



U.S. Department
of Transportation

DOT PROGRAM UPDATE

**Federal Drug Testing Advisory Board
December 3, 2024**

Office of Drug and Alcohol Policy and Compliance
Bohdan Baczara – Deputy Director

Topics



Drug Testing Data



ODAPC Rulemaking



ODAPC Resources

DOT Drug Testing: Jan-Jun 2024 (lab data)

- **Drug Category Prevalence:** Marijuana, Amphetamine, Opioids, Cocaine, PCP.
- **Overall Positive Rate:** Compared to the previous 6-month period, **decreased** from 2.30 to 2.23%.
- **Drug Category Positive Rates:**
 - Marijuana - Decreased from .92% to .88%.
 - Amphetamines - Increased from .77% to .79%.
 - Opioids - Decreased from .47% to .42%. (This rate has declined steadily since 2018.)
 - Cocaine - Decreased from .22% to .20%.
 - PCP - Consistently at or below .01%.
- **Other Category Rates:**
 - **'Rejected'** (fatal and uncorrected flaws) - **decreased** from .50% to .43%.
 - **'Tampered with'** (invalid, substituted, adulterated) - **decreased** from .54% to .43%.

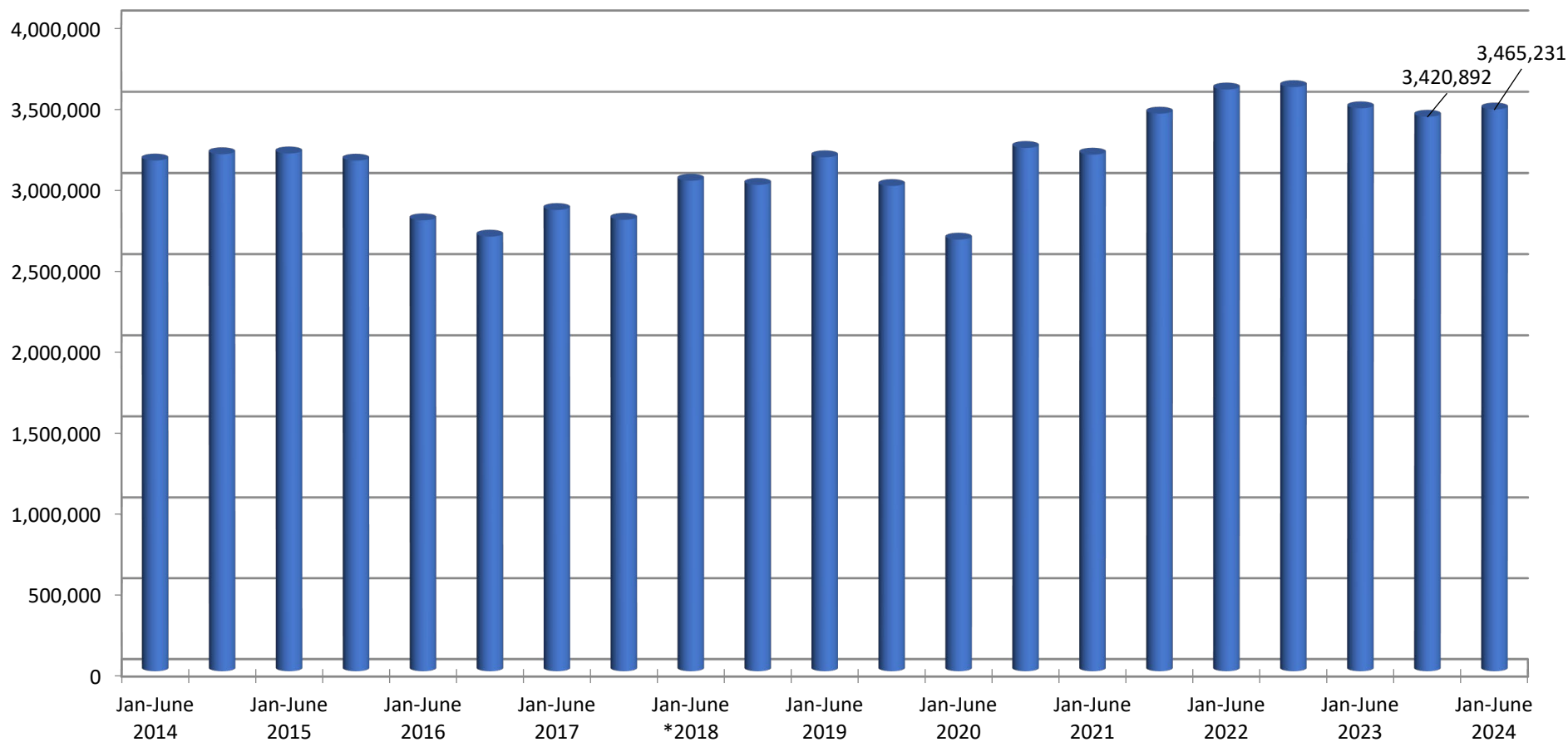
Assumptions:

- Laboratory reported results are NOT MRO reviewed
- Reflects all testing reasons (Pre-employment, Random, Post-Accident, Reasonable Suspicion, Return to Duty, Follow-Up)
- Reflects All DOT modes (FRA, FMCSA, FAA, PHMSA, FAA) and USCG

DOT Drug Testing Data

Lab Reported U.S. DOT Drug Testing Data 2014-2024

Total Results

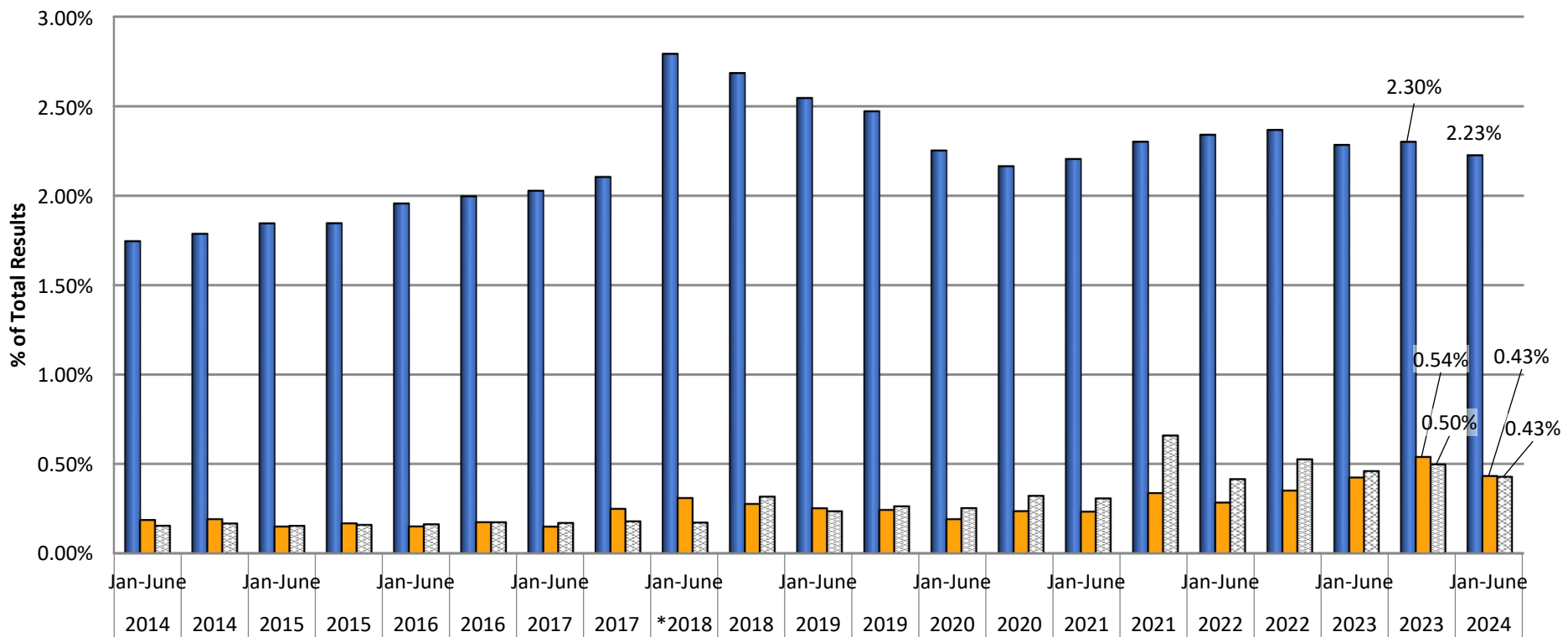


DOT Drug Testing Data

Lab Reported U.S. DOT Drug Testing Data 2014-2024

*Semi-Synthetic Opioid Testing Added 01/01/2018

■ Positive ■ Tampered ■ Rejected

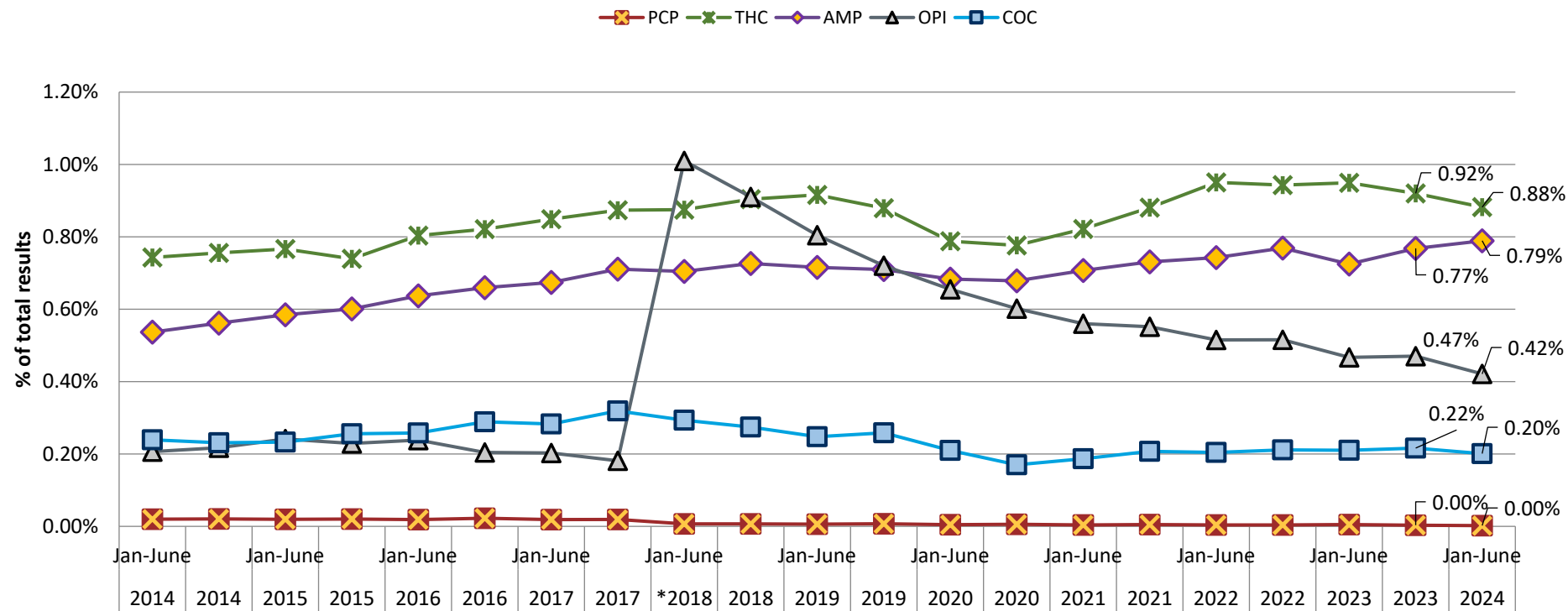


DOT Drug Testing Data

Lab Reported U.S. DOT Drug Testing Data 2014-2024

Percent Positive [based upon total test results]

*Semi-Synthetic Opioid Testing Added 01/01/2018

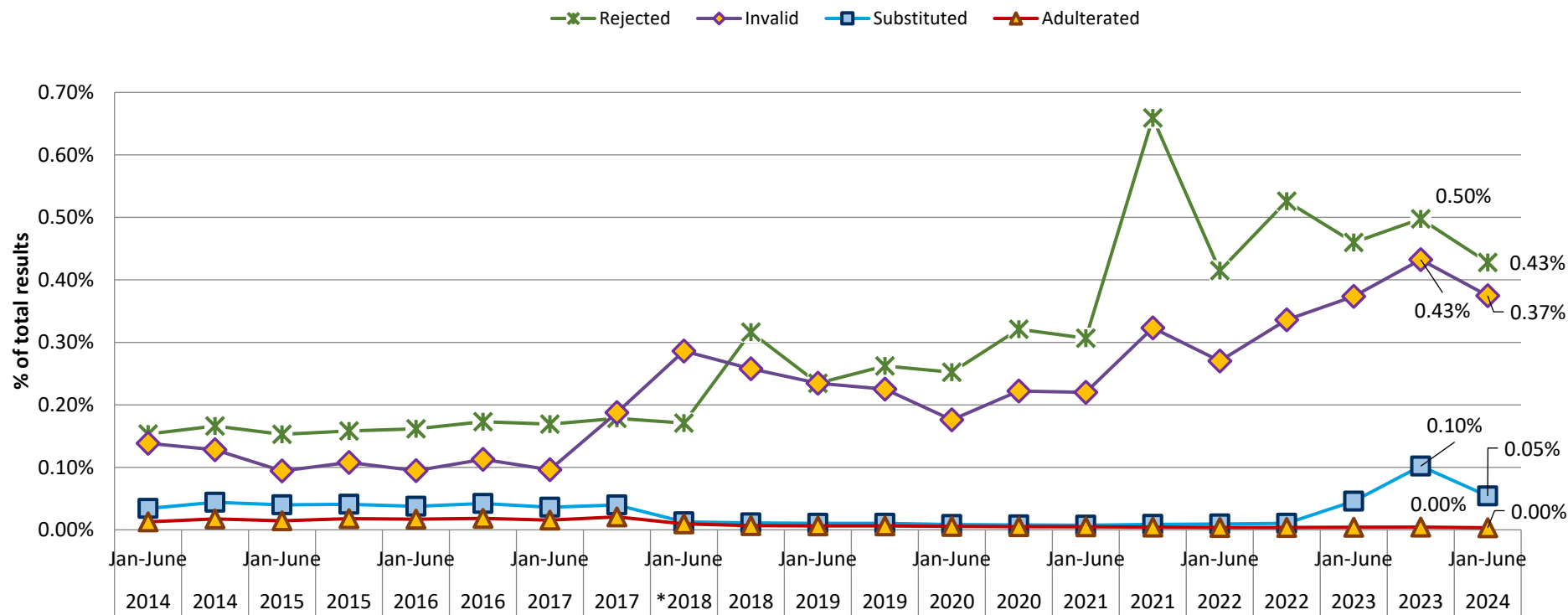


DOT Drug Testing Data

Lab Reported U.S. DOT Drug Testing Data 2014-2024

Invalid, Substituted, Adulterated, Rejected as a % of Total Test Results

*Semi-Synthetic Opioid Testing Added 01/01/2018



ODAPC RULEMAKING

- **Electronic Signatures, Forms and Records Storage for Drug and Alcohol Testing Records**
 - ANPRM Published August 05, 2022
 - Comment period closed October 04, 2022
 - NPRM published October 15, 2024
 - <https://www.govinfo.gov/content/pkg/FR-2024-10-15/pdf/2024-23427.pdf>
 - Comment period closes December 16, 2024
 - <https://www.regulations.gov/docket/DOT-OST-2022-0027/document>
- **Technical Amendments to Part 40**
 - Final Rule published June 21, 2024
 - The purpose of these technical amendments is to clarify certain provisions of the rule and address omissions of which we have become aware since the publication of the final rule
 - <https://www.govinfo.gov/content/pkg/FR-2024-06-21/pdf/2024-12749.pdf>

ODAPC RULEMAKING

- **Direct Final Rule and NPRM**

- Published June 21, 2024
 - <https://www.govinfo.gov/content/pkg/FR-2024-06-21/pdf/2024-12747.pdf>
 - <https://www.govinfo.gov/content/pkg/FR-2024-06-21/pdf/2024-12748.pdf>
- Direct Final Rule
 - Provide temporary qualification requirements for mock oral fluid monitors,
 - Provide for consistent privacy requirements by identifying which individuals may be present during an oral fluid collection, and
 - Clarify how collectors are to specify that a sufficient volume of oral fluid was collected.
- Effective August 5, 2024, unless adverse comments received
 - NPRM comment period closed July 22, 2024
- 15 unique comments to DFR; 18 unique comments to NPRM

ODAPC RULEMAKING

- **Withdrawal of Direct Final Rule (DFR)**
 - Published August 1, 2024
 - <https://www.govinfo.gov/content/pkg/FR-2024-08-01/pdf/2024-16765.pdf>
- **Final Rule**
 - Published November 5, 2024 (effective December 5, 2024)
 - <https://www.govinfo.gov/content/pkg/FR-2024-11-05/pdf/2024-25403.pdf>
 - Clarifies that a qualified urine collector (§ 40.33) is not a qualified oral fluid collector (§ 40.35), and vice-versa.
 - A qualified collector for the oral fluid mock collections required under § 40.35(c) must be a qualified oral fluid collector and have specific experience in oral fluid collections or training.

ODAPC RULEMAKING

- **Final Rule (effective December 5, 2024)**
 - *Provides temporary qualification requirements for mock oral fluid monitors.*
 - Permits an individual who is not a qualified oral fluid collector to serve as the monitor for oral fluid mock collections **ONLY** if:
 - The individual successfully completes an oral fluid “train the trainer” course (§ 40.35(c)(2)(iii)); **OR**
 - The individual conducts oral fluid collector training (§ 40.35(c)(2)(ii)).
 - ❑ *DOT is waiving the requirement that an individual have at least 1 year experience conducting oral fluid collector training.*
 - The individual conducting the oral fluid collector training should (1) have a thorough understanding of Part 40, (2) be well versed in the course content they are teaching, and (3) maintain records to demonstrate that the training was conducted. The course content must meet the requirements specified in § 40.35(b).

ODAPC RULEMAKING

- **Final Rule (effective December 5, 2024)**
 - *The temporary regulatory relief outlined above will sunset one year after HHS publishes a Federal Register notice that it has certified the first oral fluid drug testing laboratory.*
 - After the one-year period, individuals observing oral fluid mock collections (i.e., monitors) will need to comply with the qualified oral fluid collector requirements in § 40.35(c)(2).
 - So that all are aware of the effective dates of the regulatory flexibility, DOT will publish a Federal Register document specifying the date the first oral fluid laboratory was certified by HHS and the effective date that individuals observing mock collections (i.e., monitors) will need to comply with the qualified collector requirements in § 40.35(c)(2) established in the May 2023 final rule.

ODAPC RULEMAKING

- **Final Rule (effective December 5, 2024)**
 - ***The rule identifies which individuals may be present during an oral fluid collection***
 - An oral fluid collector must not allow any person other than the collector, the employee, or a DOT agency representative to actually witness the testing process.
 - ***The rule clarifies how collectors are to document that a sufficient volume of oral fluid was collected***
 - After an employee provides a sufficient oral fluid specimen, the collector must check the “Volume Indicator(s) Observed” box in Step 2 of the Federal CCF to document that the collector observed the volume indicator(s).

ODAPC RULEMAKING

- **Final Rule (effective December 5, 2024)**
 - *Can individuals complete oral fluid collection device training and oral fluid mock collections before HHS certifies oral fluid testing laboratories?*
 - Yes. **However**, training on an oral fluid collection device that has not been approved for use as part of an official HHS laboratory certification package comes with the risk that the device may not be ultimately included by a laboratory with its application package to HHS and/or approved for use by HHS.
 - This risk is borne entirely by the trainer and prospective collector, as DOT does not have any role in determining which particular oral fluid collection device is submitted by a laboratory as part of its application to HHS.
 - **Part 40 DOT - Summary of Changes web page**
 - https://www.transportation.gov/odapc/Notice_Summary_Nov_2024

ODAPC RESOURCES

HOME PAGE

<https://www.transportation.gov/odapc>

'Am I Covered?'

<https://www.transportation.gov/odapc/am-i-covered#no-back>

List serve

[https://www.transportation.gov/odapc/ListServe Notices](https://www.transportation.gov/odapc/ListServe_Notices)

Part 40 Page

<https://www.transportation.gov/odapc/part40>

Part 40 Federal Register

<https://www.transportation.gov/odapc/frpubs>

Guidance Page

<https://www.transportation.gov/odapc/program-guidance>

Ask ODAPC

ODAPCwebmail@dot.gov