



# IEP CHECKLIST

A SAFETY ASSURANCE COMPONENT OF YOUR SMS

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April 2022

## Drug and Alcohol Program

(PART 135)

Drug and Alcohol Program: A drug and alcohol program is a regulatory requirement for a 119-certificate holder authorized to operate under FAR Parts 135, and air tour operators defined in FAR Part 91.147. For a Part 135 operation with a Part 145 repair station certificate, the drug and alcohol program may be combined if it's implemented under the Part 135 operation. The testing procedures are established in the Department of Transportation's Workplace Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Title 49 CFR Part 40.



# PART 135





**SCALE OF 1-5**

- 1 – Unsatisfactory
- 2 – Poor
- 3 – Meets Minimum Standards
- 4 – Excellent
- 5 – Best Practice

If your answer is not a 3 or better, you must record a finding that requires corrective action.

**1. Are all employees performing safety-sensitive functions, directly or by contact, currently subject to drug and alcohol testing?**

**(FAR 91.147d; 14 CFR Part 120.105)**

Safety sensitive functions include employees who perform flight crew duties, flight attendant duties, aircraft dispatch duties (Note: a qualified dispatcher will have received certification and training as per 14 CFR 65 subpart C), aircraft maintenance or preventive maintenance duties, ground security coordinator duties, or aviation screening duties. These employees must be subject to pre-employment testing, reasonable suspicion/ cause testing, random testing, return to duty, follow-up, and post-accident testing.

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**2. Verify everyone who is hired for or transferred into a safety-sensitive function has a documented drug and alcohol testing history beginning the day they commenced safety sensitive duties and had received a pre-employment/pre-duty drug test with a negative result.**

**(14 CFR part 120.109, 120.117, 120.217, 120.225, 49 CFR 40.25)**

In addition to traditional full-time employees, an operator may not add a contract employee who performs safety-sensitive duties to its random pool unless they perform a pre-employment test, receive a negative result on that test, and comply with 49 CFR 40.25 before they add a contract employee to their random pool. Contractors who have their own drug and alcohol testing program are obligated to implement all of the regulatory elements of their respective FAA-mandated drug and alcohol testing programs. Pre-employment alcohol testing is not required; however, it may be implemented.

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**3. Assess the effectiveness of the drug and alcohol education and training program.**

**(14 CFR Part 120.115, 120.223)**

All employees who perform safety-sensitive duties must know the effects and consequences of prohibited drug use/alcohol misuse on personal health, safety, and work environment. They must also know the manifestations and behavioral cues that may indicate drug abuse and alcohol misuse. Employers must display and distribute informational materials, a community service hot-line telephone number for employee assistance and the employer's policy regarding drug use in the workplace. This policy must include information regarding the consequences under the rule of using drugs/alcohol while performing safety sensitive functions, receiving a verified positive drug test result, or refusing to submit to a drug test required under the rule.

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**4. Determine if initial and annual recurrent drug and initial alcohol education and training are provided for superiors.**

**(14 CFR Part 120.115, 120.223)**

Drugs: One hour of training is required on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use. Alcohol: One hour of training is required on the physical behavioral, speech, and performance indicators of probable alcohol misuse. Note: In addition, supervisors must receive the standard employee drug and alcohol training.

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**5. Verify employees that are placed into the random drug and alcohol testing pool have an equal chance of being tested each time selections are made. Also, ensure regulatory recurrent testing requirements are met.**

**(14 CFR 120.109b, 120.217c)**

A scientifically valid method to select employees for testing, such as a computer based random number generator (Microsoft Excel is an example), is used in a manner so that a number is traceable to a specific employee. You may use a service agent to perform random selections for you, in which case your safety-sensitive employees may be part of a larger random testing pool of safety sensitive employees. However, you must ensure the service agent adheres to the appropriate regulatory requirement. The quantity of random samples is based on the annual number of positive results. In specific circumstances you may lower the testing quantity as per FAR 120.109 and FAR 120.217. Best practice recommended by DOT is to perform quarterly tests, so the process is spread out through the year,

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**6. Are the random drug and alcohol testing procedures carried out in an unbiased and effective manner to ensure the process is fair to everyone?**

**(14 CFR Part 120.109b, 120.217c)**

Procedures are in place to ensure no advanced notice of selection is given and when an employee is notified, he or she proceeds immediately to the collection site. If an employee selected for testing is known to be unavailable during the selection cycle (legitimate extended absence, long-term illness, etc.), document the reason and make-up the rate shortfall by making another selection, or make an extra selection during the next selection cycle. Testing dates should be spread out throughout the year in a non-predictable pattern. Random drug tests should be conducted anytime employees are on duty or performing or available for safety sensitive duties. It's important to maintain privacy during testing and notification.

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**7. If a repair station is used to perform maintenance, how effective is your verification process for ensuring that repair stations safety-sensitive employees are covered under an FAA drug and alcohol testing program?**

**(14 CFR 120.117, 120.225)**

When using contract employees, the operator must either cover the contractor's safety-sensitive employees under its own FAA drug and alcohol testing program or ensure the contractor has implemented its own program (proper pre-employment process must still be adhered to). If the repair station has its own program, a copy of the repair stations FAA drug and alcohol testing program registration and/or its A449 paragraph from the operations specifications would suffice as proof the contractor has implemented a FAA drug and alcohol testing program. You may also ask the repair station some general questions regarding its program. For example, they should be able to answer questions such as "how often do they conduct a random sample, where are their collection sites located, etc.?"

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### 8. Evaluate the company post-accident drug and alcohol testing procedures.

(14 CFR Part 120.109c, 120.217b)

Each surviving safety-sensitive employee must be tested for drugs and alcohol if that employee's performance either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. Drug testing must be conducted as soon as possible but not later than 32 hours after an accident. Alcohol testing must be conducted as soon as possible but no later than 8 hours after an accident. If a test is not given within two hours following the accident, you must maintain a record on file stating the reasons why the test was not promptly administered. For more detail on what constitutes an accident, refer to 49 CFR Part 830.

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### 9. Assess the effectiveness of supervisor reasonable cause and reasonable suspicion training.

(14 CFR Part 120.109d, 120.115, 120.217d)

Supervisors designated to make reasonable cause determinations must receive at least 60 minutes of initial training and recurrent training as well. Reasonable cause determination (drugs) is based upon specific contemporaneous physical, behavioral or performance indicators of probable drug use. Reasonable suspicion determination (alcohol) is based upon specific contemporaneous, observations concerning the employee's appearance, behavior, speech, or body orders. The supervisor who makes the determination that reasonable suspicion exists cannot not conduct the alcohol test on that employee.

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### 10. Examine the thoroughness of your drug and alcohol program recordkeeping.

(14 CFR Part 120.111, 120.219)

All drug & alcohol test records must be kept in a secure location with controlled access. While you may keep electronic records (password protected), the DOT requires paper records be kept. Test results, testing process administration, return to duty process administration, employee training, and supervisor training documents must be kept. Drug & alcohol records should be separated from personnel records. A third-party administrator may maintain your records; however, it is the operator's responsibility to ensure procedures are in place that guarantee records are saved according to FAA regulations. The following test results must be kept (statute of limitations for accidents should be considered here):

- 1 Year: Negative drug test results (except for pilot records), alcohol test results less than 0.02(except for pilot records)
- 2 Years: Education and training records. Records related to the alcohol and drug collection process.
- 3 Years: Previous employer records.
- 5 Years: Annual Management Information Systems (MIS) reports. Employee evaluation and referrals to SAPs. Follow up tests and follow-up schedules. Refusals to test. Alcohol test results 0.02 or greater. Verified positive drug test results. Employee dispute records. Negative drug test results for pilots. Alcohol test results less than 0.02 for pilots.

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**11. If applicable, evaluate the specimen collection process and training. (49 CFR Part 40.33) If outsourced,**

**a.) If not, do you use only drug testing laboratories certifies by the U.S. Department of Health and Human Services under the National Laboratory Certification Program**

**(14 CFR Part 120.103)**

Ensure there is no unauthorized access into the collection area and undetected access (e.g., through a door not in view) is not possible. The entire area and person must be secure to prevent concealing contaminants. Control of the specimen must be maintained at all times during the collection. While a qualified collector does not need certification, they must be knowledgeable about Part 40 regulations, the current "DOT Urine Specimen Collection Procedures Guidelines," and DOT agency regulations applicable to the operator and they must keep current on any changes to these materials. They must successfully complete a qualification training program and pass a monitored proficiency demonstration (DOT regulations 49 CFR Part 40.33 (b-c)). Each qualified collector must go through refresher training every five years,

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**12. Evaluate the company drug and alcohol program procedures for a positive test result or refusal to submit.**

**(14 CFR Part 120.11, 120.13, 120.15, 120.111, 120.113, 120.221)**

The FAA must be notified if any employee with a certificate issued under Parts 61, 63, or 65 has refused to take or had a positive result of a drug or alcohol test. The FAA must also be notified of any safety-sensitive employee with a part 67 medical certificate who has a positive drug test result, an alcohol test result of 0.04 or greater, or who has refused to submit to testing. Such an employee may not resume that duty until they have received a new medical certificate and meets the return to duty requirements of part 40. If you use a service agent, the Medical Review Officer (MRO) may report a positive or refusal on behalf of the operator. The MRO who verifies a drug test result or Substance Abuse Professional (SAP) that performs the initial evaluation must ask the employee whether they hold a medical certificate to perform a safety-sensitive function for the operator. A reasonable program of unannounced follow-up testing must be implemented for each individual who returns to perform a safety-sensitive function after refusing to submit to a required drug test or after receiving a verified positive drug test result.

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