Federal Aviation Administration, DOT

§ 120.115 Employee Assistance Program (EAP).

(a) The employer shall provide an EAP for employees. The employer may establish the EAP as a part of its internal personnel services or the employer may contract with an entity that will provide EAP services to an employee. Each EAP must include education and training on drug use for employees and training for supervisors making determinations for testing of employees based on reasonable cause.

(b) EAP education program. (1) Each EAP education program must include at least the following elements:

(i) Display and distribution of informational material;

(ii) Display and distribution of a community service hot-line telephone number for employee assistance; and

(iii) Display and distribution of the employer’s policy regarding drug use in the workplace.

(2) The employer’s policy shall include information regarding the consequences under the rule of using drugs while performing safety-sensitive functions, receiving a verified positive drug testing result, and refusal to submit to a test.

(c) Substance Abuse Professional (SAP). The SAP must perform the functions set forth in 49 CFR part 40, subpart O.

(d) Additional Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities Regarding 14 CFR part 67 Airman Medical Certificate Holders. (1) As part of verifying a confirmed positive test result or refusal to submit to a test, the MRO must ask and the individual must answer whether he or she holds an airman medical certificate issued under 14 CFR part 67 or would be required to hold an airman medical certificate to perform a safety-sensitive function for the employer. If the individual answers in the affirmative to either question, in addition to notifying the employer in accordance with 49 CFR part 40, the MRO must forward to the Federal Air Surgeon, at the address listed in paragraph (d)(5) of this section, the name of the individual, along with identifying information and supporting documentation, within 2 working days after verifying a positive drug test result or refusal to submit to a test.

(2) During the SAP interview required for a verified positive test result or a refusal to submit to a test, the SAP must ask and the individual must answer whether he or she holds or would be required to hold an airman medical certificate issued under 14 CFR part 67 to perform a safety-sensitive function for the employer. If the individual answers in the affirmative, the individual must obtain an airman medical certificate issued by the Federal Air Surgeon dated after the verified positive drug test result date or refusal to test date. After the individual obtains this airman medical certificate, the SAP may recommend to the employer that the individual may be returned to a safety-sensitive position. The receipt of an airman medical certificate does not alter any obligations otherwise required by 49 CFR part 40.

(3) An employer must forward to the Federal Air Surgeon within 2 working days of receipt, copies of all reports provided to the employer by a SAP regarding the following:

(i) An individual who the MRO has reported to the Federal Air Surgeon under §120.113 (d)(1); or

(ii) An individual who the employer has reported to the Federal Air Surgeon under §120.111(d).

(4) The employer must not permit an employee who is required to hold an airman medical certificate under 14 CFR part 67 to perform a safety-sensitive duty to resume that duty until the employee has:

(i) Been issued an airman medical certificate from the Federal Air Surgeon after the date of the verified positive drug test result or refusal to test; and

(ii) Met the return to duty requirements in accordance with 49 CFR part 40.

(5) Reports required under this section shall be forwarded to the Federal Air Surgeon, Federal Aviation Administration, Office of Aerospace Medicine, Attn: Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591.

(6) MROs, SAPs, and employers who send reports to the Federal Air Surgeon must keep a copy of each report for 5 years.
§ 120.117 Implementing a drug testing program.

(a) Each company must meet the requirements of this subpart. Use the following chart to determine whether your company must obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification or whether you must register with the FAA.

<table>
<thead>
<tr>
<th>If you are . . .</th>
<th>You must . . .</th>
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<tr>
<td>(1) A part 119 certificate holder with authority to operate under parts 121 and/or 135.</td>
<td>Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your FAA Principal Operations Inspector.</td>
</tr>
<tr>
<td>(2) A sightseeing operator as defined in § 91.147 of this chapter.</td>
<td>Register with the FAA by contacting the Flight Standards District Office nearest to your principal place of business.</td>
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(b) Use the following chart for implementing a drug testing program if you are applying for a part 119 certificate with authority to operate under parts 121 or 133 of this chapter, if you intend to begin operations as defined in § 91.147 of this chapter, or if you intend to begin air traffic control operations (not operated by the FAA or by or under contract to the U.S. Military). Use it to determine whether you need to have an Antidrug and Alcohol Misuse Prevention Program Operations Specification, or whether you need to register with the FAA. Your employees who perform safety-sensitive functions must be tested in accordance with this subpart. The chart follows:

<table>
<thead>
<tr>
<th>If you are . . .</th>
<th>You must . . .</th>
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<tbody>
<tr>
<td>(1) Apply for a part 119 certificate with authority to operate under parts 121 or 135.</td>
<td>(i) Have an Antidrug and Alcohol Misuse Prevention Program Operations Specification.</td>
</tr>
<tr>
<td>(2) Intend to begin operations as defined in § 91.147 of this chapter.</td>
<td>(ii) Implement an FAA drug testing program no later than the date you start operations, and</td>
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<td></td>
<td>(iii) Meet the requirements of this subpart.</td>
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