

Ohio Department of Transportation- FTA Drug & Alcohol Program Technical Assistance Review

Deficiency Report

TRANSIT OPERATOR	Pike County Community Action Transportation System (CATS)
Contact Person/ Title	Diane Renner, Transit Program Director
Date	April 3, 2015
Transit systems address and phone number	508 Howard Street, Waverly OH, 45690 740-835-8474

TABLE OF CONTENTS

Policy.....	1 –6
Drug & Alcohol Program Management.....	7-10
Records Management.....	11-12
Breath Alcohol Technician (BAT).....	12-13
Urine Collection Technician (Collector).....	13-15

Policy Review Interview

#	Question	Finding	Regulation	Action Item
3.	COVERED EMPLOYEES: Does the policy correctly and completely list, or describe, the categories of employees (covered employees) who are subject to the provisions of the anti-drug and alcohol misuse prevention program?	Yes, on page 2 and in Attachment A on page 21. I believe that the Job titles currently under FMCSA testing authority should be changed to CACPC authority. Maintenance/Mechanic position needs to be added.	Section 655.15(b) states the policy shall include: "The categories of employees who are subject to the provisions of this part." Safety-sensitive functions are described in Section 655.4, Definitions, under "Safety-sensitive." The policy should clarify which jobs are covered because they do or may involve the performance of safety-sensitive duties.	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.15(b). The DAPM should modify the current policy to include all of the positions which are currently described as safety-sensitive. Should research to find out if any of the listed positions tested under FMCSA actually qualify for that or should change to CACPC authority

9.	COVERED VOLUNTEERS: If an operator has volunteers performing safety-sensitive duties, are the volunteers classified with covered employees (subject to drug and alcohol testing) if: 1) the volunteer is required to hold a CDL, or; 2) the volunteer receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity?	DERs reported that none were currently used, but agency has policy that volunteers are treated as employees and would be tested if performing safety sensitive work. No mention of volunteers made in the actual policy on review.	Section 655.4 defines covered employee, stating that "A volunteer is a covered employee if: (1) The volunteer is required to hold a commercial driver's license to operate the vehicle; or (2) The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.4. The DAPM should modify the current policy to include the following statement. "Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for services in excess of actual expense."
18.	PRE-EMPLOYMENT DRUG TESTING: Does the procedure for a covered employee or applicant who has previously failed or refused a DOT pre-employment drug test include requiring evidence that the employee has successfully completed a referral, evaluation and treatment plan?	No reference to this found in policy	Section 655.41(a)(2) states: "When a covered employee or applicant has previously failed or refused a pre-employment drug test administered under this part, the employee must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in Section 655.62."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.41 (a)(2). The DAPM should modify the current policy to include the following statement in Section L (6). "If the applicant has tested positive or refused to test on a pre-employment test for a DOT covered employer, the applicant must provide The Community Action Committee proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G."
23.	NO DISCRETION: Does the policy state that each covered employee shall have an equal chance of being tested each time selections are made?	Yes on page page 15 in section O (1) s/b (3) Typo	Section 655.45(e) states "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator	The DAPM should correct the numbering on Page 15 in section O (1) is used twice. Second use s/b (3)

			... , each covered employee shall have an equal chance of being tested each time selections are made."	
33.	CIRCUMSTANCES: REASONABLE SUSPICION: Does the policy state that reasonable suspicion testing is required when: One or more trained supervisors or company officials can articulate and substantiate physical, behavioral and performance indicators of probable drug use or alcohol misuse by observing the appearance, behavior, speech or body odors of the covered employee?	Yes page 13 Section M. However the term "One or more trained..." is not used.	Section 655.43(b) states: "An employer's determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee. A supervisor(s), or other company official(s) who is trained in detecting the signs and symptoms of drug use and alcohol misuse must make the required observations." Further, Part III, Subpart E, Section C of the preamble to Part 655 states: "FTA also notes that the proposed bar to an employer requiring two or more trained supervisors to make such referrals is not included in the final rule. FTA also agrees that an employer should be permitted to authorize and train other company officers to make reasonable suspicion observations"	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.43 (b). The DAPM should modify the current policy to clarify section M on page 13 to ensure that one or more trained supervisor(s) or other company official(s) would be making the required observations.
40.	REFUSALS: Does the policy state that failure to appear in a timely fashion (except for pre-employment tests) for drug and alcohol tests is a refusal?	Yes page 6 Section C it is correctly written in first bullet, on page 16 section Q (2)(g) however the phrase (except for pre-employment tests) is not included.	Section 40.191(a) states: "As an employee, you have refused to take a drug test if you: (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer. Consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see Section 40.61(a))." A similar statement for alcohol testing is found in Section 40.261(a)(1).	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.191(a). The DAPM should modify the current policy to ensure that the correct definition for a test refusal is used in both section C and section Q. The correct version is in section C.

47.	REFUSALS: Does the policy state that failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test is a refusal?	Yes page 6 section C but not on page 16 Q	Section 40.191(a)(9) states: "For an observed collection, fail to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.191(a). The DAPM should modify the current policy to ensure that the correct definition for a test refusal is used in both section C and section Q. The correct version is in section C.
48.	REFUSALS: Does the policy state that possessing or wearing a prosthetic or other device used to tamper with the testing process is a refusal?	Yes page 6 section C but not on page 16 Q	Section 40.191(a)(10) states: "Possess or wear a prosthetic or other device that could be used to interfere with the collection process."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.191(a). The DAPM should modify the current policy to ensure that the correct definition for a test refusal is used in both section C and section Q. The correct version is in section C.
50.	REFUSALS: Does the policy state that admitting the adulteration or substitution of a specimen to the collector or MRO is a refusal?	Yes page 6 section C but not on page 16 Q	Section 40.191(a)(11) states: "Admit to the collector or MRO that you adulterated or substituted the specimen."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.191(a). The DAPM should modify the current policy to ensure that the correct definition for a test refusal is used in both section C and section Q. The correct version is in section C.
51.	REFUSALS: Does the policy state that that the MROs verification of a test as adulterated or substituted constitutes a refusal?	Yes page 6 section C but not on page 16 Q	Section 40.191(b) states: "As an employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.191(a). The DAPM should modify the current policy to ensure that the correct definition for a test

				refusal is used in both section C and section Q. The correct version is in section C.
53.	CONSEQUENCES OF A FAILED OR REFUSED DRUG TEST: Does the policy describe the consequences for a covered employee who has a verified positive drug test result, who has violated the alcohol use prohibitions, or who refuses to submit to a drug or alcohol test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function; and Does the policy state that the individual will be referred to a substance abuse professional?	The consequences are addressed on page 16 in section Q. However the term immediately removed from Safety-sensitive duties is not used and should be. The term "As soon as practicable..." is used in Section Q(1)(a) is used instead and is not in compliance with this regulation.	Section 655.61(a)(1) states "Immediately after receiving notice from a medical review officer (MRO) or a consortium/third party administrator (C/TPA) that a covered employee has a verified positive drug test result, the employer shall require that the covered employee cease performing a safety-sensitive function." Section 655.61(a)(3) states "If an employee refuses to submit to a drug or alcohol test required by this part, the employer shall require that the covered employee cease performing a safety-sensitive function." Section 655.62 states "If a covered employee has a verified positive drug test result, or has a confirmed alcohol test of 0.04 or greater, or refuses to submit to a drug or alcohol test required by this part, the employer shall advise the employee of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of substance abuse professionals (SAPs) and counseling and treatment programs."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.61(a)(1). The DAPM should modify the current policy to ensure that the correct terminology is used in Section Q(1)(a). The term "As soon as practicable..." should be replaced with "Immediately"
54.	CONSEQUENCES OF BREATH ALCOHOL CONCENTRATION (BAC) IN RANGE OF .02 TO .039: Does the policy describe the consequences for covered employees	Yes, on page 17 section Q(6). However there is confusion on what is CACPC policy and what is FTA/DOT requirements. The underlining on this section should not begin at the start of the	Section 655.35(a) states: "No employer shall permit a covered employee tested under the provisions of subpart E of this part who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 to perform or continue to perform safety-	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.35(a). The DAPM should modify the current policy to ensure that it is

	found to have an alcohol concentration of 0.02 or greater but less than 0.04; including the requirement that any action taken against the employee based on this result be under company authority.	sentence. This is FTA/DOT requirements. It becomes CACPC policy (and underlined) at “...or the remainder of the work day...”	sensitive functions, until (1) The employee's alcohol concentration measures less than 0.02; or (2) The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test. Section 655.35(b) states: "Except as provided in paragraph (a) of this section, no employer shall take any action under this part against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this part from taking any action otherwise consistent with law."	clear what part of this section is FTA/DOT requirement and what is CACPC policy.
55.	EMPLOYER SPECIFIC ELEMENTS: If the employer implements elements of an anti-drug program and alcohol misuse prevention program that are in addition to those required by Section 655, does the policy give covered employees specific information concerning which provisions are mandated by the FTA rules and which are not? Are any such additional policies or consequences clearly and obviously described as being based on independent authority?	<p>For the most part this seems to be fine but the whole policy should be reviewed to ensure compliance in this area. There are two specific places listed below that need to be addressed.</p> <p>On page 8 of the policy under (2) Legal Drugs, beginning with “However... and ending with ...functions.” should be underlined as this is a CACPC policy and not required by FTA/DOT.</p> <p>On Page 12 of the policy under section L Pre-Employment Testing: All references to pre-employment alcohol testing need to be underlined as this is CACPC policy and not required by FTA/DOT.</p>	Section 655.15(j) states: "The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part."	<p>The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.15(j). The DAPM should modify the policy to clearly indicate that the section on the use of legal drugs on page 8 of the policy is CACPC policy and not required by FTA/DOT.</p> <p>The DAPM should modify the policy to clearly indicate in Section L: Pre-Employment Testing that pre-employment alcohol testing is CACPC policy and not required by FTA/DOT.</p>

Drug and Alcohol Program Manager Interview

#	Question	Finding	Regulation	Action Item
14.	What information do you provide to the collection site for each DOT test you are requesting?	Current form provided by TPA and gives most of the required information, but there are some areas that could be improved. Left a copy of a template Order for Testing and will send electronic version with summary report.	Section 40.14 states: "As an employer, or an employer's service agent – for example a C/TPA, you must ensure the collector has the following information when conducting a urine specimen collection for you: (a) Full name of the employee being tested. (b) Employee SSN or ID number. (c) Laboratory name and address (can be pre-printed on the CCF). (d) Employer name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-A). (e) DER information required at § 40.35 of this part. (f) MRO name, address, phone number, and fax number (can be pre-printed on the CCF at Step 1-B). (g) The DOT Agency which regulates the employee's safety-sensitive duties (the checkmark can pre-printed in the appropriate box on the CCF at Step 1-D). (h) Test reason, as appropriate: Pre-employment; Random; Reasonable Suspicion/Reasonable Cause; Post-Accident; Return-to-Duty; and Follow-up. (i) Whether the test is to be observed or not (see § 40.67 of this part). (j) (Optional) C/TPA name, address, phone, and fax number (can be pre-printed on the CCF)."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.14. That the employer must ensure that the collector has the correct information needed to perform testing. The DAPM will use the template supplied by RLS to create a new Order for Testing form that includes all relevant information including a time check in section. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
21.	At what point in the hiring process do you require applicants for safety-sensitive positions to pass a FTA pre-employment drug test?	After they have filled out initial application and agency employment written test. Contingency for hire based on test result and send for testing. But they have no real process in place to	Section 655.41(a)(1) states: "Before allowing a covered employee or applicant to perform a safety-sensitive function for the first time, the employer must ensure that the employee takes a pre-employment drug test administered under this part with	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.41(a)(1). That the employer must ensure that the employee

		document this. Suggested using an existing spreadsheet used to track training, to also track hire and testing dates. Also left template for Pre-employment testing.	a verified negative result. An employer may not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under this part with a verified negative result."	takes a pre-employment drug and alcohol test administered under this part with a verified negative result before allowing the employee to perform safety-sensitive duties. The DAPM will use the template supplied by RLS to create a new tracking process for Pre-Employment testing that ensures compliance with this regulation. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
26.	At what point in the hiring process do you ask the applicant or transferee whether or not they have failed or refused a DOT pre-employment test in the previous two years?	Done verbally in interview process, will be added to application process.	Section 40.25(j) states: "As the employer, you must also ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. If the employee admits that he or she had a positive test or a refusal to test, you must not use the employee to perform safety-sensitive functions for you, until and unless the employee documents successful completion of the return-to-duty process (see paragraphs (b)(5) and (e) of this section)."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.25(b) and 2(i). The DAPM will use the template supplied by RLS to create a sign off sheet for this regulation that will be added to the hire packet and become part of the hiring process. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
28.	What random selection method is used by this employer to select covered employees for FTA drug and alcohol testing?	Relies on TPA Ohio Health to provide the lists. Does not know what type selection process they use.	Section 655.45(e) states: "The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM will contact ADENA to ensure

			that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."	that they are using a scientifically valid method to make random selections using his pool of covered employees and provide the method as part of his official response.
33.	Does this transit system conduct random testing at all times that safety-sensitive functions are being performed (including maintenance of revenue vehicle, movement of revenue vehicles, etc.)?	Records show a marked tendency to test from late morning (10am) to early evening (4pm). Does not track current selections and will begin doing that to better manage this.	Section 655.45(g) states: "Each employer shall ensure that random drug and alcohol tests conducted under this part are unannounced and unpredictable, and that the dates for administering random tests are spread reasonably throughout the calendar year. Random testing must be conducted at all times of day when safety-sensitive functions are performed."	The DAPM must submit a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.45(g) that states random testing must be conducted during all times of the day that safety-sensitive functions are performed in an unpredictable manner. Seldom testing before 10AM or After 4PM presents a clearly identifiable pattern to the employees. This predictable pattern could be used to schedule timing of employee drug/alcohol use to avoid detection. The DAPM will use the spreadsheet template provided by RLS to track random tests and must indicate, in a written response, what actions will be taken to ensure this requirement is accomplished in the future.
65.	Does this transit system maintain all records related to the drug and alcohol program in a secure location with controlled access?	Yes, the DER-Transit Supervisor has them in a locked cabinet in her single person office. Office is locked when she isn't in it. Key is on key ring, which does get left in office sometimes when she's in the office.	Section 655.71(a) states: "An employer shall maintain records of its anti-drug and alcohol misuse program as provided in this section. The records shall be maintained in a secure location with controlled access."	The DAPM/DER must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.71(a). That the employer must maintain records in a

		She will pull key and keep it on her person at all times.		secure location with controlled access. This statement must also include an explanation from the DAPM/DER of how this requirement will be met moving forward.
66.	Are you notified of alcohol test results of ≥ 0.02 ? If so, when and by what method?	Yes, has never had one, but believes that they would email or call. Will check.	Section 40.255(a)(5) states: "Immediately transmit the result directly to the DER in a confidential manner. (i) You [the BAT] may transmit the results using Copy 1 of the ATF, in person, by telephone, or by electronic means. In any case, you must immediately notify the DER of any result of 0.02 or greater by any means (e.g., telephone or secure fax machine) that ensures the result is immediately received by the DER. You must not transmit these results through C/TPAs or other service agents."	The DAPM/DER must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.255(a)(5). That the MRO/collection site must notify the DER immediately of a positive test result by the most direct method. This should include a password protected process to ensure that the correct contact at the place of employment has been reached. The statement should include an explanation of contact process from the MRO/collection site and include an explanation from the DAPM/DER of how this requirement will be met moving forward.
71.	Does the transit system have a method to identify if the MRO or C/TPA has not provided a test result in a reasonable period after the test?	Keeps each order for testing in a separate folder until results come back in, but does not record it any other way. Will start using testing log templates that were supplied at time of review to better track this.	Section 40.17 states: "... as an employer, you are responsible for obtaining information required by this part from your service agents. This is true whether or not you choose to use a C/TPA as an intermediary in transmitting information to you. For example, suppose an applicant for a safety-sensitive job takes a pre-employment drug test, but there is a significant delay in your receipt of the test result from an MRO or C/TPA. You must not assume that "no news is good	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.17. That the employer is responsible for obtaining information that ensures that employees have received a negative drug or alcohol test result before allowing the employee to perform safety-sensitive duties.

			news" and permit the applicant to perform safety-sensitive duties before receiving the result. This is a violation of the Department's regulations."	The DAPM/DER will use the testing log templates supplied by RLS to create a new tracking process for all testing that ensures compliance with this regulation.
--	--	--	--	--

Records Management Interview

#	Question	Finding	Regulation	Action Item
29.	Is the decision not to administer a post-accident drug and/or alcohol test documented in detail, including the decision-making process used to reach the decision not to test, in an accident where an FTA post-accident testing threshold was met?	Not currently available, will be added to the file immediately.	Section 655.44(d) states: "The decision not to administer a drug and/or alcohol test under this section shall be based on the employer's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test."	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 655.44(d). That a decision not to administer a drug and/or alcohol test under this section must be documented in detail, including the decision-making process used to reach the decision not to test." The DAPM will use their current decision and documentatin process or use the template supplied by RLS to create a documentation process that ensures compliance with this regulation. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.
61.	If the employer has received any dilute-negative test results, do the records indicate that the employer has reacted in a manner consistent with its policy?	The only reference to a dilute-negative test was in section H: Testing Requirements of the policy, and states that it must be done under direct observation. This is in violation of the regulation.	Section 40.197(b) states: "If the MRO informs you [the employer] that a negative drug test was dilute, you may, but are not required to, direct the employee to take another test immediately. Such recollections must not be collected under direct	The DAPM must provide a signed statement certifying that he has read and fully understands the requirements of 49 CFR Part 40.197(b). The DAPM should modify the current policy to clarify how the

		DER understood that Dilute-negative meant that the person would probably be retested, but was not clear about where to find the policy on it. It would be helpful to have that pulled out and put into Section Q: Results of Drug/Alcohol Test in the policy, and it needs to be clarified if direct observation is required and why.	observation, unless there is another basis for use of direct observation." Section 40.197(c) states: "You [the employer] must treat all employees the same for this purpose. For example, you must not retest some employees and not others. You may, however, establish different policies for different types of tests (e.g., conduct retests in pre-employment test situations, but not in random test situations). You must inform your employees in advance of your decisions on these matters."	test result of negative dilute is going to be handled. It is suggested that this is added in Section Q of the current policy and that it is revised to comply with the requirements of Section 40.197(b) of 49 CFR as written here. RLS has supplied a template policy for review to assist in this revision.
--	--	---	---	---

Breath Alcohol Technician (BAT) Interview

#	Question	Finding	Regulation	Action Item
5.	Did the BAT explain the testing procedure and show the employee the instructions on the back of the Alcohol Testing Form (ATF)?	No, and did not have any information posted elsewhere.	Section 40.241 states: "As the BAT or STT you will take the following steps to begin all alcohol screening tests, regardless of the type of testing device you are using: ... (e) Explain the testing procedure to the employee, including showing the employee the instructions on the back of the ATF."	The BAT must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.61€ that states the collector must explain the procedures and show the instructions on the back of the ATF.
61.	What would you do if the employee refuses to take an alcohol test?	Note the refusal in the remarks section of the ATF and notify DER immediately. Did not know that they had to complete an additional document of the incident.	Section 40.261(c) states: "As a BAT or an STT, or as the physician evaluating a "shy lung" situation, when an employee refuses to test as provided in paragraph (a) of this section, you must terminate the portion of the testing process in which you are involved, document the refusal on the ATF (or in a separate document which you cause to be attached to the form), immediately notify the DER by any means (e.g., telephone or secure fax machine) that ensures the refusal notification is	The BAT must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.261(c). A copy of a form that will be used to meet this requirement will be provided with the statement. If a form will not be used a description of how the refusal will be documented will be required as part of the statement.

			immediately received. You must make this notification directly to the DER (not using a C/TPA as an intermediary)."	
52.	May I see documentation showing that all Breath Alcohol Technicians currently meet DOT proficiency requirements?	Not on site, but supervisor on site said that they were all kept at the Chillicothe location and would have them sent over immediately. The copies also need to go to Pike County for their records.	Section 40.213(g) states: "(g) Documentation. You must maintain documentation showing that you currently meet all requirements of this section. You must provide this documentation on request to DOT agency representatives and to employers and C/TPAs who are negotiating to use your services."	The BAT must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.213(g). Certifications for all active collection technicians need to be kept at the testing site. These certificates also need to be sent to Pike County whenever they are updated or new staff is added. Statement will include a description of how this requirement will be met going forward.

Urine Collector Technician (Collector) Interview

#	Question	Finding	Regulation	Action Item
7.	Does the collector explain the basic collection procedure to the employee and show the employee the instructions on the back of the CCF?	No	Section 40.61(e) states: "Explain the basic collection procedure to the employee, including showing the employee the instructions on the back of the CCF."	The Collector must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.61(e) that states the collector must explain the procedures and show the instructions on the back of the CCF.
13.	Does the collector ensure that in the privacy enclosure for urination:(1) all sources of clear water have been eliminated, (2) possible specimen contaminants have been removed; and (3) all places where	There was an automatic deoderizer dispenser on the wall within easy reach which I was able to open and remove the spray canister. It could have easily been used to contaminate a sample. There was a paper towel dispenser on the wall	Section 40.43(b) states: "As a collector, you must do the following before each collection to deter tampering with specimens:(1) Secure any water sources or otherwise make them unavailable to employees (e.g., turn off water inlet, tape handles to prevent opening faucets); (2) Ensure that the water in the toilet	The Collector must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.43(b). The statement needs to describe how this source of contaminates and hiding place have been

	paraphernalia could be hidden were secured or removed?	where paraphernalia could have been hidden. There was also a large unlocked toilet paper dispenser on the wall which could have been used to hide paraphernalia.	is blue; (3) Ensure that no soap, disinfectants, cleaning agents, or other possible adulterants are present; (4) Inspect the site to ensure that no foreign or unauthorized substances are present; (5) Tape or otherwise secure shut any movable toilet tank top, or put bluing in the tank;(6) Ensure that undetected access (e.g., through a door not in your view) is not possible;(7) Secure areas and items (e.g., ledges, trash receptacles, paper towel holders, under-sink areas) that appear suitable for concealing contaminants; and (8) Recheck items in paragraphs (b)(1) through (7) of this section following each collection to ensure the site's continued integrity."	eliminated. The statement should also include the inspection process that collection staff will perform prior to and after each individual collection in these rooms.
50.	What is done if the employee admits to adulterating or substituting the specimen?	Report the test as a refusal to test, record it in the remarks section and notify DER. Was not aware of the requirement to record a separate document on incident.	Section 40.159(c) states: "If the employee admits to having adulterated or substituted the specimen, you must, on the same day, write and sign your own statement of what the employee told you. You must then report a refusal to test in accordance with Section 40.163."	The Collector must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.159(c). A copy of a form that will be used to meet this requirement will be provided with the statement. If a form will not be used a description of how the refusal will be documented will be required as part of the statement.
74.	How long must the collection site retain the Collectors copy (Copy 3) of the CCF?	She thinks a couple of months, but is not sure of this because somebody else does this part of it.	Section 40.73(a)(9) states: "... Keep Copy 3 for at least 30 days, unless otherwise specified by applicable DOT agency regulations."	The Collector must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.73(a)(9). The statement will include the current record retention policy of the collection site.

75.	Have each of the urine collectors hired since August 1, 2001 received training in accordance with the amended Part 40 regulations (effective August 9, 2001)? If so, could I see their training records?	Yes, but the certifications were not available on site. The supervisor stated that they would be sent over immediately.	Section 40.33(d) states: "Schedule for qualification training and initial proficiency demonstration. The following is the schedule for qualification training and the initial proficiency demonstration you must meet:(3) If you become a collector on or after August 1, 2001, you must meet the requirements of paragraphs (b) and (c) of this section before you begin to perform collector functions." Section 40.33(b) states: "Qualification training. You must receive qualification training meeting the requirements of this paragraph. Qualification training must provide instruction on the following subjects:(1) All steps necessary to complete a collection correctly and the proper completion and transmission of the CCF;(2) "Problem" collections (e.g., situations like "shy bladder" and attempts to tamper with a specimen);(3) Fatal flaws, correctable flaws, and how to correct problems in collections; and(4) The collector's responsibility for maintaining the integrity of the collection process, ensuring the privacy of employees being tested, ensuring the security of the specimen, and avoiding conduct or statements that could be viewed as offensive or inappropriate." Section 40.33(c) states: "Initial Proficiency Demonstration. Following your	The Collector must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.33(d). Certifications for all active collection technicians need to be kept at the testing site. These certificates also need to be sent to Pike County whenever they are updated or new staff is added. Statement will include a description of how this requirement will be met going forward.
-----	--	---	--	---