

Records Management Interview Questions

Chillicothe Transit System

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Ohio Department of Transportation

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#	Question		Regulation	
1	<p>APPROPRIATENESS OF RECORDS MAINTENANCE: Does the auditor observe that a set of records has been established with the following characteristics:1) Secure location and access controlled to those few individuals with a need to know;2) Information released only as appropriate;3) Federally required tests and testing has priority and is separate from non-DOT testing;4) Records are maintained for the proper length of time.</p>			
2	<p>Does the employer maintain records of its anti-drug and alcohol misuse program in a secure location with controlled access?</p>	<p>The records that were in the DAPM's office were in a secure location. It is unclear if there are records relating to the drug and alcohol at the transit office and if they are in a secure location.</p>	<p>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."</p>	<p>DAPM needs to collect all records pertaining to the drug and alcohol program and ensure that they are in one secure location.</p>
3	<p>Does the employer only release drug and alcohol testing information related to covered employees as permitted by law or in accordance with the circumstances described in Section 655.73?</p>	<p>This would be true for the records kept in the DAPM office, but it is less clear what the security and access is for the records kept in the transit office.</p>	<p>Section 655.73(a) states: "Except as required by law, or expressly authorized or required in this section, no employer may release information pertaining to a covered employee that is contained in records required to be maintained by Section 655.71 of this subpart."</p>	<p>See above.</p>

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4	Are DOT tests separate from non-DOT tests in all respects, and do DOT tests take priority (i. e. DOT tests conducted and completed before a non-DOT test is begun, urine collected in a DOT test not used for a non-DOT test)?	Some of the records were combined. There were two non-Dot post-accident tests filed in the same folder as DOT tests, and it is unclear what the status is of the files at the transit office.	Section 40.13(a) states: "DOT tests must be completely separate from non-DOT tests in all respects." Section 40.13(b) states: "DOT tests must take priority and must be conducted and completed before a non-DOT test is begun. For example, you must discard any excess urine left over from a DOT test and collect a separate void for the subsequent non-DOT test."	See above
5	Are the following records maintained for a minimum of five years from the date of creation: (1) covered employee verified positive drug and alcohol test results; (2) documentation of refusals; (3) covered employee referrals to an SAP; (4) employer reports from SAPs; and (5) copies of annual MIS reports submitted to FTA?	All files kept forever	Section 655.71(b)(1) states: "Records of covered employee verified positive drug or alcohol test results, documentation of refusals to take required drug or alcohol tests, and covered employee referrals to the substance abuse professional, and copies of annual MIS reports submitted to FTA [must be maintained for five years]." Section 40.311(h) states: "As an employer, you must maintain your reports from SAPs for 5 years from the date you received them."	None
6	Does the employer maintain for three years all drug and alcohol test results obtained from previous employers for new hires or transfers into safety-sensitive positions?	All files kept forever	Section 40.333(a)(2) states: "You must keep records for three years of information obtained from previous employers under Section 40.25 concerning drug and alcohol test results of employees."	None

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7	Does the employer maintain records of the collection process and employee training for at least two years?	All files kept forever	Section 655.71(b)(2) states: "Records related to the collection process and employee training [must be maintained for two years]."	None
8	Does the employer maintain negative drug and alcohol test results for at least one year?	All files kept forever	Section 655.71(b)(3) states: "Records of negative drug or alcohol test results [must be maintained for one year]."	None
9	EMPLOYEE AND SUPERVISOR TRAINING: Do the records indicate that the employer complies with the employee and supervisor education and training requirements, including: 1) Displaying and distributing drug and alcohol informational material? 2) Providing and documenting 60 minutes of employee drug awareness training? 3) Providing and documenting 120 minutes of supervisor reasonable suspicion drug and alcohol training? 4) Not requiring employees to sign drug and alcohol testing consent forms, except the required "prior employer" records release forms?			

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10	Do supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse?	No. Neither the DAPM or transit manager currently have any reasonable suspicion training.	Section 655.14 states: "Each employer shall establish an employee education and training program for all covered employees, including: (b) Training. (2) Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.14(b)(2). DAPM will arrange for herself and action Transit Director to receive the required reasonable suspicion training and provide documentation of the completed training by both individuals.
11	PRE-EMPLOYMENT RECORDS REQUESTS Does the employer:1) Obtain a specific written release from applicants for safety-sensitive positions;2) Request the information from all listed covered employers who employed the individual within the past two years; and3) Ask the applicant whether they have ever been denied a position on the basis of a positive drug or alcohol test?			

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12	Since August 1, 2001, has the employer obtained specific written consent from the applicant or employee to obtain information about prior DOT drug and alcohol test records from all DOT-regulated employers who employed the individual within the two years prior to the date of application?	DAPM is not sure if this is in the application form done when the applicant interviews with the transit manager. It is not part of the initial application done by the DAPM.		The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.25(b). DAPM will use the templates of a "Good Faith Effort" Documentation form and the Authorization for Release of Information from Previous Employer on US DOT Drug and Alcohol Testing form provided by RLS to create a process for requesting information from previous DOT-regulated employers per this regulation.
13	Does the employer perform the requests required by this part for all safety-sensitive applicants/transferees, or only those applying to a driver/cdl position?	Currently this request is not being made for any safety-sensitive employee.	Section 40.25(b) states: "You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer."	See above
14	Does the employer ask each applicant or transferee whether he or she has tested positive, or refused a test, on any pre-employment drug or alcohol test administered by an employer to which the applicant or transferee applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years?	Same as #12	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.25(j). DAPM will use the template for the Safety-Sensitive Employee Application Supplement form provided by RLS to create a process for requesting information from applicants regarding their DOT testing history.

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15	<p>PRE-EMPLOYMENT TESTING: Does the auditor observe that the pre-employment testing program has the following characteristics: 1) Notification of FTA authority; 2) Verified negative result is received before the employee performs a safety-sensitive duty (or is hired if the transit system continues with the previous policy); 3) Cancelled tests, if any, must be retaken and passed before the employee performs a safety-sensitive duty (or is placed on the payroll); 4) No more than 90 days between the pre-employment test and the date the employee becomes subject to random testing.</p>			

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16	Does the employer receive a verified negative pre-employment drug test result for each applicant or transferee before the individual performs a safety-sensitive function for the first time?	DAPM explained that all employment offers made to applicants of safety-sensitive positions are contingent on the receipt of a verified negative pre-employment drug test. However there is no clear documentation in place of the dates of the receipt of the test and the beginning of performance of safety sensitive duties. An auditor would have to review individual test results and employee time cards to get the verification.	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 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." Section 655.41(b) states: "An employer may not transfer an employee from a non-safety-sensitive function to a safety-sensitive function until the employee takes a pre-employment drug test administered under this part with a verified negative result." Safety-sensitive function includes the operation of a revenue-service vehicle, whether or not in revenue service. A pre-employment test result must be received before the employee first performs this function in training or as part of a road test.	The DAPM needs to take the template Pre-Employment Testing Log provided by RLS to create a documentation form for the pre-employment testing and documentation process that will allow clear and immediate verification that employees are eligible to perform safety-sensitive duties.

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17	Do the records indicate that no more than 90 days elapse between the receipt of the negative pre-employment test and the date the employee first performs a safety-sensitive duty and is placed into the random testing pool?	DAPM was not aware of this requirement and has no documentation in the records for this.	Section 655.41(d) states: "When a covered employee or applicant has not performed a safety-sensitive function for 90 consecutive calendar days regardless of the reason, and the employee has not been in the employer's random selection pool during that time, the employer shall ensure that the employee takes a pre-employment drug test with a verified negative result."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.41 (d). The DAPM needs to take the template Pre-Employment Testing Log provided by RLSto create a documentation form for the pre-employment testing and documentation process that will allow clear and immediate verification that employees are eligible to perform safety-sensitive duties.
18	Do the records indicate that, if a pre-employment drug test is cancelled, the employer requires the covered employee to take another pre-employment drug test administered under this part with a verified negative result?	Same as above	Section 655.41(c) states: "If a pre-employment drug test is canceled, the employer shall require the covered employee or applicant to take another pre-employment drug test administered under this part with a verified negative result."	Add to above
19	If the employer chooses to conduct pre-employment alcohol testing, does the employer conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40?	No pre-employment testing done	Section 655.42(d) states: "The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40."	None

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20	REASONABLE SUSPICION TESTING: Do the records of Reasonable Suspicion testing indicate that the tests were properly ordered, adequately documented by trained supervisors, and completed within the required timeframes?		Null	
21	Do the records indicate that the employer's determination, that reasonable suspicion existed to warrant testing, was based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee?	No reasonable suspicion testing has been done during the time that the current DAPM has been coordination the program.	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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.43 (b) and 655.14(b)(2). DAPM will arrange for herself and action Transit Director to receive the required reasonable suspicion training and provide documentation of the completed training by both individuals.
22	Do the records indicate that all reasonable suspicion tests were ordered by supervisor(s), or other company official(s) trained in detecting the signs and symptoms of drug use and alcohol misuse?	Same as above	Section 655.14(b)(2) states: "Supervisors. Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse."	Same as above

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23	Do the records indicate that if the reasonable suspicion alcohol test was not administered within two hours, there is a record stating the reasons the alcohol test was not promptly administered? If a reasonable suspicion alcohol test is not administered within eight hours, does the employer cease attempts to administer an alcohol test and state in the record the reasons for not administering the test?	Same as above	Section 655.43(d) states: "If an alcohol test required by this section is not administered within two hours following the determination [to test], the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within eight hours following the determination [to test], the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test."	Add to above.
24	POST-ACCIDENT TESTING: Do the records indicate that the post-accident testing program has the following characteristics: 1) Proper observance of FTA testing thresholds; 2) Proper notification of test authority; 3) Proper use of the federal CCF; 4) Testing completed within the required time limits or records maintained of testing efforts.		Null	
25	Do the records indicate that the employer performs an FTA post-accident test after an accident when an individual dies, regardless of whether the operator's performance can be completely discounted as a possibly contributing factor?	There have been no accidents resulting in a fatality in recent history at this system. The DAPM did answer yes to this question, but appeared to be uncertain if that was the correct answer or not.	Section 655.44(a)(1)(i) states: "As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests on each surviving covered employee operating the mass transit vehicle at the time of the accident."	None

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26	Do the records indicate that the employer conducts FTA post-accident testing after non-fatal accidents that reach an FTA post-accident testing threshold (unless the employee's performance has been completely discounted as a factor contributing to the accident)?	DAPM was not able to fully articulate any of the post-accident testing thresholds beyond the one involving a fatality.	Section 655.44(a)(2)(i) states: "As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the employer shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the employer determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44 which detail the requirements and testing thresholds for FTA post-accident testing. Combine with answers on manager interview question regarding post-accident testing. Addressed in #25 in the DAPM Interview section of the summary letter.

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27	Do any records indicate that the employer conducts post-accident testing using a federal CCF after an accident that does not meet an FTA post-accident threshold, or after a qualifying accident in which the employee has been discounted?	There were two Non-DOT post-accident tests filed in the DOT testing files. One of the tests was done on a DOT CCF form and corrected. One was done on a non-DOT CCF, but on a DOT ATF. DAPM was not aware that they were done on the wrong forms and will get them corrected.	Section 40.13(f) states: "As an employer, you must not use the CCF or the ATF in your non-DOT drug and alcohol testing programs. This prohibition includes the use of the DOT forms with references to DOT programs and agencies crossed out. You also must always use the CCF and ATF for all your DOT-mandated drug and alcohol tests." An "Accident" is defined in Section 655.4 as: "an occurrence associated with the operation of a vehicle, if as a result: (1) An individual dies; or (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation"	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.13(f) regarding the proper use of CCFs and ATFs for post-accident testing and the knowledge of the thresholds required to use these forms.

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28	Do the records indicate that the employer tests other covered employees whose performance could have contributed to a fatal or non-fatal accident?	There were no records pertaining to the post-accident testing of other covered employees. The DAPM was not aware of this requirement.	Section 655.44(a)(ii) states: "The employer shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(a)(ii) regarding the requirement to test other covered employee after an accident if it is determined that their performance contributed to the accident. Addressed in #25 in the DAPM Interview section of the summary letter.
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?	No, there is currently no post-accident testing decision making process for any accident being documented.	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 submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.44(d) and 655.71(c) which explains the decision making process for determining of post-accident testing is required and the required documentation process. The DAPM will use the post-accident decision tree and post-accident testing log templates that were supplied by RLS to create a clear and comprehensive post-accident testing decision and testing process. The DAPM will then ensure that any employee designated as a DER is properly trained to completed these processes in her absence. Addressed in #25 in the DAPM Interview section of the summary letter.

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30	If a post-accident alcohol test is not administered within two hours following the accident, does the employer prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered?	DAPM had no knowledge of this regulation.	Section 655.44(a)(2)(ii) states: "If an alcohol test required by this section is not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered..."	See above Addressed in #30 in the DAPM Interview section of the summary letter.
31	If a post-accident alcohol test is not administered within eight hours following the accident, does the employer cease attempts to administer an alcohol test and maintain the record?	DAPM had no knowledge of this regulation.	Section 655.44(a)(2)(ii) states: "... If an alcohol test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and maintain the record. Records shall be submitted to FTA upon request of the Administrator."	See above Addressed in #30 in the DAPM Interview section of the summary letter.
32	Is a covered employee who is required to be drug tested after an accident tested as soon as practicable, but within 32 hours of the accident?	DAPM had no knowledge of this regulation.	Section 655.44(b) states: "An employer shall ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident."	See above Addressed in #30 in the DAPM Interview section of the summary letter.
33	If a covered employee who is subject to post-accident testing fails to remain readily available for such testing, is the employee deemed by the employer to have refused to submit to testing?	DAPM stated that the employee would be considered a positive result and would start the process for second chance policy.	Section 655.44(c) states: "A covered employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying the employer or the employer representative of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the employer to have refused to submit to testing."	None Addressed in #31 in the DAPM Interview section of the summary letter.

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34	If the employer is unable to perform a post-accident test within the required timeframe and the employer uses the results of a blood, urine, or breath test conducted by Federal, State, or local officials having independent authority for the test, do such tests conform to the applicable Federal, State, or local testing requirements, and are the test results obtained by the employer?	DAPM had no knowledge of this regulation.	Section 655.44(f) states: "The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results are obtained by the employer. Such test results may be used only when the employer is unable to perform a post-accident test within the required period noted in [Sections 655.44(a) and (b)]."	See #s 28 and 29 above
35	RANDOM TESTING: Do the records indicate that random testing has the required characteristics: 1) Draws are made frequently enough; 2) Random testing is performed at the required minimum rates; 3) Testing is spread reasonably; 4) Method is scientifically valid; 5) Notices are held confidentially; 6) Employees proceed immediately; 6) Excusals are valid and recorded.		Null	
36	Are random testing selections performed not less frequently than quarterly?	The random tests are performed at least quarterly.	The preamble to Part 655 states: "FTA believes that requiring random testing to be conducted at least quarterly strikes a reasonable balance while considering the rule's impact on employers in rural areas."	None

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37	If a C/TPA provides selection lists to the employer, have these lists been provided in a consistent and timely fashion, such that the employer's ability to complete and spread random testing is not hindered?	DAPM stated that she often does not receive the picks until the second week of each quarter. Review of existing records showed that the picks were received in either the first or second week of each quarter.	The preamble to Part 655 states: "FTA believes that requiring random testing to be conducted at least quarterly strikes a reasonable balance while considering the rule's impact on employers in rural areas." 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 provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM will contact ADENA and request their written agreement that they will send random selection lists to her at least one week prior to first week of each testing quarter. This will ensure that testing can occur during the first two weeks of the quarter, meeting the requirement that testing be done through the calendar year. Addressed in #19 in the DAPM Interview section of the summary letter.
38	Has the employer met the FTA's published minimum annual percentage rate for random drug and alcohol testing?	Yes, well over minimum rates.	Section 655.45(a) states: "Except as provided in paragraphs (b) through (d) of this section, the minimum annual percentage rate for random drug testing shall be 25 percent of covered employees; the random alcohol testing rate shall be 10 percent. As provided in paragraph (b) of this section, this rate is subject to annual review by the Administrator."	None

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39	Is the selection of employees for random testing made by a scientifically valid method, and does each covered employee have an equal chance of being tested each time selections are made?	DAPM does not know what method is used by the contractor that does the random selection for her.	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 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."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(e). DAPM will contact ADENA to ensure that they are using a scientifically valid method to make random selections using her pool of covered employees and provide the method as part of her official response. Addressed in #18 in the DAPM Interview section of the summary letter.

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40	Are random drug and alcohol tests unpredictable - e. g. , the dates for administering random tests are spread reasonably throughout the calendar year?	No, does not test in the first two weeks of the first month of each quarter due to the late receipt of the testing list from ADENA	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 she 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. Never testing before 900AM or After 330PM and having the majority of tests on Wednesday 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. That is, for example, an employee knows that they could drink all the alcohol they wanted as long as it was after 330pm. 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. Addressed in #22 in the DAPM Interview section of the summary letter.

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41	Are random drug and alcohol tests unpredictable - e. g. , the tests are conducted on all days of the week when safety sensitive functions are performed?	<p>No. The system runs from 7am-10pm Monday through Saturday. DAPM was not sure what the hours the maintenance staff were on duty.</p> <p>The majority of the tests performed were on Wednesdays during the 10:am hour. See enclosed charts. There were no tests performed prior to 9am and none performed after 3:30pm. At least one test was done on each service day, but the majority (5) were done on Wednesdays.</p>	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. Section 655 regulatory commentary: "FTA reiterated in the NPRM that a primary purpose of random testing is deterrence. Deterrence is most effectively achieved with random, unpredictable drug and alcohol testing that is conducted throughout all workdays and hours of service."	See above Addressed in #22 in the DAPM Interview section of the summary letter.
42	Are random drug and alcohol tests unpredictable - e. g. , the tests are conducted at all times of the day when safety sensitive functions are performed?	No see above	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."	See above Addressed in #22 in the DAPM Interview section of the summary letter.

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43	Do the records indicate that all covered employees are proceeding to the collection site immediately upon notification of their selection for a random drug and/or alcohol test?	No way of knowing this currently. Employees are sent for testing on their own, and there is no documentatin of when the employee is sent or when they arrive at test site.	Section 655.45(h) states: "Each employer shall require that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.45(h) which states that covered employees must proceed to the test site immediately. The DAPM will use the order for testing template provided by RLS to create her own form that will include a section to record when the employee was notified to proceed to testing and when the employee arrived at the testing site. The DAPM's statement will include a copy of this tracking document and an explanation of how this document will be used to keep ongoing record of compliance with this requirement. Addressed in #23 in the DAPM Interview section of the summary letter.
44	Are records of excusals maintained, and do the records indicate that employees are only excused from random testing for legitimate reasons (e.g., on vacation, out sick)?	Yes, DAPM writes it on the random selection list, but needs to include more detail as to why the selected employee is not available for testing.	Section 655.45(e) states: "Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made."	The DAPM will record detailed reason why an employee selected for random testing will not be used and why an alternative is being requested and used. Addressed in #17 in the DAPM Interview section of the summary letter.

#	Question		Regulation	
45	ACTIONS AFTER NON-NEGATIVE TEST RESULTS: Do the records indicate that for each non-negative or refused drug or alcohol test result:1) the employee is immediately removed from safety-sensitive duties; and 2) the employee is referred to a qualified SAP who is reasonably available to the employee?		Null	
46	Upon receiving notice that a covered employee has a verified positive test result, does the DER immediately remove the employee from performing safety-sensitive functions?	DAPM would notify transit manager to remove the employee from safety sensitive duties and begin second chance process, beginning with referrral to SAP.	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."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.61(a). DAPM will use the Positive Drug and Alchohol Testing Log template left by RLS to create her own process to document this notification process to ensure compliance with this regulation.
47	Upon receiving notice from the BAT that a covered employee has a confirmed alcohol test result of 0.02 or greater, does the DER immediately remove the employee from performing safety-sensitive functions?	Yes, but documentation is not in place to track the notification process.	Section 655.61(a)(2) states: "Immediately after receiving notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater, the employer shall require that the covered employee cease performing a safety-sensitive function."	See above.

#	Question		Regulation	
48	Upon receiving notice that a covered employee has refused to submit to a test, does the DER immediately remove the employee from performing safety-sensitive functions?	Yes, but documentation is not in place to track the notification process.	Section 655.61(a)(3) states: "If an employee refuses to submit to a drug or alcohol test, the employer shall require that the covered employee cease performing a safety-sensitive function."	See above
49	Does the employer provide each employee who violates a DOT drug and/or alcohol regulation (including applicants or new employees) a list of SAPs readily available to the employee and acceptable to the employer, including names, addresses, and telephone numbers?	DAPM thought that they did, but when reviewer investigated it became clear that the agency that SAP referrals were going to was not qualified as a SAP.	Section 40.287 states: "As an employer, you must provide to each employee (including an applicant or new employee) who violates a DOT drug and alcohol regulation a listing of SAPs readily available to the employee and acceptable to you, with names, addresses, and telephone numbers. You cannot charge the employee any fee for compiling or providing this list. You may provide this list yourself or through a C/TPA or other service agent."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.62(a). The DAPM will research and secure a properly credentialed SAP to be used as a referral when needed and will send the SAP's contact information and a copy of their credentials as part of the response statement. The DAPM will also create a clear process which includes documentation for when a SAP referral is needed. Addressed in #30 in the DAPM Interview section of the summary letter.

#	Question		Regulation	
50	RETURN TO DUTY AND FOLLOW-UP TESTING: If the company has a Second-Chance policy, do the records indicate that the Return-to-Duty and Follow-up process is conducted properly, including:1) Evaluation by a properly qualified SAP;2) Receipt of the initial evaluation report by the SAP;3) Return to Duty test after written recommendation by the SAP;4) Receipt of the frequency and duration of follow-up testing plan from the SAP; 5) Adherence to the follow-up testing plan; and 6) All RTD/Follow-up tests conducted since 9/1/2009 have been performed under direct observation?		Null	
51	Does the employer ensure that an employee with direct or immediate supervisory responsibility or authority over another employee does not serve as the urine collection person, breath alcohol technician, or saliva-testing technician for a drug or alcohol test of the employee?	N/A Off site testing facility is used.	Section 655.53 states: "An employer shall not permit an employee with direct or immediate supervisory responsibility or authority over another employee to serve as the urine collection person, breath alcohol technician, or saliva-testing technician for a drug or alcohol test of the employee."	None

#	Question		Regulation	
52	Does the employer ensure that before an employee returns to safety-sensitive duties following a regulatory violation, the employee receives an evaluation by a SAP meeting the requirements of Section 40.281, and that the employee successfully complies with the recommendations in the SAP evaluation?	The DAPM stated that she is responsible for the referral to a SAP in all instances. However the referral that she has been making as been to a counseling provider that is not SAP certified (see above) There were no records of a DOT covered employee testing positive in the files.	Section 40.289(b) states: "If you offer an employee an opportunity to return to a DOT safety-sensitive duty following a violation, you must, before the employee again performs that duty, ensure that the employee receives an evaluation by a SAP meeting the requirements of Section 40.281 and that the employee successfully complies with the SAP's evaluation recommendations."	See #49 above
53	Does the SAPs written report of the initial evaluation meet the reporting requirements of Part 40?	No. The one written report available for review was done for a non-DOT covered employee and the evaluation provided did not meet the reporting requirements of Part 40. The professional making the evaluation was not SAP certified.	Section 40.311(b) states: "The SAP's written report, following an initial evaluation that determines what level of assistance is needed to address the employee's drug and/or alcohol problems, must be on the SAP's own letterhead (and not the letterhead of another service agent) signed and dated by the SAP, and must contain the following delineated items: (1) Employee's name and SSN; (2) Employer's name and address;(3) Reason for the assessment (specific violation of DOT regulations and violation date);(4) Date(s) of the assessment;(5) SAP's education and/or treatment recommendation; and (6) SAP's telephone number."	See above

#	Question		Regulation	
54	Does the SAP's written report of the follow-up evaluation meet the reporting requirements of Part 40?	No see above	Section 40.311(d) states: "The SAP's written report concerning a follow-up evaluation that determines the employee has demonstrated successful compliance must be on the SAP's own letterhead (and not the letterhead of another service agent), signed by the SAP and dated, and must contain the following items:(1) Employee's name and SSN;(2) Employer's name and address;(3) Reason for the initial assessment (specific violation of DOT regulations and violation date);(4) Date(s) of the initial assessment and synopsis of the treatment plan;(5) Name of practice(s) or service(s) providing the recommended education and/or treatment; (6) Inclusive dates of employee's program participation; (7) Clinical characterization of employee's program participation;(8) SAP's clinical determination as to whether or not the employee has demonstrated successful compliance;(9) Follow-up testing plan;(10) Employee's continuing care needs with specific treatment, aftercare, dates of any further follow-up evaluation the SAP has scheduled, and/or support group services recommendations; and (11) SAP's telephone number."	See above Addressed in #31 in the DAPM Interview section of the summary letter.

#	Question		Regulation	
55	If the employer decides to permit an employee to return to the performance of safety-sensitive functions, does the employer ensure that the employee takes a return-to-duty drug and/or alcohol test with a negative result and that this test does not occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment?	Yes, the DAPM understood this requirement.	Section 40.305(a) states: "As the employer, if you decide that you want to permit the employee to return to the performance of safety-sensitive functions, you must ensure that the employee takes a return-to-duty test. This test cannot occur until after the SAP has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties."	None
56	Do the records indicate that the employer is conducting follow-up testing in accordance with SAPs prescribed testing requirements, and does the employer schedule follow-up tests on dates of its own choosing, in an unpredictable manner, and with no prior notice to the employee?	No, the DAPM did not know the basic testing minimum required for follow up testing.	Section 40.309(a) states: "As the employer, you must carry out the SAP's follow-up testing requirements. You may not allow the employee to continue to perform safety-sensitive functions unless follow-up testing is conducted as directed by the SAP."	See above Addressed in #31 in the DAPM Interview section of the summary letter.

#	Question		Regulation	
57	Do the records indicate that the employer ever substitutes any other tests (e.g., random tests, post-accident tests) or a cancelled follow-up test to comply with the SAPs follow-up testing requirement?	There was no record of this, but the DAPM was not aware of this regulation	Section 40.309(d) states: "You [the employer] cannot substitute any other tests (e.g., those carried out under the random testing program) conducted on the employee for this follow-up testing requirement." Section 40.309(c) states: "You [the employer] cannot count a follow-up test that has been cancelled as a completed test. A cancelled follow-up test must be recollected."	See above. Addressed in #31 in the DAPM Interview section of the summary letter.
58	Do the records indicate that all Return-to-duty and Follow-up tests conducted since September 1, 2009 have been performed under direct observation?	No record of this, but the DAPM stated that she understood this requirement.	Section 40.67(b) states: "As an employer, you must direct a collection under direct observation of an employee if the drug test is a return-to-duty test or a follow-up test."	See above and add DAPM will use the Return-to-Duty/Follow-up Testing Log template left by RLS to create a documentation process for any future positive test results.
59	If the record includes any case(s) in which a return-to-duty or follow-up test that should have been observed was not, did the MRO or other vendor hold the original result and request that the employer immediately direct the employee to submit to recollection under direct observation?	Same as above	A notice from the Department of Transportation's Office of Drug and Alcohol Policy and Compliance, dated September 10, 2009, reads: "If a collector, Medical Review Office (MRO), Third Party Administrator (TPA), or other service agent learns that a Direct Observation collection using the required procedures was not conducted, the employer needs to be informed. Upon learning that a Direct Observation collection using the required procedures was not conducted, the employer needs to direct the employee to have an immediate recollection under Direct Observation."	Same as above. Addressed in #31 in the DAPM Interview section of the summary letter.

#	Question		Regulation	
60	<p>GENERAL TESTING REQUIREMENTS:</p> <p>Does the auditor observe that the employer or service agent maintains compliance with the following: 1) Adherence to company policy regarding the treatment of dilute negative test results; 2) Fatally flawed tests are canceled and the collector is retrained; 3) Correctable flaws are corrected with an affidavit and the collector is retrained; 4) Canceled pre-employment, return-to-duty and follow-up tests are immediately rescheduled by the employer and a successful collection is obtained; 5) Employer immediately schedules an observed collection when required to do so by the MRO and a successful observed collection is obtained; 6) The employer does not require consent or release of liability from its employees or applicants; 7) The employer notifies employees/applicants of the requirement that testing is performed under the authority of FTA's 49 CFR Part 655; and 8) Supervisors with direct or immediate authority over an employee do not act as the collector or alcohol technician for that employee?</p>		Null	

#	Question		Regulation	
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?	There is no record of any dilute-negative test results being received. DAPM was not aware of this possibility and did not have any knowledge of how to handle the result.	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 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."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.197(b). The DAPM will ensure that the revised policy that she creates using the policy template supplied by RLS addresses how Chillicothe Transit System will handle Dilute Negative test results in the future.

#	Question		Regulation	
62	Do the records indicate that the employer or other person administering the drug and alcohol testing process reviews CCFs and identifies and corrects any errors in the testing process of which they become aware, even if they are not considered problems that will cause a test to be cancelled?	It was clear in reviewing the records that the DAPM does not check the CCFs for errors and has not made any corrections to existing errors in the past several years.	Section 40.209(a) states: "As a collector, laboratory, MRO, employer or other person administering the drug testing process, you must document any errors in the testing process of which you become aware, even if they are not considered problems that will cause a test to be cancelled as listed in this subpart. Decisions about the ultimate impact of these errors will be determined by other administrative or legal proceedings, subject to the limitations of paragraph b of this section [40.209(b)]." Section 40.275(a) states: "As an STT, BAT, employer, or a service agent administering the testing process, you must document any errors in the testing process of which you become aware, even if they are not fatal flaws or correctable flaws."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.209 (A) and will use the Affidavit of Corrections template left by RLS to create her own correction document that she will use to correct any errors that she finds on CCF as she receives them. This statement must also include an explanation from the DAPM of the review and documentation process that she will use to meet this requirement moving forward.

#	Question		Regulation	
63	Do the records indicate that any drug or alcohol tests were cancelled because they were determined to be fatally flawed? If so, has the transit operator sought and received indication that the service agent has received the required retraining?	No, there were no records of fatally flawed test, and the DAPM had no knowledge of what a fatally flawed test was.	Section 40.33(f) states: "Error Correction Training. If you make a mistake in the collection process that causes a test to be cancelled or rejected (i.e., a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining." Section 40.33(g) states: "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 using or negotiating to use your services."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.33 (f) (g). The DAPM must understand the errors that can occur to create a fatally flawed test and review all CCF's to ensure that these tests have been identified and employees retested if necessary. This statement must also include an explanation from the DAPM of how this requirement will be met moving forward.

#	Question		Regulation	
64	Do the records indicate that any drug or alcohol tests which had correctable flaws were cancelled because they were not properly resolved? If tests were cancelled, has the transit operator sought and received indication that the service agent has received the required retraining?	The DAPM was not aware that CCF were not correct and had made no attempt to correct the CCFs.	Section 40.205(b) states: "If, as a collector, laboratory, MRO, employer, or other person implementing these drug testing regulations, you become aware of a problem that can be corrected (see Section 40.203), but which has not already been corrected under paragraph (a) of this section, you must take all practicable action to correct the problem so that the test is not cancelled." Section 40.33(f) states: "Error Correction Training. If you make a mistake in the collection process that causes a test to be cancelled or rejected (i.e., a fatal or uncorrected flaw), you must undergo error correction training. This training must occur within 30 days of the date you are notified of the error that led to the need for retraining." Section 40.33(g) states: "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 using or negotiating to use your services."	See above

#	Question		Regulation	
65	Do the records indicate that, after receipt of a cancelled test result when a negative result is required (i.e. pre-employment, return-to-duty, or follow-up test), the employer directed the employee to provide another specimen immediately and was that specimen properly collected?	No records indicated a cancelled test result, and DAPM was not aware of this regulation	Section 40.23(g) states: "As an employer who receives a cancelled test result when a negative result is required (e.g., pre-employment, return-to-duty, or follow-up test), you must direct the employee to provide another specimen immediately."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.23(g). DAPM will use Pre-Employment and Return-To-Duty/Follow-Up logs that she creates to track the results of tests to ensure that any cancelled tests are recorded and that the employee is sent for retesting immediately.
66	Do the records indicate that, after the MRO required an immediate observed collection, the employer directed an immediate collection under direct observation with no advance notice to the employee, and that the specimen was properly obtained?	No record of a required observed test done. DAPM was not aware of this regulation.	Section 40.67(a) states: "As an employer you must direct an immediate collection under direct observation with no advance notice to the employee, if: ... (2) The MRO reported to you that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed."	The DAPM must submit a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 40.67 (a).

#	Question		Regulation	
67	Does the employer request the following information from the DOT-regulated employers who have employed the applicant or transferee for any period during the two years prior to the date of application or transfer: (1) Alcohol tests with a result of 0.04 or higher alcohol concentration; (2) Verified positive drug tests;(3) Refusals to be tested (including verified adulterated or substituted drug test results); (4) Other violations of DOT agency drug and alcohol testing regulations; and (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests)?		Section 40.25(a) states: " As an employer, you must, after obtaining an employee's written consent, request the information about the employee listed in Section 40.25(b). Section 40.25(b) states: "You must request the following information from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer: (1) Alcohol tests with a result of 0. 04 or higher alcohol concentration;(2) Verified positive drug tests; (3) Refusals to be tested (including verified adulterated or substituted drug test results); (4) Other violations of DOT agency drug and alcohol testing regulations; and (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-do-duty process (e. g. , an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee."	

#	Question		Regulation	
68	Does the employer require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by Part 40 (including, but not limited to, collections, laboratory testing, and MRO and SAP services)?	No	Section 40.27 states: "As an employer, you must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO and SAP services)."	None
69	Before performing a drug or alcohol test under Section 655, does the employer notify the covered employee that the test is required under Section 655?	No documentation available on this. DAPM believes that it is done after the interview process, and before the employee begins duties, but is not clear and has no records of this in her files at her office. She thinks they might be available at the Transit Agency Office.	Section 655.17 states: "Before performing a drug or alcohol test under this part, each employer shall notify a covered employee that the test is required by this part. No employer shall falsely represent that a test is administered under this part."	The DAPM must provide a signed statement certifying that she has read and fully understands the requirements of 49 CFR Part 655.17. The DAPM will use the Order For Testing and Acknowledgment of Employer's Drug and Alcohol policy templates supplied by RLS to create her own documents that give notification to employees under whose authority they are being tested.
0	FINAL SECTION: ACCESS TO RECORDS			

#	Question		Regulation	
70	If the C/TPA or other service agent acts as an intermediary in the transmission of drug and alcohol testing information, has the employer chosen to have the C/TPA or other service agent perform this function?	N/A	Section 40.345(a) states: "As a C/TPA or other service agent, you may act as an intermediary in the transmission of drug and alcohol testing information in the circumstances specified in Section 40.345 only if the employer chooses to have you do so. Each employer makes the decision about whether to receive some or all of this information from you, acting as an intermediary, rather than directly from the service agent who originates the information (e.g., an MRO or BAT)."	None

#	Question		Regulation	
71	If the C/TPA maintains records for the employer, were those records made available to the audit team in an appropriate and timely manner?	N/A	Section 40.331(c) states: "If you are a service agent, you must, upon request of DOT agency representatives, provide the following:(1) Access to your facilities used for this part and DOT agency drug and alcohol program functions. (2) All written, printed, and computer-based drug and alcohol program records and reports (including copies of name-specific records or reports), files, materials, data, documents/documentation, agreements, contracts, policies, and statements that are required by this part and DOT agency regulations. You must provide this information at your principal place of business in the time required by the DOT agency. (3) All items in paragraph (b)(2) of this section must be easily accessible, legible, and provided in an organized manner. If electronic records do not meet these standards, they must be converted to printed documentation that meets these standards."	None

#	Question		Regulation	
72	Did the employer permit access to all facilities utilized and records compiled in complying with the requirements of this part and disclose data for its drug and alcohol testing programs, and any other information pertaining to the employer's anti-drug and alcohol misuse programs to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees or to a State oversight agency authorized to oversee rail fixed guide way systems?	Yes, the employer did permit access to all facilities utilized and records compiled. However, the DAPM was not prepared for the audit team and did not have all of the requested records available for viewing. Some of the records are located at the transit office. The DAPM did cooperate with the audit team to the best of her ability, but was not able to produce some required information and at times did not understand the requirements of the program.	Section 655.73(d) states: "An employer shall disclose data for its drug and alcohol testing programs, and any other information pertaining to the employer's anti-drug and alcohol misuse programs required to be maintained by this part, to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or covered employee or to a State oversight agency authorized to oversee rail fixed guide way systems, upon the Secretary's request or the respective agency's request." Section 655.73(c) states: "An employer shall permit access to all facilities utilized and records compiled in complying with the requirements of this part to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its employees or to a State oversight agency authorized to oversee rail fixed guide way systems upon the Secretary's request or the respective agency's request."	
0	THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.			