

# Drug and Alcohol Program Manager Interview Questions

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#	Question	Regulation
<b>TO START OFF, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE REGULATIONS</b>		
1.	Do you have a copy of the DOT and Federal Transit Administration testing regulations 49 CFR Parts 40 and 655?	Section 655.11 states: "Each employer shall establish an anti-drug use and alcohol misuse program consistent with the requirements of this part." The DAPM should have available 49 CFR Part 655 to use as a resource in complying with the FTA drug and alcohol testing requirements.
<b>NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT YOUR POLICIES AND PROCEDURES.</b>		
2.	Does this employer make available and provide written notice of the availability of the adopted FTA anti-drug and alcohol misuse policy to all covered employees and representatives of any employee organizations? How?	Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."
3.	Does this employer make available and provide written notice of revisions to the adopted FTA anti-drug and alcohol misuse policy to all covered employees and representatives of any employee organizations? How?	Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."
4.	Does this employer maintain a record that each employee has received a copy of the anti-drug and alcohol misuse policy, or a written notice that the policy is available for review?	Section 655.15 states: "The local governing board of the employer or operator shall adopt an anti-drug and alcohol misuse policy statement. The statement must be made available to each covered employee ..." Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."
5.	Does this employer maintain a record that each employee has received a copy of revisions to the anti-drug and alcohol misuse policy, or a written notice that the revised policy is available for review?	Section 655.16 states: "Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures."
6.	What job categories or functions are considered safety-sensitive at this company?	Section 655.15 states: "...The [policy] statement must be made available to each covered employee, and shall include the following: ... (b) The categories of employees who are subject to the provisions of this part." Section 655.4 defines "covered employee" as "a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity subject to this part."

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7.	Do you utilize volunteers and are they FTA-covered employees subject to 49 CFR Part 40?	Section 655.4 defines covered employee stating "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."
8.	Are you notified of all FTA testing, so as to take immediate action, if necessary?	Section 40.3 defines "Designated employer representative (DER)" as "An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs."
9.	Does this employer conduct non-DOT drug and/or alcohol testing and if so is it completely separate (separate random pools, separate CCFs and ATFs, etc.) from DOT testing?	<p>Section 655.15 states: "The [policy] statement must be made available to each covered employee, and shall include the following: ...  (j) 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> <p>Section 40.13 states: "(a) DOT tests must be completely separate from non-DOT tests in all respects. (b) 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. (c) Except as provided in paragraph (d) of this section, you must not perform any tests on DOT urine or breath specimens other than those specifically authorized by this part or DOT agency regulations. For example, you may not test a DOT urine specimen for additional drugs, and a laboratory is prohibited from making a DOT urine specimen available for a DNA test or other types of specimen identity testing."</p>

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10.	Do you ever perform DOT testing above and beyond what is required by FTA? (E.g., an accident that does not exceed FTA thresholds, alcohol pre-employment, etc.)	<p>Section 40.47(a) states: "... as an employer, you are prohibited from using the CCF for non-Federal urine collections. You are also prohibited from using non-Federal forms for DOT urine collections. Doing either subjects you to enforcement action under DOT agency regulations."</p> <p>Section 40.227(a) states: "... as an employer, BAT, or STT, you are prohibited from using the ATF for non-DOT alcohol tests. You are also prohibited from using non-DOT forms for DOT alcohol tests. Doing either subjects you to enforcement action under DOT agency regulations."</p>
11.	Are the Federal Drug Testing Custody and Control Form (CCF) and DOT Alcohol Testing Form(ATF) only used for DOT tests, and are they always used when it is a DOT test?	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."
12.	If a non-DOT CCF or ATF is used for a DOT test, do you know what the regulations require you to do to correct this flaw?	The transit system has until the end of the business day that the error is discovered to correct the mistake with an affidavit that explains the misuse of forms.
13.	Before performing a drug or alcohol test, how does the transit system inform each employee of the testing authority (i.e., FTA authority, transit system authority)?	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."

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14.	What information do you provide to the collection site for each DOT test you are requesting?	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)."
15.	How do you ensure that DOT tests can be conducted at all times when safety-sensitive functions may be performed? (I.e., late night, weekends, holidays, maintenance hours, etc., if applicable.)	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."
16.	Do you ever use a hospital for testing on a contingency basis? Do you know that they use documented trained collectors for DOT testing?	Section 40.31(a) states "Collectors meeting the requirements of this subpart are the only persons authorized to collect urine specimens for DOT drug testing. (b) A collector must meet training requirements of Section 40.33."
17.	Have all safety-sensitive employees received receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use?	Section 655.14(b)(1) states: "Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use."
18.	Have all employees authorized to initiate FTA reasonable suspicion testing received at least 60 minutes of training on the indicators of probable drug use, and 60 minutes of training on the indicators of probable alcohol misuse?	Section 655.14(b)(2) states: "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."

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19.	For how long do you maintain documentation related to supervisor reasonable suspicion training?	<p>Section 655.71(c) states: "The following specific records must be maintained: (1) Records related to the collection process: (i) Collection logbooks, if used. (ii) Documents relating to the random selection process. (iii) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests."</p> <p>Section 655.71(b) states: "In determining compliance with the retention period requirement, each record shall be maintained for the specified minimum period of time as measured from the date of the creation of the record. Each employer shall maintain the records in accordance with the following schedule: ...(2) Two years. Records related to the collection process and employee training."</p>
20.	Does this transit system document Reasonable Suspicion referrals?	Section 655.71(c) states: "The following specific records must be maintained: (1) Records related to the collection process: ...(iii) Documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests."
<b>NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT THE PRE-EMPLOYMENT DRUG TESTING PROCESS.</b>		
21.	At what point in the hiring process do you require applicants for safety-sensitive positions to pass a FTA pre-employment drug test?	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."
22.	How do you record the first date that new hires or transferees begin safety-sensitive functions?	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."

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23.	Do you perform pre-employment alcohol testing for all/any safety-sensitive positions?	Section 655.42 states "An employer may, but is not required to, conduct pre-employment alcohol testing under this part. If an employer chooses to conduct pre-employment alcohol testing, the employer must comply with the following requirements:...(d) The employer must conduct all pre-employment alcohol tests using the alcohol testing procedures set forth in 49 CFR Part 40."
24.	If a non-safety-sensitive employee transfers to a safety-sensitive position what testing requirements do you administer prior to allowing the employee to perform safety-sensitive duties?	Section 655.41(b) states: "An employer may not transfer an employee from a nonsafety-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."
25.	When a safety-sensitive employee is to be on extended leave (90 or more consecutive days) and will not be performing safety-sensitive functions, how do you handle their placement in the DOT random testing pool and do you do anything upon their return and prior to their performance of safety-sensitive function?	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."
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?	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 preemployment 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)."
<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT THE RANDOM SELECTION PROCESS.</b>		
27.	How and when do you update your DOT random testing pool used for random selections?	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." This requirement can only be met by the transit system if all employees performing safety-sensitive duties are included in the random testing pool each time random selections are made.

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28.	What random selection method is used by this employer to select covered employees for FTA drug and alcohol testing?	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."
29.	How frequently does this employer or the C/TPA make random selections?	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." Generating random selection lists infrequently increases the chance that employee turnover will make meeting Section 655.45(e) unattainable because the transit system does not have an effectively updated testing pool. The preamble to Part 655 states: "FTA believes that the public safety interest is promoted with random testing that is truly random and unpredictable. However, 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."
30.	How do you determine if the random test to be conducted will be a random alcohol, random drug or both?	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." Generating random selection lists infrequent increases the chance that employee turnover will make meeting Section 655.45(e) unattainable because the transit system does not have an effectively updated testing pool. The preamble to Part 655 states: "FTA believes that the public safety interest is promoted with random testing that is truly random and unpredictable. However, 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."
31.	How is the random selection list transmitted to the DER and who has access to the list?	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." To ensure that the random testing process is not compromised, random testing lists should be transmitted by a secure means and only to individuals authorized to receive such information.



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32.	Does this transit system conduct random testing on all work days, when safety-sensitive functions are being performed, including weekends and holidays?	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."
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.)?	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."
34.	After being informed of the test requirement, how long until the employee proceeds to the collection site? How long is the employee given to arrive at the collection 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."
35.	If the DAPM is safety-sensitive and is in the random pool and the DAPM's name is selected for a random test, how is the DAPM made aware that their name is on the current random selection list and when does the DAPM proceed for random testing?	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.."
36.	When, if ever, would you excuse an employee, selected for a random test, from random 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 requirements in Section 655.45(e) can not met if employees can be excused when they are legitimately at the work site and available for testing. A valid excusal from testing can result if an employee is not working the day of the test (e.g., vacation, long term disability, illness). Excused employees must be tested when they return to work provided the employee returns before the next random selection list is generated. For instance, if a new list is generated each week, the old list expires when the new list arrives. Likewise if a new list is generated each month or each quarter, the previous list expires when the new list is provided.

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37.	If the DAPM or another non-active employee is safety-sensitive and is notified to proceed for random alcohol testing, how does this system ensure that the DAPM is only subject to random alcohol testing just before, during, or just after the performance of safety-sensitive functions?	
38.	Do you use alternates in your random selection process? Under what circumstances would you notify an alternate that they must proceed to the collection site for a random test?	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."
39.	Do you document if an employee is not tested or excused during a random selection period? If so, how?	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 " Written explanations for why employees are excused from testing ensure there is no bias in the random selection process. Section 655.71(c) states: "The following specific records must be maintained: (1) Records related to the collection process: ... (ii) Documents relating to the random selection process."
40.	Do you have a way to know if the employee arrived at the collection site in a timely manner? For instance, does the collection site know who is coming for a test and when that individual should arrive?	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." 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." Section 40.61 states: "As the collector, you must take the following steps before actually beginning a collection: (a) When a specific time for an employee's test has been scheduled, or the collection site is at the employee's work site, and the employee does not appear at the collection site at the scheduled time, contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, you must notify the DER that the employee has not reported for testing."
41.	After the testing is complete, does this transit system maintain a copy of each random selection draw list (e.g., paper copy, electronic file)?	Section 655.71(c) states: "The following specific records must be maintained: (1) Records related to the collection process: (i) Collection logbooks. if used. (ii) Documents relating to the random selection process."

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42.	Did you and your contractors meet the FTA's minimum random testing rates last year?	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 50 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."
<b>NOW, I WOULD LIKE TO ASK SOME QUESTIONS ABOUT POST-ACCIDENT TESTING.</b>		
43.	Who is responsible for deciding to perform a FTA post-accident test? (If DAPM, ask for knowledge of thresholds.)	Section 40.3 defines "Designated employer representative (DER)" as " An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs."
44.	Who has the primary responsibility for assuring that post-accident testing is accomplished?	Section 40.3 defines "Designated employer representative (DER)" as " An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. Service agents cannot act as DERs."
45.	Does this transit system have some method to document the post-accident decision-making process, especially decisions not to conduct a drug and alcohol test following an accident that reaches an FTA threshold?	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." Section 655.71(c) states: "The following specific records must be maintained: (1) Records related to the collection process: (i) Collection logbooks. if used. (ii) Documents relating to the random selection process."

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46.	Would you always perform a DOT post-accident drug and alcohol test after an accident involving a fatality?	Section 655.44(a)(1) states: "Fatal accidents. (i) 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 public transportation vehicle at the time of the accident. Post-accident drug and alcohol testing of the operator is not required under this section if the covered employee is tested under the fatal accident testing requirements of the Federal Motor Carrier Safety Administration rule 49 CFR 389.303(a)(1) or (b)(1). (ii) 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."
47.	Can you list and explain the FTA post-accident testing thresholds? And explain disabling damage?	Section 655.4 defines the term "Disabling damage" as "damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs. (1) Inclusion. Damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven. (2) Exclusions. (i) Damage that can be remedied temporarily at the scene of the accident without special tools or parts. (ii) Tire disablement without other damage even if no spare tire is available. (iii) Headlamp or tail light damage. (iv) Damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable."
48.	In addition to the operator of a transit vehicle, can other covered employees be post-accident tested under FTA authority? If so, under what circumstances?	Section 655.44(a)(1)(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." Section 655.44(a)(2) states: "Nonfatal accidents. (i) As soon as practicable following an accident not involving the loss of human life in which a public transportation vehicle is involved, the employer shall drug and alcohol test each covered employee operating the public transportation 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 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."

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49.	Can an FTA post-accident drug test be performed on an employee who is unable to give consent due to death or unconsciousness?	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 public transportation vehicle at the time of the accident. Section 40.61(b)(3) states: "You [the collector] must not collect, by catheterization or other means, urine from an unconscious employee to conduct a drug test under this part. Nor may you catheterize a conscious employee..."
50.	When would you commence drug and alcohol testing after an accident?	Section 655.44(a) states: "(1) Fatal accidents. (i) As soon as practicable following an accident involving the loss of human life, an employer shall conduct drug and alcohol tests ..." (2) Nonfatal accidents. (i) 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 ...". Section 655.44(e) further states: "Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.
51.	What are the time limits for drug and alcohol post-accident testing? (if DAPM is involved in post-accident decision-making process)	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. 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." 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."
52.	What would be the result if an employee fails to remain "readily available" for testing after an accident?	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."

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53.	Does this company provide the contact information of a qualified Substance Abuse Professional (SAP) readily available to assist any employee who has refused a test or had a positive test? Even if the employee is to be terminated?	<p>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."</p> <p>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."</p>
<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT RETURN-TO-DUTY AND FOLLOW-UP TESTING</b>		
54.	Who would be the person responsible for ensuring that an employee who had a positive drug or alcohol test, or refused a test, was referred to the Substance Abuse Professional, even if the employee is not eligible for reinstatement?	<p>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."</p>
55.	Does this transit system have a second chance policy for employees who refuse or test positive on an FTA drug and/or alcohol test?	<p>Section 655.15 The [policy] statement must be made available to each covered employee, and shall include the following:...(h) The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR Part 40.</p>

#	Question	Regulation
56.	If the SAP determines that an employee is eligible to be reinstated, who determines that the employee is ready to be sent for a Return-to-Duty test and makes the final "fitness for duty" determination?	Section 40.305 states: "(a) 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. (b) As an employer, you must not return an employee to safety-sensitive duties until the employee meets the conditions of paragraph (a) of this section. However, you are not required to return an employee to safety-sensitive duties because the employee has met these conditions. That is a personnel decision that you have the discretion to make, subject to collective bargaining agreements or other legal requirements. (c) As a SAP or MRO, you must not make a "fitness for duty" determination as part of this re-evaluation unless required to do so under an applicable DOT agency regulation. It is the employer, rather than you, who must decide whether to put the employee back to work in a safety-sensitive position.
57.	Does this employer receive a written SAP evaluation of an employee's readiness to return to duty and a follow-up testing plan? (If Yes, ensure that records-review team has appropriate files for review.)	Section 40.307 states: (a) As a SAP, for each employee who has committed a DOT drug or alcohol regulation violation, and who seeks to resume the performance of safety-sensitive functions, you must establish a written follow-up testing plan. You do not establish this plan until after you determine that the employee has successfully complied with your recommendations for education and/or treatment. (b) You (the SAP) must present a copy of this plan directly to the DER (see §40.311(d)(9))." 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:...(8) SAP's clinical determination as to whether the employee has demonstrated successful compliance; (9) Follow-up testing plan... "

#	Question	Regulation
58.	Whose responsibility is it to determine the number of follow-up tests for an individual returning to duty?	Section 40.307(c) states: "You are the sole determiner of the number and frequency of follow-up tests and whether these tests will be for drugs, alcohol, or both, unless otherwise directed by the appropriate DOT agency regulation. For example, if the employee had a positive drug test, but your evaluation or the treatment program professionals determined that the employee had an alcohol problem as well, you should require that the employee have follow-up tests for both drugs and alcohol."
59.	Is the returning employee made aware of the specifics of the follow-up testing schedule (days and times of tests) or is the employee unaware until notification, similarly to random testing?	Section 40.309(b) states: "You should schedule follow-up tests on dates of your own choosing, but you must ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employee is given no advance notice."
60.	Do you review each return-to-duty plan/schedule submitted by the SAP?	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." In order to comply with Section 40.309(a), the employer must review and understand the SAP's return-to-duty plan for each employee.
61.	Who is responsible for ensuring that the SAP's follow-up testing plan for each employee is followed? (Ask to see plan and CFFs/ATFs - Ensure that Records-review team has appropriate files.)	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."
62.	Whose responsibility is it to determine when an employee must actually go for a follow-up test?	Section 40.309 states: "(a) 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. (b) You should schedule follow-up tests on dates of your own choosing, but you must ensure that the tests are unannounced with no discernable pattern as to their timing, and that the employee is given no advance notice." Section 40.307(d)(3) states: "You [the SAP] are not to establish the actual dates for the follow-up tests you prescribe. The decision on specific dates to test is the employer's."
63.	Would you always conduct return-to-duty and follow-up tests under Direct Observation conditions?	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."



#	Question	Regulation
64.	What would you do if you found out that a return-to-duty or follow-up test was not conducted under Direct Observation conditions?	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."
<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT YOUR DRUG AND ALCOHOL INFORMATION SYSTEM AND METHODOLOGY.</b>		
65.	Does this transit system maintain all records related to the drug and alcohol program in a secure location with controlled access?	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."
66.	Are you notified of alcohol test results of $\geq 0.02$ ? If so, when and by what method?	Section 40.255(a)(5) states: "Immediately transmit the result directly to the DER in a confidential manner. (i) You 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."
67.	What action would you take upon verbal notification that an employee had an alcohol test result $\geq 0.04$ ? What about 0.02?	Section 40.23 (c) states "As an employer who receives an alcohol test result of 0.04 or higher, you must immediately remove the employee involved from performing safety-sensitive functions. If you receive an alcohol test result of 0.02-0.039, you must temporarily remove the employee involved from performing safety-sensitive functions, as provided in applicable DOT agency regulations. Do not wait to receive the written report of the result of the test."

#	Question	Regulation
68.	When an employee has a positive FTA drug test result, by what method and how soon after the test is verified does the MRO or C/TPA notify the transit system?	Section 40.167 states: "As the MRO or C/TPA who transmits drug test results to the employer, you must comply with the following requirements: (a) You must report the results in a confidential manner. (b) You must transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test. (1) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see §40.163). (2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification. (3) The MRO's report that you transmit to the employer must contain all of the information required by §40.163 . (c) You must transmit the MRO's report(s) of verified tests to the DER so that the DER receives it within two days of verification by the MRO. (1) You must fax, courier, mail, or electronically transmit a legible image or copy of either the signed or stamped and dated Copy 2 or the written report (see §40.163(b) and (c)). (2) Negative results reported electronically (i.e., computer data file) do not require an image of Copy 2 or the written report."
69.	What action would you take upon verbal notification from the MRO/TPA that an employee had verified positive drug test?	Section 40.23(a) states "As an employer who receives a verified positive drug test result, you must immediately remove the employee involved from performing safety-sensitive functions. You must take this action upon receiving the initial report of the verified positive test result. Do not wait to receive the written report or the result of a split specimen test."
70.	Have the transit system and the MRO or C/TPA established a password or other verification method to ensure that verbal transmission of positive test results from the MRO is secure?	Section 40.167(b) states: "You (the MRO or C/TPA) must transmit to the DER on the same day the MRO verifies the result or the next business day all verified positive test results, results requiring an immediate collection under direct observation, adulterated or substituted specimen results, and other refusals to test. (1) Direct telephone contact with the DER is the preferred method of immediate reporting. Follow up your phone call with appropriate documentation (see §40.163). (2) You are responsible for identifying yourself to the DER, and the DER must have a means to confirm your identification."

#	Question	Regulation
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?	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 news" and permit the applicant to perform safety-sensitive duties before receiving the result. This is a violation of the Department's regulations."
72.	Do you use a consortium or third-party administrator (C/TPA)?	
<b>NOW, I WOULD LIKE TO ASK A FEW QUESTIONS ABOUT CONTRACTORS THAT PROVIDE SAFETY-SENSITIVE SERVICES FOR THIS TRANSIT SYSTEM.</b>		
73.	Are you aware of all safety-sensitive contracts, and do you monitor contractor compliance with Parts 40 and 655?	Section 40.11 states: "(a) As an employer, you are responsible for meeting all applicable requirements and procedures of this part. (b) You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations. (c) All agreements and arrangements, written or unwritten, between and among employers and service agents concerning the implementation of DOT drug and alcohol testing requirements are deemed, as a matter of law, to require compliance with all applicable provisions of this part and DOT agency drug and alcohol testing regulations. Compliance with these provisions is a material term of all such agreements and arrangements." Section 655.81 states: "A recipient shall ensure that a subrecipient or contractor who receives 49 U.S.C. 5307, 5309, or 5311 funds directly from the recipient complies with this part." Correctly identifying contractors who must comply with FTA drug and alcohol testing requirements is the first step in the oversight process."
74.	Does this employer utilize contractors who perform safety-sensitive duties?	

#	Question	Regulation
75.	How do you monitor the drug and alcohol programs of your contractors?	<p>Section 40.11(b) states: "You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations."</p> <p>Section 655.81 states: "A recipient shall ensure that a subrecipient or contractor who receives 49 U.S.C. 5307, 5309, or 5311 funds directly from the recipient complies with this part."</p> <p>Correctly identifying contractors who must comply with FTA drug and alcohol testing requirements is the first step in the oversight process.</p> <p>Section 655.73(i) states: "An employer may disclose drug and alcohol testing information required to be maintained under this part, pertaining to a covered employee, to the State oversight agency or grantee required to certify to FTA compliance with the drug and alcohol testing procedures of 49 CFR parts 40 and 655."</p>
76.	Did you receive this year's Drug and Alcohol MIS reports or MIS data from all of your contractors in a timely manner and were they submitted to FTA by March 15th?	Section 655.72(c) states: "Each recipient shall be responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf."
77.	Are your covered contractors and vendors in compliance with the FTA drug and alcohol rules?	<p>Section 40.11(b) states: "You are responsible for all actions of your officials, representatives, and agents (including service agents) in carrying out the requirements of the DOT agency regulations."</p> <p>Section 655.81 states: "A recipient shall ensure that a subrecipient or contractor who receives 49 U.S.C. 5307, 5309, or 5311 funds directly from the recipient complies with this part."</p>
<b>NOW, I WOULD LIKE TO ASK YOU A FEW QUESTIONS ABOUT THIS COMPANY'S DRUG AND ALCOHOL MIS REPORT.</b>		
78.	Does this employer assemble an annual summary of the results of the drug and alcohol program (MIS), certify that the results are correct and as requested submit to FTA by March 15th?	Section 655.72 states: "(a) Each recipient shall annually prepare and maintain a summary of the results of its anti-drug and alcohol misuse testing programs performed under this part during the previous calendar year. (b) When requested by FTA, each recipient shall submit to FTA's Office of Safety and Security, or its designated agent, by March 15, a report covering the previous calendar year (January 1 through December 31) summarizing the results of its anti-drug and alcohol misuse programs. (c) Each recipient shall be responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf."

#	Question	Regulation
79.	Did the employer ensure the accuracy and timeliness of each report submitted by the employer, contractor, consortium and/or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf?	Section 655.72 states: "(a) Each recipient shall annually prepare and maintain a summary of the results of its anti-drug and alcohol misuse testing programs performed under this part during the previous calendar year. (b) When requested by FTA, each recipient shall submit to FTA's Office of Safety and Security, or its designated agent, by March 15, a report covering the previous calendar year (January 1 through December 31) summarizing the results of its anti-drug and alcohol misuse programs. (c) Each recipient shall be responsible for ensuring the accuracy and timeliness of each report submitted by an employer, contractor, consortium or joint enterprise or by a third party service provider acting on the recipient's or employer's behalf."
<b>FINALLY, AND PURELY AS A MATTER OF INFORMATION GATHERING AND NOT REGULATORY COMPLIANCE, WOULD LIKE TO ASK A FEW QUESTIONS ABOUT ANY POLICIES AND PROCEDURES YOUR SYSTEM MAY HAVE CONCERNING THE USE OF OVER-THE-COUNTER AND PRESCRIPTION DRUGS BY SAFETY-SENSITIVE EMPLOYEES.</b>		
80.	Do you use the services of a medical practitioner to determine employee fitness for duty while taking a prescription medication?	
81.	Do you require safety-sensitive employees to report all Rx/OTC medication use?	
82.	If so, is the medical practitioner the prescribing physician, transit system physician, CDL physician, other?	
83.	Do you use the services of a medical practitioner to determine employee fitness for duty while taking an over-the-counter medication?	
84.	If so, is the medical practitioner the employee's physician, transit system physician, CDL physician, pharmacist or other?	
85.	Are the employee's essential job functions communicated to the prescribing physician?	
86.	Do you address the use of Rx/OTC medication with an employee during an accident investigation procedure? If yes, do you address Rx/OTC as part of your standard accident/investigation procedure or only when the circumstances of the accident point toward Rx/OTC as a potential contributing factor?	
87.	If Rx/OTC medications were determine to have had a causal or contributing effect on an accident, how was the determination made (i.e., employee self report, testing in addition to the required DOT test, fitness for duty medical evaluation, review of employee's medical records on file, hospital report, police report, etc.)?	

#	Question	Regulation
88.	Was the Drug and Alcohol Program Manager prepared for the audit team, and did the DAPM cooperate with the audit team and facilitate the audit process, including producing the required records?	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 guideway systems. (d) 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 guideway systems, upon the Secretary's request or the respective agency's request."

**THAT WAS THE LAST QUESTION. THANK YOU FOR YOUR TIME AND INPUT.**