

## § 120.119

## 14 CFR Ch. I (1–1–12 Edition)

must contact your FAA Principal Operations Inspector or Principal Maintenance Inspector. Provide him/her with the following information:

- (i) Company name.
- (ii) Certificate number.
- (iii) Telephone number.
- (iv) Address where your drug and alcohol testing program records are kept.
- (v) Whether you have 50 or more safety-sensitive employees, or 49 or fewer safety-sensitive employees. (Part 119 certificate holders with authority to operate only under part 121 of this chapter are not required to provide this information.)

(2) You must certify on your Antidrug and Alcohol Misuse Prevention Program Operations Specification issued by your FAA Principal Operations Inspector or Principal Maintenance Inspector that you will comply with this part and 49 CFR part 40.

(3) You are required to obtain only one Antidrug and Alcohol Misuse Prevention Program Operations Specification to satisfy this requirement under this part.

(4) You must update the Antidrug and Alcohol Misuse Prevention Program Operations Specification when any changes to the information contained in the Operation Specification occur.

(e) *Registering a drug and alcohol testing program with the FAA.* (1) To register with the FAA, submit the following information:

- (i) Company name.
- (ii) Telephone number.
- (iii) Address where your drug and alcohol testing program records are kept.
- (iv) Type of safety-sensitive functions you perform for an employer (such as flight instruction duties, aircraft dispatcher duties, maintenance or preventive maintenance duties, ground security coordinator duties, aviation screening duties, air traffic control duties).
- (v) Whether you have 50 or more safety-sensitive employees, or 49 or fewer covered employees.

(vi) A signed statement indicating that: your company will comply with this part and 49 CFR part 40; and, if you are a contractor, you intend to provide safety-sensitive functions by contract to a part 119 certificate holder

with authority to operate under part 121 and/or part 135 of this chapter, an operator as defined in §91.147 of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military.

(2) Send this information in the form and manner prescribed by the Administrator, in duplicate to the appropriate address below:

(i) For §91.147 operators: The Flight Standards District Office nearest to your principal place of business.

(ii) For all others: The Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591.

(3) Update the registration information as changes occur. Send the updates in duplicate to the address specified in paragraph (e)(2) of this section.

(4) This registration will satisfy the registration requirements for both your drug testing program under this subpart and your alcohol testing program under subpart F of this part.

[Doc. No. FAA-2008-0937, 74 FR 22653, May 14, 2009; Amdt. 120-0A, 75 FR 3154, Jan. 20, 2010]

### § 120.119 Annual reports.

(a) Annual reports of testing results must be submitted to the FAA by March 15 of the succeeding calendar year for the prior calendar year (January 1 through December 31) in accordance with the following provisions:

(1) Each part 121 certificate holder shall submit an annual report each year.

(2) Each entity conducting a drug testing program under this part, other than a part 121 certificate holder, that has 50 or more employees performing a safety-sensitive function on January 1 of any calendar year shall submit an annual report to the FAA for that calendar year.

(3) The Administrator reserves the right to require that aviation employers not otherwise required to submit annual reports prepare and submit such reports to the FAA. Employers that will be required to submit annual reports under this provision will be notified in writing by the FAA.

(b) As an employer, you must use the Management Information System

(MIS) form and instructions as required by 49 CFR part 40 (at 49 CFR 40.26 and appendix H to 49 CFR part 40). You may also use the electronic version of the MIS form provided by DOT. The Administrator may designate means (*e.g.*, electronic program transmitted via the Internet) other than hard-copy, for MIS form submission. For information on where to submit MIS forms and for the electronic version of the form, see: [http://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/aam/drug\\_alcohol](http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/drug_alcohol).

(c) A service agent may prepare the MIS report on behalf of an employer. However, a company official (*e.g.*, Designated Employer Representative as defined in 49 CFR part 40) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

[Doc. No. FAA-2008-0937, 74 FR 22653, May 14, 2009; Amdt. 120-0A, 75 FR 3154, Jan. 20, 2010]

#### § 120.121 Preemption.

(a) The issuance of 14 CFR parts 65, 91, 121, and 135 by the FAA preempts any State or local law, rule, regulation, order, or standard covering the subject matter of 14 CFR parts 65, 91, 121, and 135, including but not limited to, drug testing of aviation personnel performing safety-sensitive functions.

(b) The issuance of 14 CFR parts 65, 91, 121, and 135 does not preempt provisions of state criminal law that impose sanctions for reckless conduct of an individual that leads to actual loss of life, injury, or damage to property whether such provisions apply specifically to aviation employees or generally to the public.

#### § 120.123 Drug testing outside the territory of the United States.

(a) No part of the testing process (including specimen collection, laboratory processing, and MRO actions) shall be conducted outside the territory of the United States.

(1) Each employee who is assigned to perform safety-sensitive functions solely outside the territory of the United States shall be removed from the random testing pool upon the inception of such assignment.

(2) Each covered employee who is removed from the random testing pool

under this section shall be returned to the random testing pool when the employee resumes the performance of safety-sensitive functions wholly or partially within the territory of the United States.

(b) The provisions of this subpart shall not apply to any individual who performs a function listed in §120.105 by contract for an employer outside the territory of the United States.

#### § 120.125 Waivers from 49 CFR 40.21.

An employer subject to this part may petition the Drug Abatement Division, Office of Aerospace Medicine, for a waiver allowing the employer to stand down an employee following a report of a laboratory confirmed positive drug test or refusal, pending the outcome of the verification process.

(a) Each petition for a waiver must be in writing and include substantial facts and justification to support the waiver. Each petition must satisfy the substantive requirements for obtaining a waiver, as provided in 49 CFR 40.21.

(b) Each petition for a waiver must be submitted to the Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591.

(c) The Administrator may grant a waiver subject to 49 CFR 40.21(d).

### Subpart F—Alcohol Testing Program Requirements

#### § 120.201 Scope.

This subpart contains the standards and components that must be included in an alcohol testing program required by this part.

#### § 120.203 General.

(a) *Purpose.* The purpose of this subpart is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol by employees who perform safety-sensitive functions in aviation.

(b) *Alcohol testing procedures.* Each employer shall ensure that all alcohol testing conducted pursuant to this subpart complies with the procedures set forth in 49 CFR part 40. The provisions of 49 CFR part 40 that address alcohol