

Moving in the Right Direction with FTA

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U.S. Department of Transportation
Federal Transit Administration

Let's Talk

- **Who Are We?**
- **What Do We Do?**
- **Where Are We?**
- **When Are You Required to Comply?**
- **How Can We Help?**



Who We Are...

Your DOT Transit Administration



U.S. Department of Transportation
Federal Transit Administration

FTA Mission, Vision, Values



Mission

Improve America's Communities
through Public Transportation



Vision

A Better Quality of Life for All Built
on Public Transportation Excellence

Values

<i>Service</i>	Provide reliable, transparent, responsive, and anticipatory services to meet stakeholder needs
<i>Integrity</i>	Commitment to the highest professional and ethical standards
<i>Innovation</i>	Foster new ideas, concepts, and solutions for improved outcomes
<i>Sustainability</i>	Optimize decisions, resources, and systems to make long-term positive impacts on the environment, infrastructure, and safety
<i>Equity</i>	Remove barriers for systemically underserved communities to access all aspects of economic, social, and civic life

What Do We Do...

Ensure Public Safety



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Regulatory Oversight...

- **49 CFR Part 655 (FTA)**

Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

- Who is subject to testing?
- When is testing required?

- **49 CFR Part 40 (DOT)**

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

- How to conduct testing?
- How to return an employee to duty after a violation?



We Govern over Covered Employers

- Recipients (grantees) of FTA transit funds
 - 5307: Urbanized Area Formula
 - 5309: Transit Capital Investment
 - 5339: Buses and Bus Facilities
 - 5311: Formula Grants for Rural Areas
- Subrecipients and Contractors of FTA Grantee, when Grantee uses the subrecipient/contractor to provide some or all its safety-sensitive activities



Covered Employees

Safety-sensitive functions include:

Operating a revenue service vehicle, including when not in revenue service

Operating a non-revenue service vehicle, when required to be operated by a Commercial Driver's License (CDL) holder

Controlling dispatch or movement of a revenue service vehicle

Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service

Carrying a firearm for security purposes

Where Are We?

Everywhere

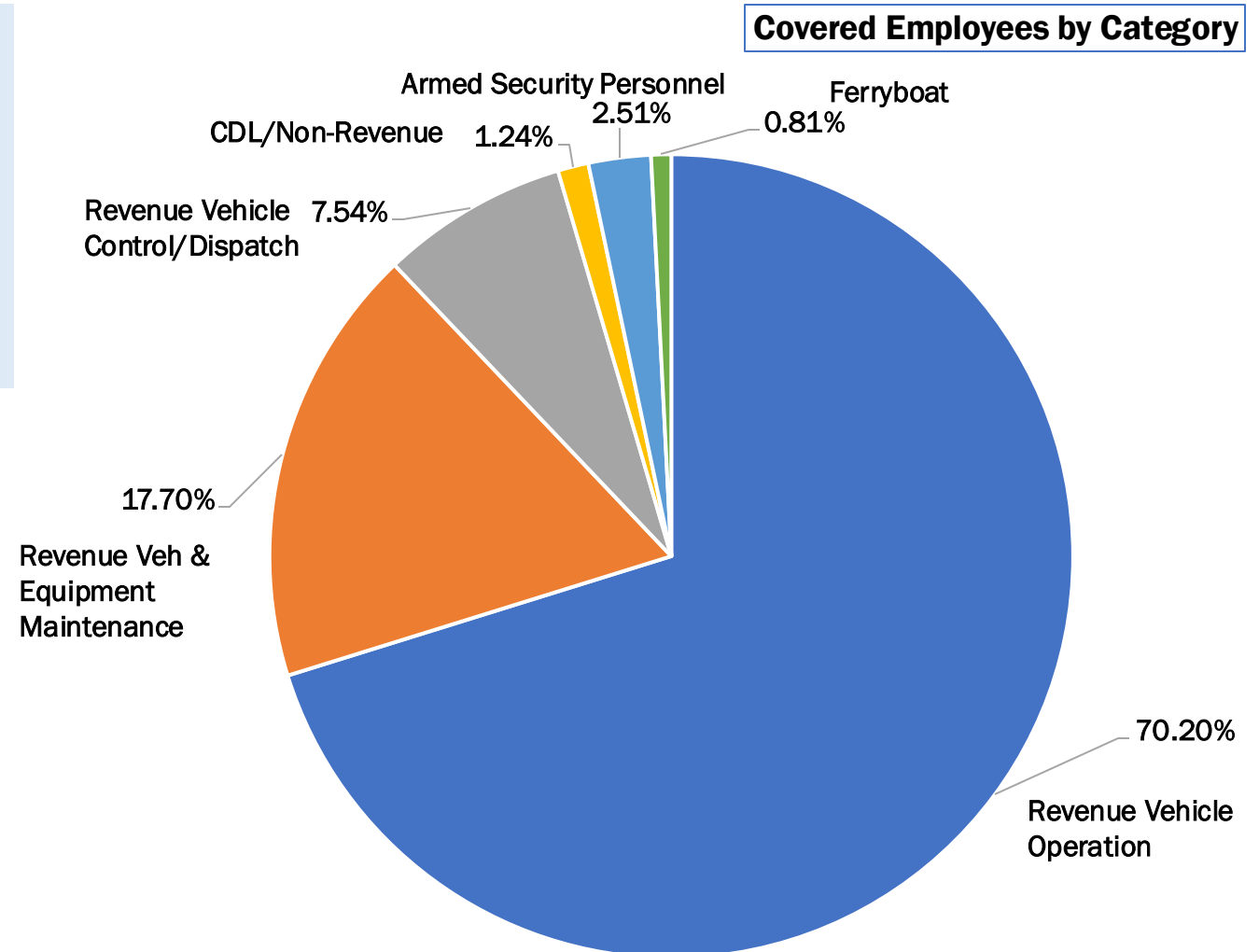


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FTA Covered Employers

2024 MIS Reporting

- 685 grantees
- 3,363 employers
- 307,760 safety-sensitive employees



Required

10% Random Alcohol

Total Alcohol Tests
117,232

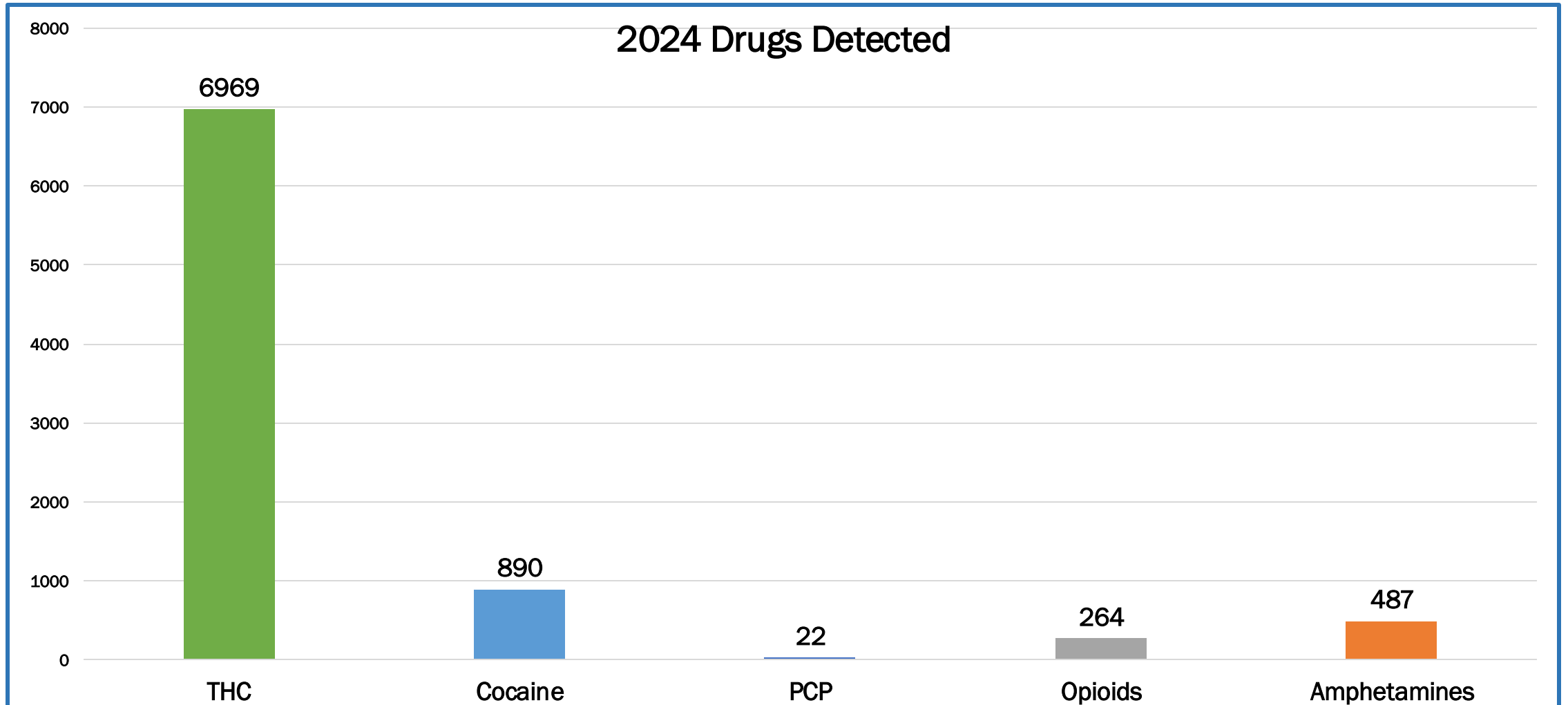


50% Random Drug

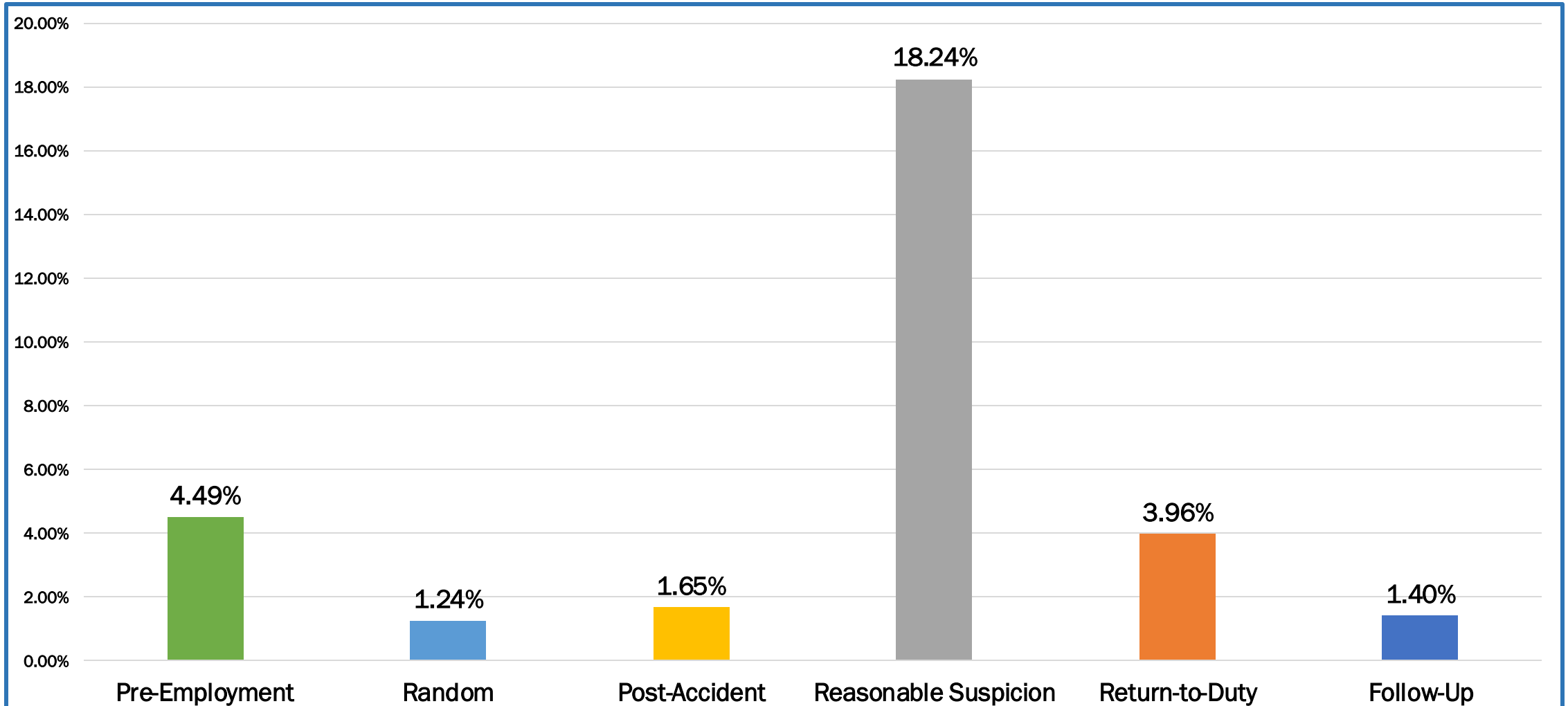
Total Drug Tests
354,332



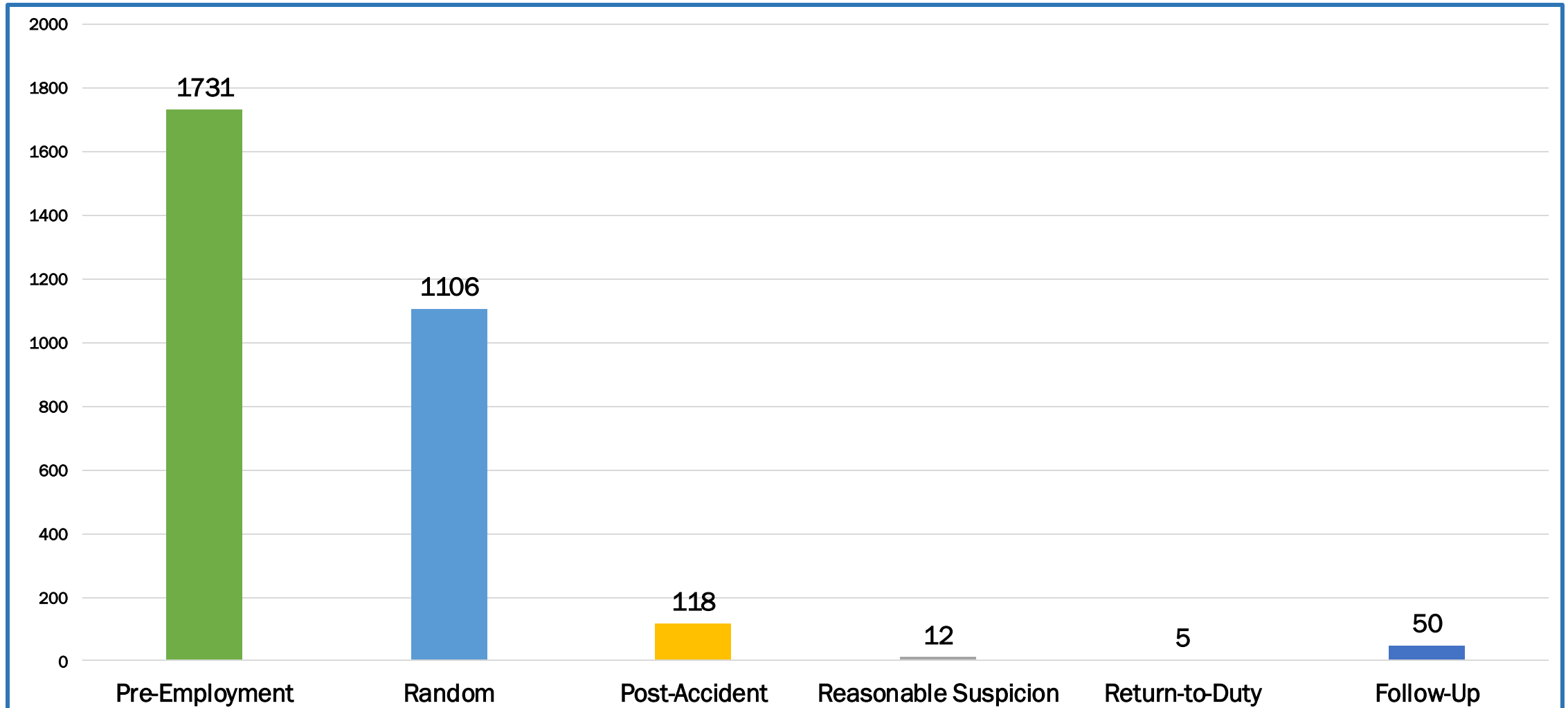
Testing Matters



Positive Drug Rate by Test Type 2024



Canceled Drug Tests by Test Type



When Are You Required to Comply?

Always



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Condition of Funding

Subpart I

- 655.81 – Grantee Oversight Responsibility
- 655.82 – Compliance as a Condition of Financial Assistance
- 655.83 – Requirement to Certify Compliance



Oversight – Drug & Alcohol Audits



FTA audits approximately 60 grantees and states each year:

- To assess grantees' (subrecipient/contractor) 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”

How Does It Work?

Let Me Show You



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Audit Process

Notification & Pre-Audit

- Audit Team Leader contacts Grantee (DAPM) 7 weeks prior to site visit
- Formal Notification Letter includes schedule and list of required documents to submit
- Interviews with MRO & SAP (via phone or video conference)

Site Visit

- Entrance Interview to introduce audit
- Review of testing records and other documentation
- Interviews with DAPM, BATs/collectors (in-person)
- Contractor Audits, if applicable
- Exit Interview to present Final Report

Post-Audit & Compliance

- Grantee response due 90 days from Exit Interview
- Team Leader issues Compliance Letter or Continuing Concerns Report
- Continuing Concerns response due date varies (typically 45-60 days)

Most Common Findings

Drug and Alcohol Policy

- No policy
- Missing required items (<https://www.ecfr.gov/current/title-49/section-655.15>)
- States 0.02 as an alcohol prohibition
- Doesn't delineate between DOT requirements and employer policy
- Policy is not updated to reflect current regulations
- **Less is Better**



FTA FREE Policy Builder

Drug & Alcohol Program | FTA (dot.gov)

More Common Findings

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

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

Previous Employer Checks

- Blanket consent forms
- Electronic signatures to provide consent
- Do not ask if applicants failed/refused a DOT pre-employment test

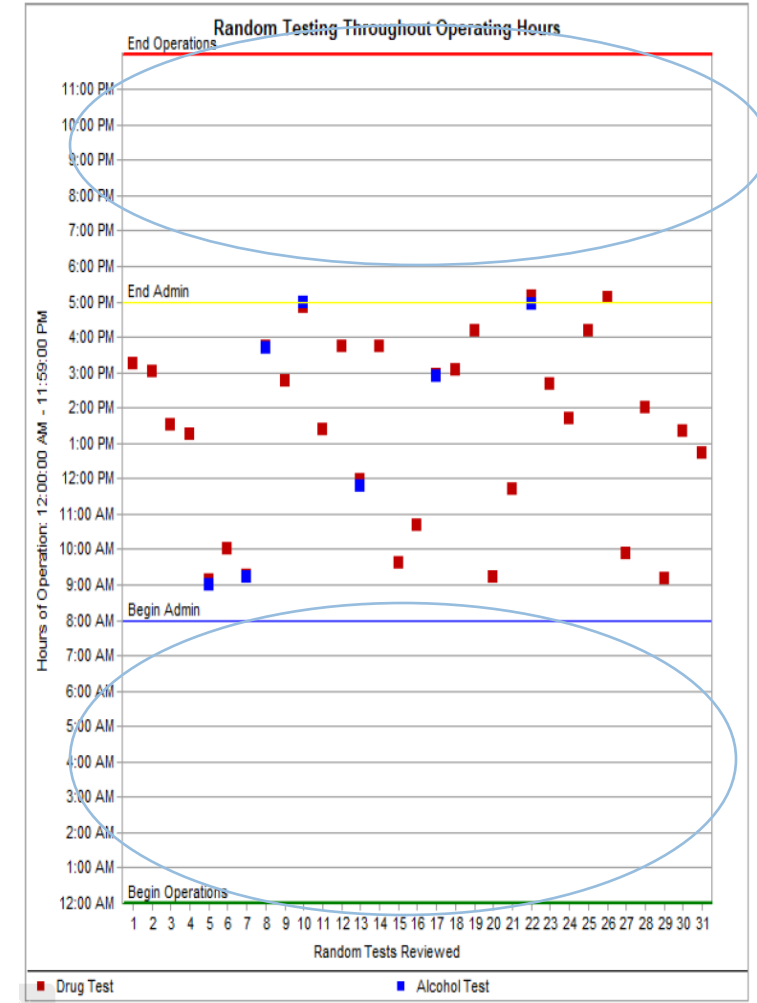
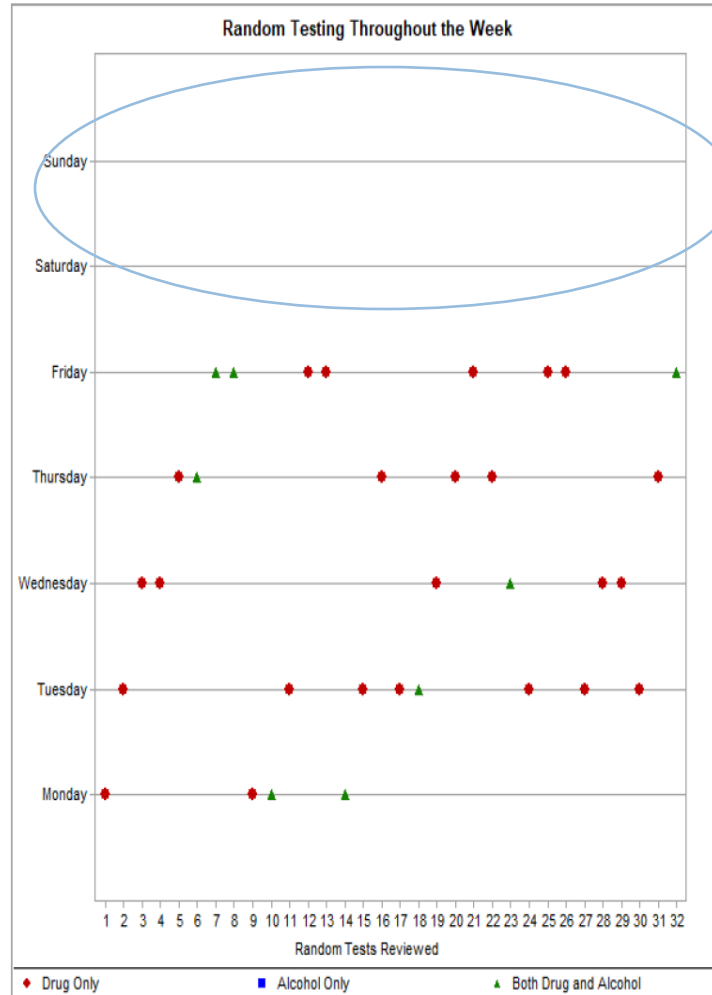
Reasonable Suspicion Testing

- Testing based on observations that do not meet FTA criteria
- Delays in alcohol testing not documented

Even More Common Findings

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



2nd Chance – Do it Right

Return-to-Duty and Follow-Up Testing

- Testing does not follow SAP's testing plan
- Testing days and time are predictable



We also Review - Vendors

49 CFR Part 40 Compliance

- Collection Site
- Medical Review Officers (MRO)
- Substance Abuse Professionals (SAP)
- Consortium/Third Party Administrators (C/TPA)



Collection Site – Common Findings

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-min wait period
- BAT marks “15-min/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



That's why YOU need to know the regulations

Medical Review Officer (MRO) – Common Findings

- Delays in reporting
- Provides quantitative values to employers for positives
- Reports multiple results when two specimens are collected in one testing event



**That's why YOU need
to know the
regulations**



Substance Abuse Professionals (SAP) – Common Findings

- Missing reports
- Missing information required on reports
- Inappropriate/cookie cutter follow-up plan



**That's why YOU need
to know the
regulations**



Consortium/Third Party Administrator (C/TPA) – Common Findings

- Controlling Random Testing
 - Providing dates for testing
 - Shortening the selection period
- Not providing lab stats
 - 6-month requirement
- Previous employer requests
 - Not accompanied by wet signature



**That's why YOU need
to know the
regulations**



How Can We Help?

In So Many Ways



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Technical Assistance



Regulations and official interpretations



Quarterly newsletters



Training information



MIS reporting guidance



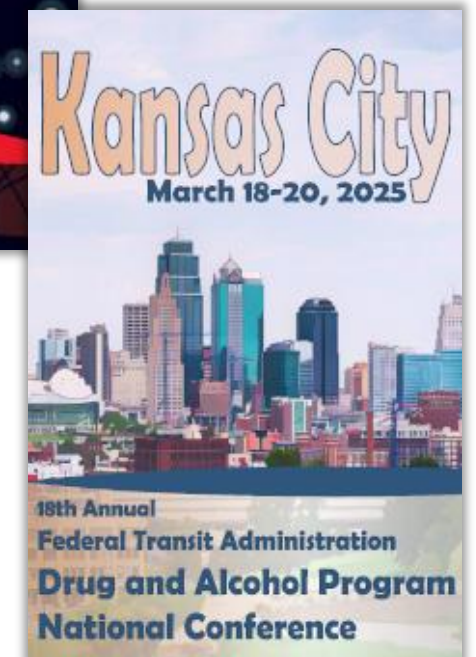
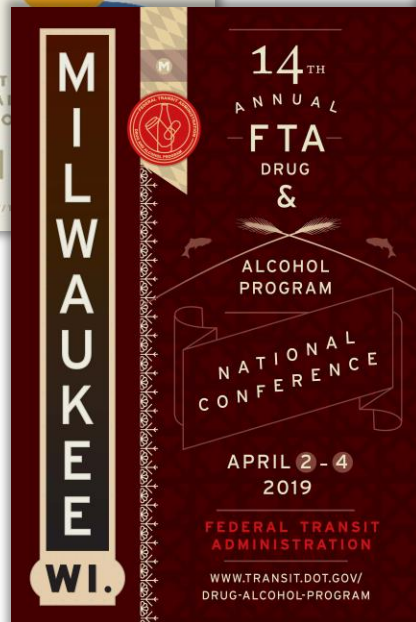
[Drug & Alcohol Program | FTA \(dot.gov\)](#)

Tools and Resources

- Drug Abuse Awareness Video
 - Meets §655.14 training requirement: 60-min on effects and consequences of prohibited drug use
- Reasonable Suspicion Testing for Supervisors Video
 - Meets 655.14(b)(2) requirement: 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and probable alcohol use
- Drug and Alcohol Policy Builder
 - Most frequently used tool on the website
- Sample forms and checklists for DAPMs



National Conferences



Questions?



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Thank you!

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