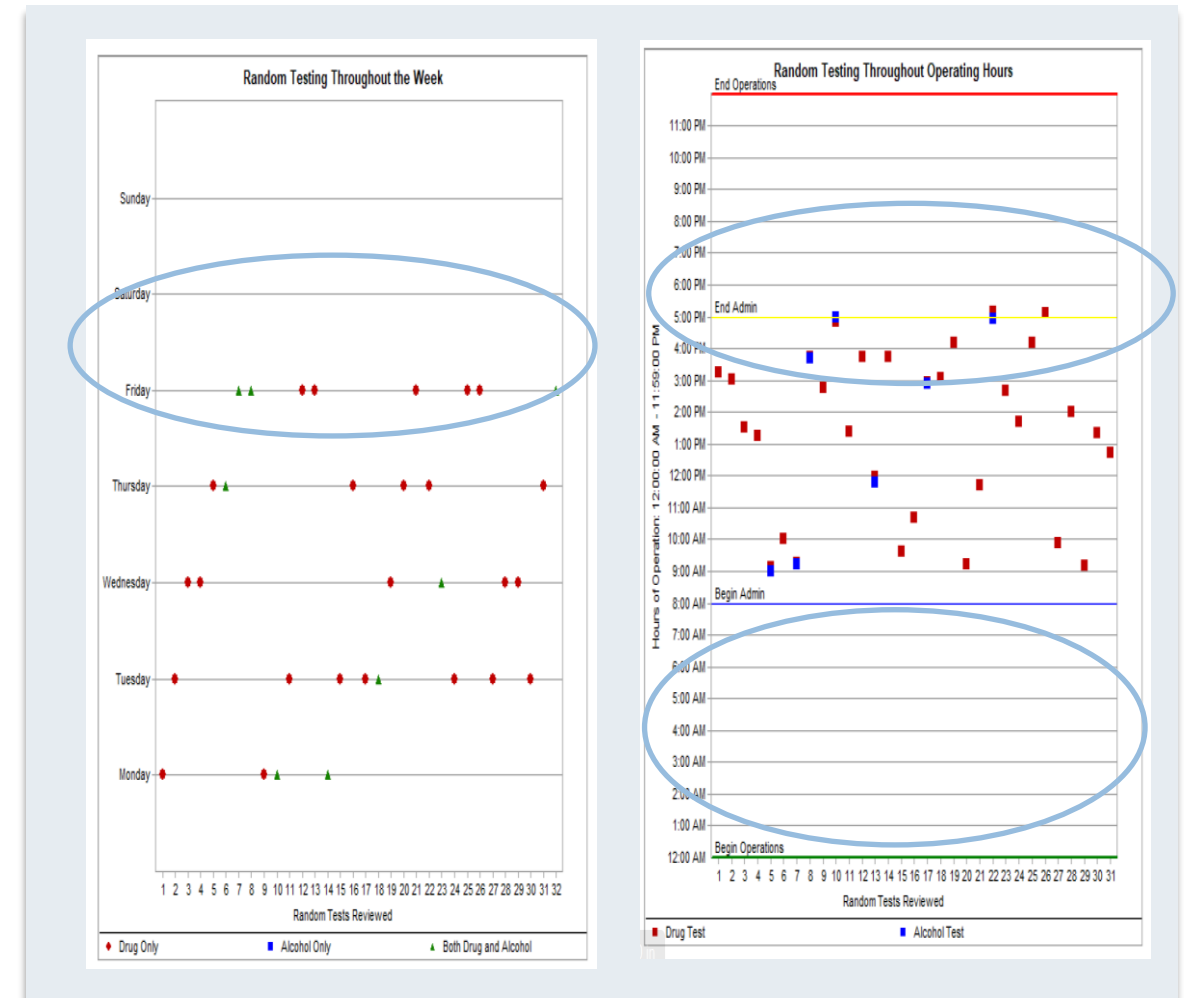


Compliance Audits: Common Findings - Employers

- Reasonable Suspicion Testing
 - Testing based on observations that do not meet FTA criteria
 - Delays in alcohol testing not documented
- Post-Accident Testing
 - FTA tests after incidents that do not meet testing criteria
 - FTA tests conducted after employee is clearly discounted as a contributing factor
 - Decision not to perform FTA test insufficiently documented
 - Delays in alcohol testing not documented

Compliance Audits: Common Findings - Employers

- Random Testing
 - Lack of weekend testing
 - Lack of early morning/late night testing
 - Excusals for invalid reasons, or not fully documented
 - Poor selection list management



Compliance Audits: Common Findings - Employers

- Return-to-Duty and Follow-Up Testing
 - Testing does not follow SAP's testing plan
 - Testing days and time are predictable

Compliance Audits: Common Findings – Collection Site

- Breath Alcohol Technician
 - Failure to conduct alcohol test first
 - Unaware of issues that result in a cancelled test
 - Unaware of how to handle employee conduct during 15-minute wait period
 - BAT marks “15-minute/No” when no confirmation test occurs
- Urine Collector
 - Steps completed out of order
 - Unaware of how to deal with non-routine collections
 - Inadequate shy bladder procedures



Compliance & Monitoring



Compliance & Monitoring at State Level

FTA provides Grants to State DOT's and transit providers:

- State DOT is Grantee
- Sub-recipients (transit providers) are responsible for individual compliance
- State has obligation to establish oversight approach
- Approach may be less involved or highly involved



Compliance & Monitoring at State Level

Oversight Models

- Minimum:
 - State collects and files MIS
 - May review semi-annual stats from labs
 - Receives annual tallies of testing minimums
 - May have TPA or may act as the TPA

Types of Oversight Monitoring Models

Oversight Models

- Medium:
 - State may require annual or quarterly reporting
 - Monitors training requirements
 - Assists with collection site monitoring when needed
 - Can arrange for TPA or vendor assistance

Types of Oversight Monitoring Models

Oversight Models

- Heavily Involved:
 - State visits subs regularly
 - Provides or hosts regular trainings
 - Works closely with sub-recipients to resolve all issues with vendors
 - Communicates regularly with FTA regarding compliance methods and changes

Contact Information



Contact Information

- FTA Office of Safety & Oversight

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<https://transit-safety.fta.dot.gov/DrugAndAlcohol/Default.aspx>

- DOT Office of Drug & Alcohol Policy & Compliance (ODAPC)

Phone: (202) 366-3784

<https://transportation.gov/odapc>

