§ 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>
</tr>
</thead>
<tbody>
<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) An 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>
</tr>
<tr>
<td>(3) An air traffic control facility not operated by the FAA or by or under contract to the U.S. Military.</td>
<td>Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591.</td>
</tr>
<tr>
<td>(4) A part 145 certificate holder who has your own drug testing program.</td>
<td>Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your Principal Maintenance Inspector or register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591, if you opt to conduct your own drug testing program.</td>
</tr>
<tr>
<td>(5) A contractor who has your own drug testing program.</td>
<td>Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591, if you opt to conduct your own drug testing program.</td>
</tr>
</tbody>
</table>

(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 135 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:
If you . . .

(1) Apply for a part 119 certificate with authority to operate under parts 121 or 135.

You must . . .

(i) Have an Antidrug and Alcohol Misuse Prevention Program Operations Specification.

(ii) Implement an FAA drug testing program no later than the date you start operations, and

(iii) Meet the requirements of this subpart.

(2) Intend to begin operations as defined in §91.147 of this chapter.

You must . . .

(i) Register with the FAA, by contacting the Flight Standards District Office nearest to your principal place of business prior to starting operations.

(ii) Implement an FAA drug testing program no later than the date you start operations, and

(iii) Meet the requirements of this subpart.

(3) Intend to begin air traffic control operations (at an air traffic control facility not operated by the FAA or by or under contract to the U.S. military).

You must . . .

(i) Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591 prior to starting operations.

(ii) Implement an FAA drug testing program no later than the date you start operations, and

(iii) Meet the requirements of this subpart.

(c) If you are an individual or company that intends to provide safety-sensitive services by contract to a part 119 certificate holder with authority to operate under parts 121 and/or 135 of this chapter, an operation 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, use the following chart to determine what you must do if you opt to have your own drug testing program.

If you . . .

(1) Are a part 145 certificate holder.

You must . . .

(i) Have an Antidrug and Alcohol Misuse Prevention Program Operations Specification or register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM–850), 800 Independence Avenue, SW., Washington, DC 20591.

(ii) Implement an FAA drug testing program no later than the date you start performing safety-sensitive functions for a part 119 certificate holder with authority to operate under parts 121 or 135, or operator as defined in §91.147 of this chapter, and

(iii) Meet the requirements of this subpart as if you were an employer.

(ii) Telephone number.

(iii) Certificate 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) Are a contractor.

You must . . .

(i) Implement an FAA drug testing program no later than the date you start performing safety-sensitive functions for a part 119 certificate holder with authority to operate under parts 121 or 135, or 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, and

(ii) Meet the requirements of this subpart.

(d) Obtaining an Antidrug and Alcohol Misuse Prevention Program Operations Specification. (1) To obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification, you 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) Certificate number.

(iii) Telephone number.

(iv) Address where your drug and alcohol testing program records are kept.
§ 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 subpart, 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.

(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.

§ 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.