

# 2021 MN/WI Public Transportation Conference

October 6, 2021



## FTA Drug and Alcohol Program Update

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U.S. Department of Transportation  
Federal Transit Administration

# Program Overview

October 6

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U.S. Department of Transportation  
Federal Transit Administration



# Agenda

- DOT / FTA Regulatory Revisions
- Audits – Status
- FMCSA Clearinghouse – FTA?
- MIS 2021 & 2022
- Conferences & Trainings
- Technical Assistance



# Federal Drug Testing Custody and Control Form (CCF) - Revised

Must be used beginning August 30, 2021

Required use by, DOT-regulated employers and service agents  
[collectors, laboratories, Medical Review Officers (MRO)]

Most CCF revisions adopted to accommodate Oral Fluid Testing  
Preparation for Oral Fluid Guidelines and DOT Approval

If used “old” form after August 29, 2021

Must complete Memorandum for the Record (MFR)

Otherwise – test will be cancelled

# New Custody and Control Form (CCF)

## Changes:

- Changes adopted in the revised CCF were made to accommodate the use of oral fluid specimens
- **Copies 1-5, Step 1:** Added “CDL State and No.” to donor identification (FMCSA only)
- **Copies 1-5, Step 1:** Added “Other” (i.e., e-mail) to Collector Contact Info

STEP 1: COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE	
A. Employer Name, Address, I.D. No.	B. MRO Name, Address, Phone No. and Fax No.
C. Donor SSN, Employee I.D., <b>or CDL State and No.</b>	
D. Specify Testing Authority: <input type="checkbox"/> HHS <input type="checkbox"/> NRC      Specify DOT Agency: <input type="checkbox"/> FMCSA <input type="checkbox"/> FAA <input type="checkbox"/> FRA <input type="checkbox"/> FTA <input type="checkbox"/> PHMSA <input type="checkbox"/> USCG	
E. Reason for Test: <input type="checkbox"/> Pre-employment <input type="checkbox"/> Random <input type="checkbox"/> Reasonable Suspicion/Cause <input type="checkbox"/> Post Accident <input type="checkbox"/> Return to Duty <input type="checkbox"/> Follow-up <input type="checkbox"/> Other (specify) _____	
F. Drug Tests to be Performed: <input type="checkbox"/> THC, COC, PCP, OPI, AMP <input type="checkbox"/> THC & COC Only <input type="checkbox"/> Other (specify) _____	
G. Collection Site Address:	Collector Contact Info: Phone _____ Fax _____ <b>Other</b> _____
STEP 2: COMPLETED BY COLLECTOR (make remarks when appropriate). <input type="checkbox"/> URINE <input checked="" type="checkbox"/> <b>ORAL FLUID</b>	

OMB No. 0930-0158

# New Custody and Control Form (CCF)

## Changes:

- **Copies 2-5, Step 5:** Added a line for the donor e-mail address
- **Copy 5:** Removed instructions for completing the CCF from the back of the form. Instructions for completing the CCF are posted on the SAMHSA <https://www.samhsa.gov/workplace/drug-testing> and ODAPC <https://www.transportation.gov/odapc/documents> websites

### STEP 5: COMPLETED BY DONOR

*I certify that I provided my specimen to the collector; that I have not adulterated it in any manner; each specimen bottle/tube used was sealed with a tamper-evident seal in my presence; and that the information provided on this form and on the label affixed to each specimen bottle/tube is correct.*

X

\_\_\_\_\_  
Signature of Donor

\_\_\_\_\_  
(PRINT) Donor's Name (First, MI, Last)

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date (Mo/Day/Yr)

Email address: \_\_\_\_\_

Daytime Phone No. ( ) \_\_\_\_\_

Evening Phone No. ( ) \_\_\_\_\_

Date of Birth \_\_\_\_\_  
(Mo/Day/Yr)

After the Medical Review Officer receives the test results for the specimen identified by this form, he/she may contact you to ask about prescriptions and over-the-counter medications you may have taken. Therefore, you may want to make a list of those medications for your own records. THIS LIST IS NOT NECESSARY. If you choose to make a list, do so either on a separate piece of paper or on the back of your copy (Copy 5). – DO NOT PROVIDE THIS INFORMATION ON THE BACK OF ANY OTHER COPY OF THE FORM. TAKE COPY 5 WITH YOU.



# Memorandum for the Record (MFR)

- Complete a Memorandum for the Record (MFR)
  - Incorrect form contains required info
  - Incorrect form used inadvertently, or as only means
  - Steps taken to prevent future use on old form
- Specimen must have been sent to HHS Lab
- Processed as DOT test
  
- If no MFR – test cancelled



# Oral Fluid Testing

- Health and Human Service (HHS) – submitted rule to allow “oral fluids” as a “permissible methodology for Federal employee's drug testing”
- HHS determined that oral fluid testing provides “the same scientific and forensic supportability of drug test results as the Federal Workplace Drug Testing Programs using Urine”
- OTETA (Omnibus Transportation Employee Testing Act) requires DOT to follow HHS



# Oral Fluid Testing - On Hold for DOT Testing

However, Oral Fluid drug testing is not authorized in DOT's current drug testing program

- DOT must develop its own testing process / regulation
- DOT regulations currently require:
  - Split Specimen
  - Test only for use... not exposure

# Oral Fluid Testing - On Hold for DOT Testing

# Oral Fluid Testing (NPRM)

- Notice of Proposed Rulemaking (NPRM)
  - Procedures for Transportation Workplace Drug and Alcohol Testing Programs: Addition of Oral Fluid Specimen Testing for Drugs
    - Will Revise 49 CFR Part 40
    - “The Department of Transportation is proposing to amend the transportation industry drug-testing program procedures regulation to include oral fluid testing”
    - Help combat cheating on urine drug tests
    - Provide economical, less intrusive method
    - Clarify ‘other’ Part 40 provisions
- Comment Period – Ends 60 days from publication of NPRM – Federal Register



# FTA Drug and Alcohol Audits

Resumed – January 25, 2021

- Virtual – foreseeable future
- Notification to Grantee
  - 7 week notice
  - Phone call & e-mail
- Microsoft Teams & Huddle
  - Scan records & submit (Huddle)
  - Interviews (Teams) – DAPM, MRO, SAP, BAT, Collector, TPA
- Audit Response due in 90 days

Audit Schedule – no regular cycle

# 5310 Funding Recipients & Sub-recipients

**5310 Employees are**

**COVERED**

**When employer also receives  
other types of FTA funding:**

**5307, 5309, 5311**

**5310 Employees are**

**NOT COVERED**

**When employer receives no  
other types of FTA funding**



# CBD - Cannabinol

- DOT – OFFICE OF DRUG AND ALCOHOL POLICY AND COMPLIANCE (ODAPC)
  - Issued Notice – February 18, 2020
  - Hemp Product < 0.3% THC... not Controlled Substance
  - Any Product  $\geq$  0.3% THC is a Controlled Substance
- DOT Does NOT Test for CBD
  - Not Part of DOT 5-Panel Test - Will Not Test ‘POSITIVE’ for CBD
- DOT Does Test for THC
  - THC is a Schedule 1 Drug
- If use of CBD results in THC Positive... It is a DOT Positive
  - No Legitimate Medical Reason



# Minimum Required Random Drug Testing Rate

Minimum Random Drug Testing Rate to Stay at 50%

- Effective January 1, 2022
- Covers all FTA Covered Employers
  - Grantees, Contractors, Sub-recipients, Consortia/TPA

Minimum Random Alcohol Testing Rate Remains at 10%

# Management Information System (MIS)

Notification Letters to be sent Late December - USPS

FTA Direct Recipients (Grantees)

Username & Password (<https://DAMIS.DOT.GOV>)

Sent to 'Certifying Official' Listed on MIS

Due to FTA – March 15<sup>th</sup>

No extensions granted



# The FTA Regulated Landscape

2019

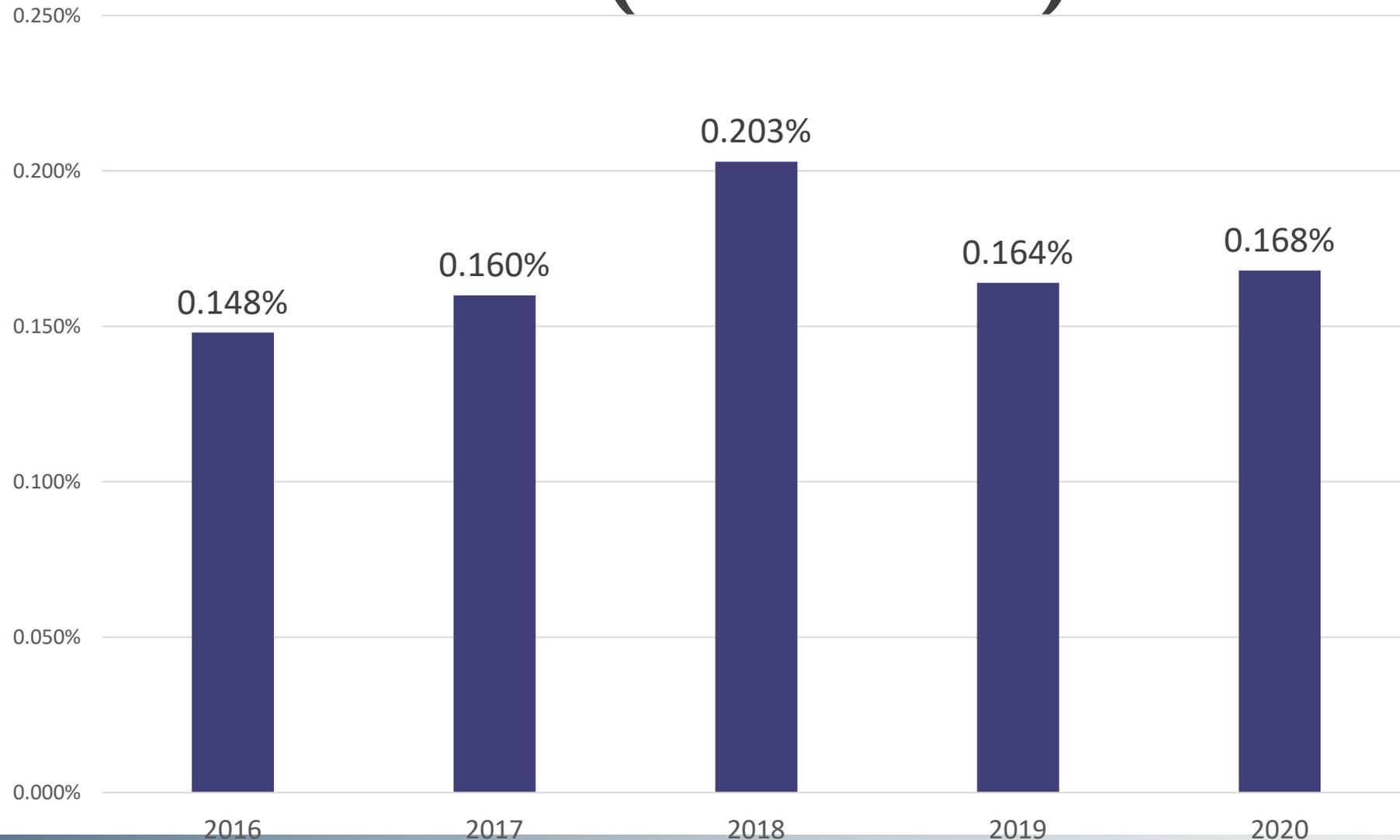
666 Grantees  
3,418 Covered Employers  
312,765 Covered Employees  
164,857 Random Drug Tests  
71,536 Random Alcohol Tests  
12,747 Post-Accident Drug Tests  
12,103 Post-Accident Alcohol Tests  
923 Reas-Susp Drug Tests  
883 Reas-Susp Alcohol Tests

2020

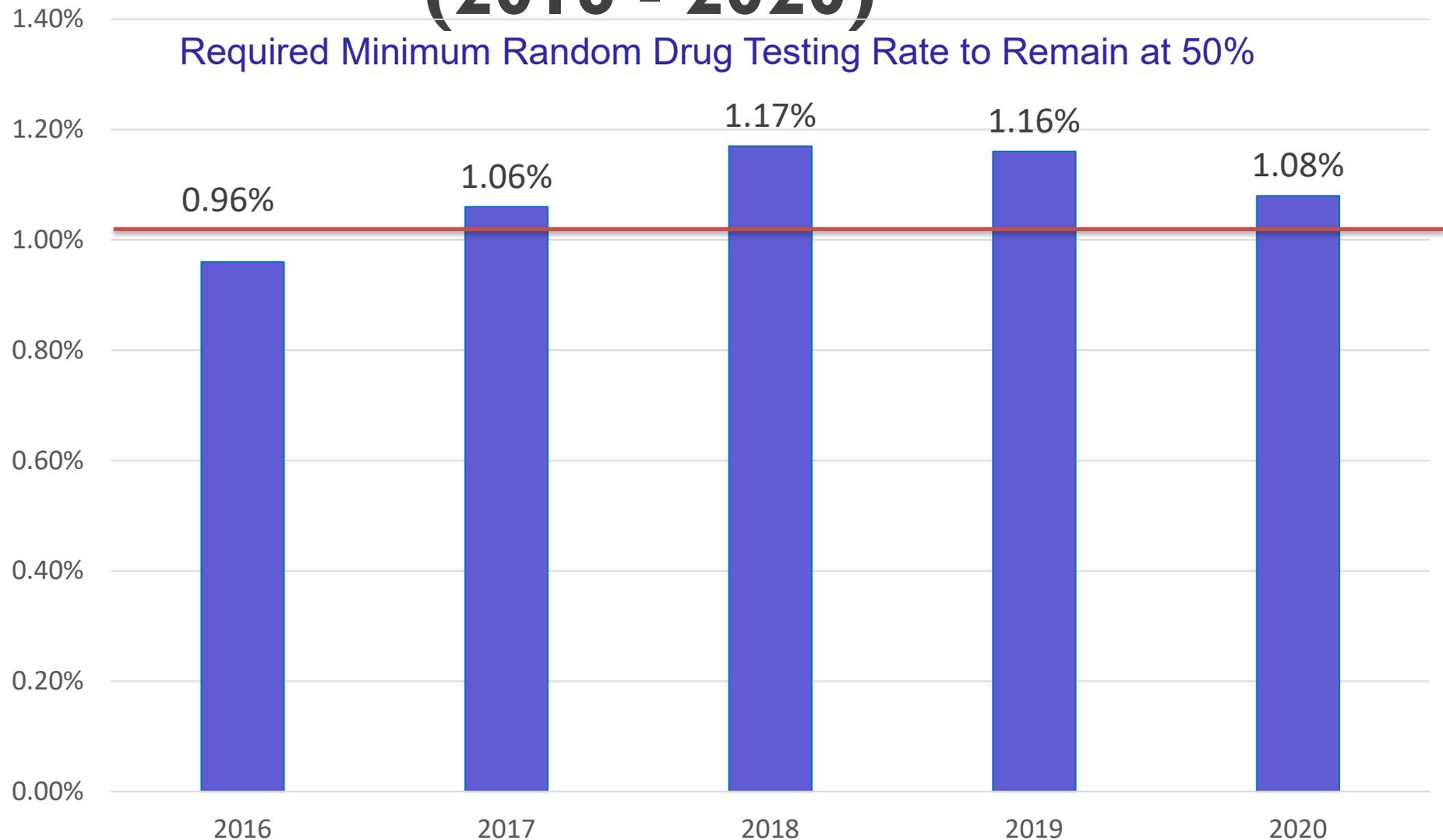
659 Grantees  
3,370 Covered Employers  
284,637 Covered Employees  
155,339 Random Drug Tests  
62,482 Random Alcohol Tests  
8,809 Post-Accident Drug Tests  
8,278 Post-Accident Alcohol Tests  
382 Reas-Susp Drug Tests  
338 Reas-Susp Alcohol Tests



# FTA Random Alcohol Testing Violation Rate (2016 – 2020)



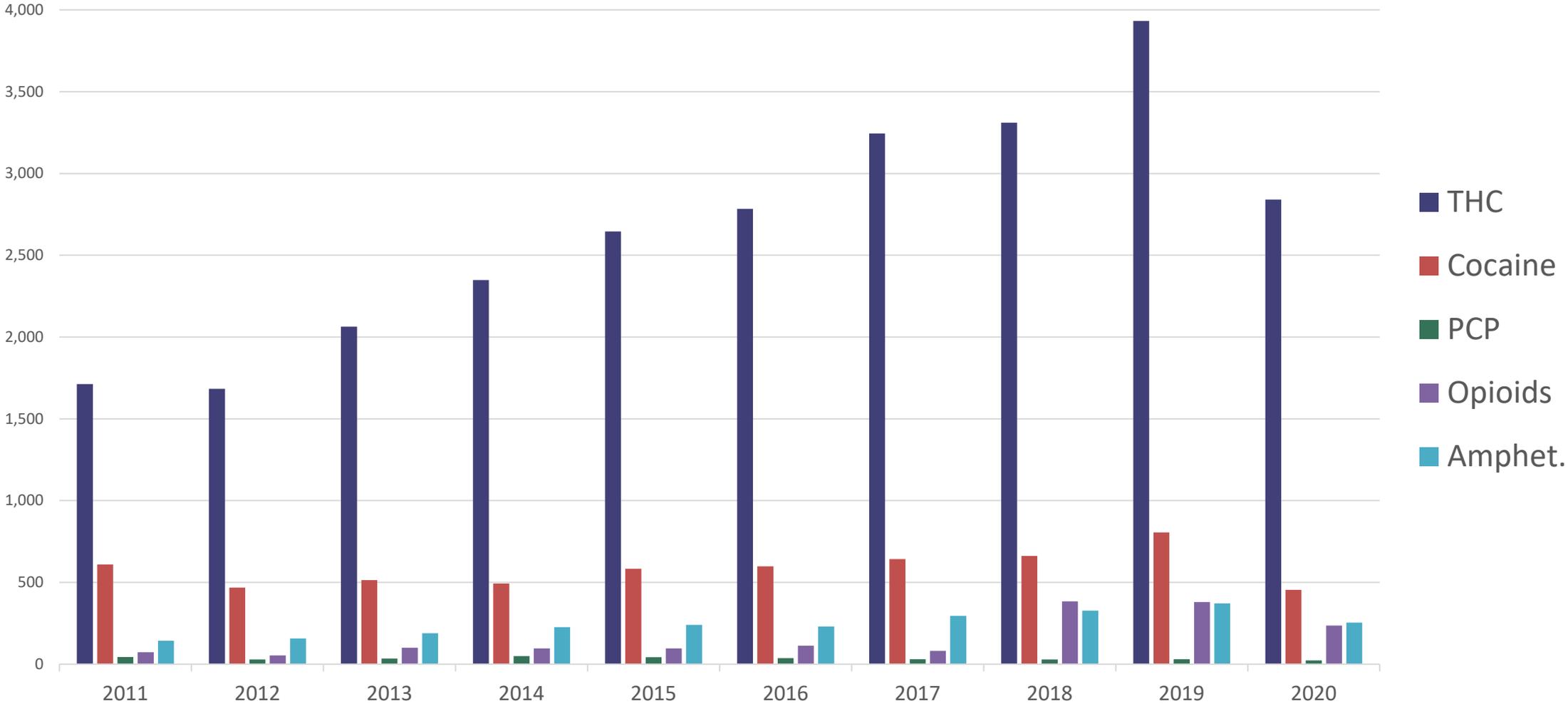
# FTA Random Drug Testing Positive Rate (2016 - 2020)



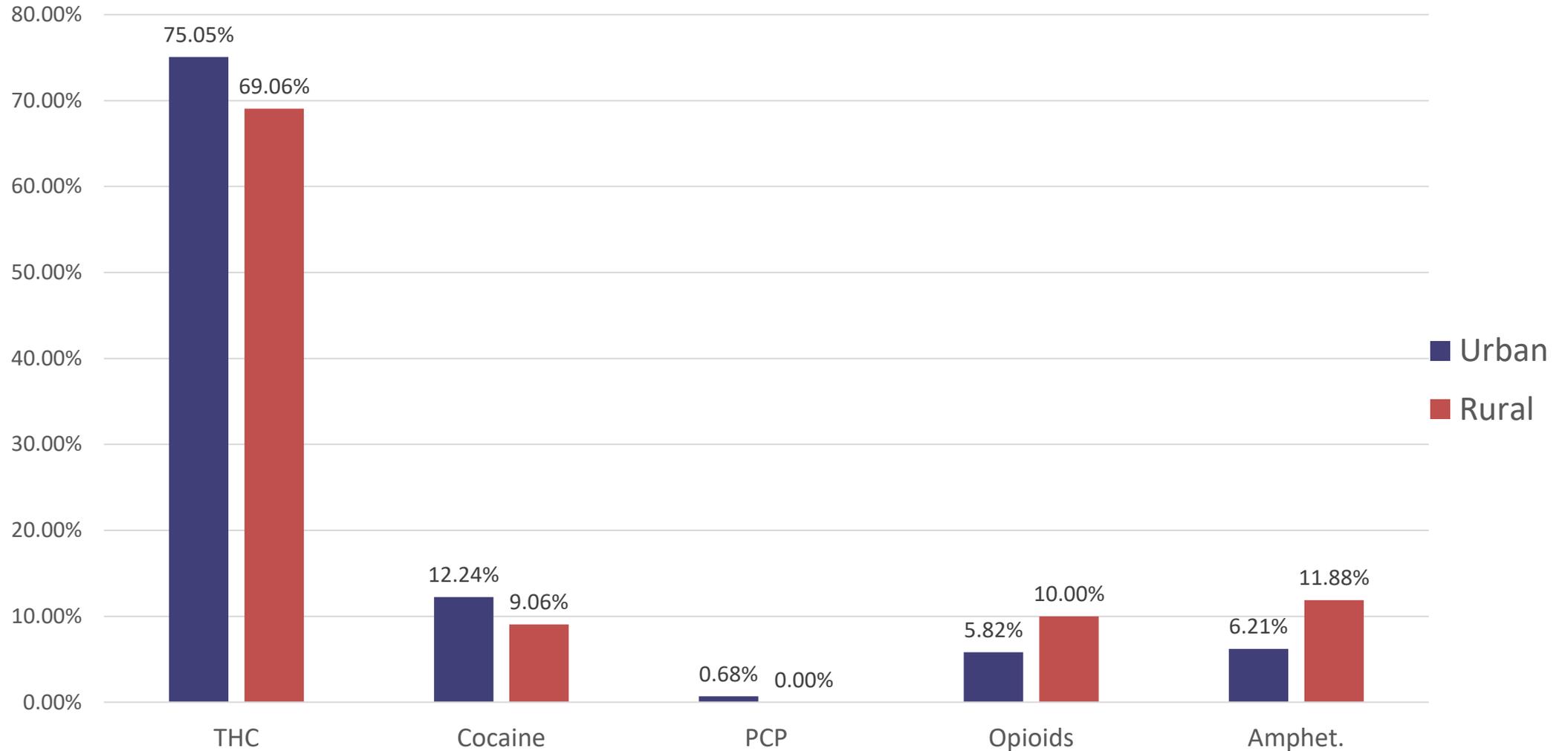
<b>YEAR</b>	<b>Random Drug Positive Rate (2007 – 2020)</b>
2020	1.08%
2019	1.16%
2018	1.17%
2017	1.06%
2016	0.96%
2015	0.90%
2014	0.89%
2013	0.86%
2012	0.74%
2011	0.85%
2010	0.82%
2009	0.81%
2008	0.82%
2007	0.81%



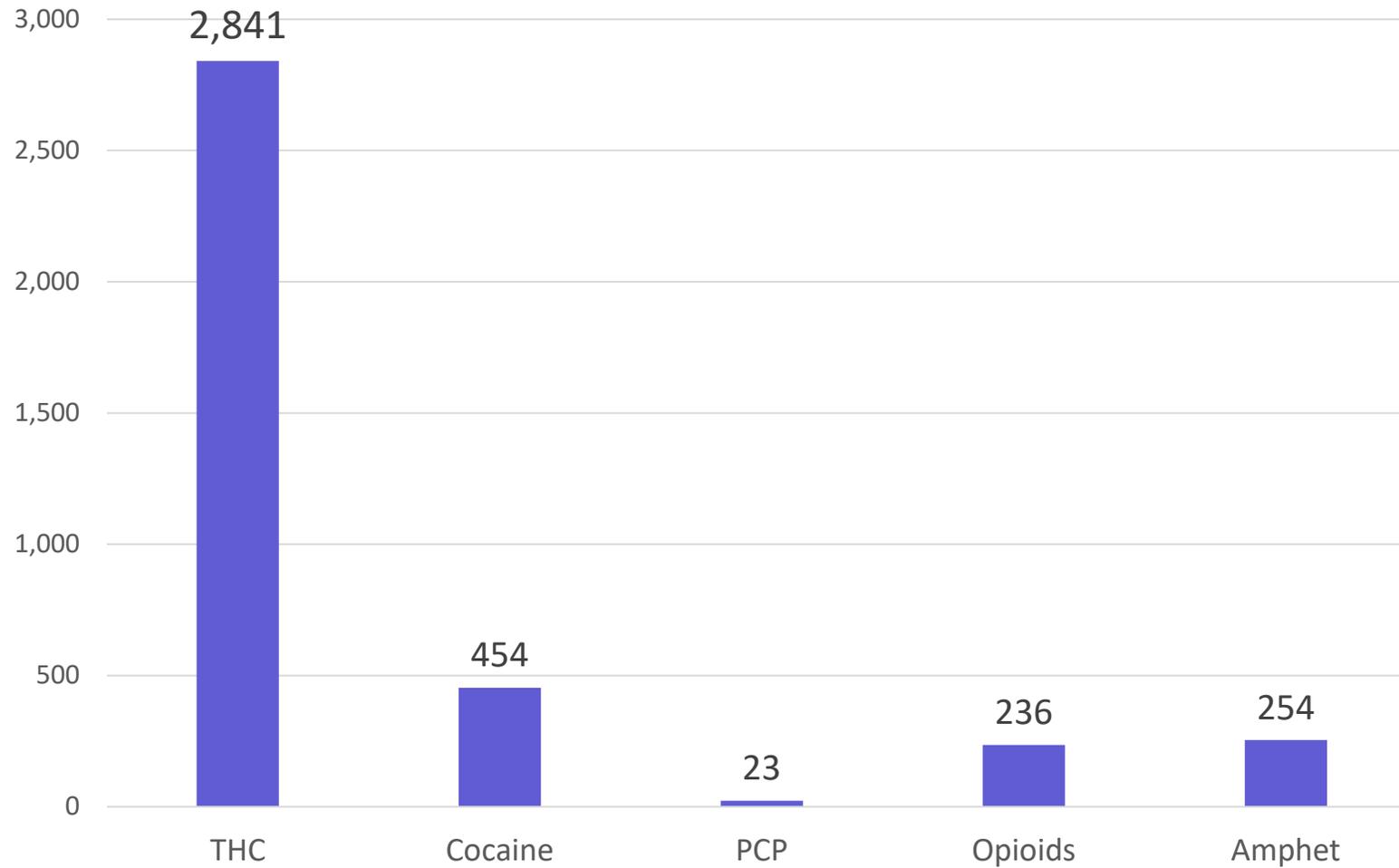
# Drug Types – All Test Types (2011 – 2020)



# Drug Types - Percent of Positives Urban vs. Rural



# Number of Verified Positives – Drug Type (2020)



# Resources!

# Part 655 Program Components

## **FTA Drug and Alcohol Regulation *Updates* Newsletter**

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

## **60 Minute Training Video**

Meets the requirements of section 655.14(b)

“Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.”

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

## **FTA Policy Builder**

Reflects Recent Part 40 Revisions

<https://transit-safety.fta.dot.gov/DrugAndAlcohol/Tools/PolicyBuilder/CreatePolicy.aspx>



# Part 655 Program Components

## Trainings and Conferences

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

Community Transportation Association of America (CTAA) - Richmond,VA

Trade Fair – Booth # - November 9 & 10

Annual FTA Drug and Alcohol Program National Conference – Virtual (Date TBD)

Upcoming Virtual Seminars (90 to 180 minutes)

10/26 -	FTA D&A – <i>Regulatory Updates &amp; Requirements</i>	3 Hours
12/14 -	MIS Overview – “ <i>How to Complete your MIS</i> ”	90 Minutes
3/1 -	MIS Overview – “ <i>How to Complete your MIS</i> ”	90 Minutes

# Contacts – Help!

Iyon Rosario – FTA Drug & Alcohol Senior Program Manager

- (202) 366-2010, [iyon.rosario@dot.gov](mailto:iyon.rosario@dot.gov)

FTA D&A Project Office (U.S. DOT/Volpe Center)

- **Hotline:** (617) 494-6336, [fta.damis@dot.gov](mailto:fta.damis@dot.gov)
- Jennifer Gissel: (617) 494-3875, [Jennifer.Gissel@dot.gov](mailto:Jennifer.Gissel@dot.gov)
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# Questions!





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