

Factual Report – Attachment 13
FAA Air Tour Operators Document

OPERATIONAL FACTORS

ERA18MA099



AIR TOUR OPERATORS (DEFINED UNDER § 91.147)

As a commercial air tour operator, as defined under 14 CFR § 91.147, you must comply with the following drug and alcohol testing Federal Regulations:

- Title 49 CFR part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs, and
- Title 14 CFR part 120, Drug and Alcohol Testing Program

To initiate your testing program, you must obtain a Letter of Authorization (LOA) from your local Flight Standards District Office (FSDO). Once your LOA is active, you must implement your testing program no later than the date you start your air tour operation.

When implementing your testing program, you must ensure that all individuals performing safety-sensitive functions directly or by contract (including subcontract at any tier) are subject to testing. Safety-sensitive functions (as described in §§ 120.105 and 120.215) include:

- flight crewmember duties,
- flight attendant duties,
- flight instruction duties,
- aircraft dispatcher duties,
- aircraft maintenance and preventive maintenance duties¹,
- ground security coordinator duties,
- aviation screening duties,
- air traffic control duties, and
- operations control specialist duties.

The individuals who are performing these safety-sensitive functions must be subject to the following types of drug and alcohol testing (as described in §§ 120.109 and 120.217):

- pre-employment,
- reasonable cause/suspicion,
- random,
- post-accident,
- return-to-duty, and
- follow-up.

¹ The definitions of maintenance and preventive maintenance are included in 14 CFR § 1.1 and part 43. For more clarification, contact your local Flight Standards District Office.

The testing procedures are established in the Department of Transportation's (DOT's) Workplace Procedures for Transportation Workplace Drug and Alcohol Testing Programs, Title 49 CFR Part 40.

When developing your FAA-mandated drug and alcohol testing program, you must:

- Ensure that no one is hired for or transferred into a safety-sensitive function without first conducting a pre-employment drug tested and receiving a verified negative test result. More information regarding pre-employment drug testing may be found under § 120.109(a). Pre-employment alcohol testing is not required, however, may be implemented according to § 120.217(a).
- Conduct a drug and alcohol records check, after obtaining an employee's written consent, requesting the information included in 49 CFR part 40, § 40.25(b) from DOT-regulated employers who have employed this individual during the two years prior to the date of application or transfer. Further requirements are explained in § 40.25. When hiring pilots, you must comply with the requirements of the Pilot Records Improvement Act (PRIA). You must obtain and review this information prior to the first time the employee performs safety-sensitive duties. For a sample form, visit http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/drug_alcohol/forms/.
- Educate and train your employees on the effects and consequences of drug abuse and alcohol misuse, as well as your supervisors who will make determinations of whether reasonable cause/suspicion testing is necessary. More information regarding training and materials may be found under §§ 120.115 and 120.223. For a sample policy, visit http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/drug_alcohol/forms/drug_policies/.
- Ensure that employees are included in your random drug and alcohol testing pool and have an equal chance of being tested each time selections are made. You must conduct annual random testing at a minimum rate of 25% for drugs and 10% for alcohol. More information regarding random testing may be found under §§ 120.109(b) and 120.217(c).

Review part 120 and part 40 for all the drug and alcohol testing requirements. Copies of the regulations and additional guidance materials are available at <http://www.faa.gov/go/drugabatement> and www.dot.gov/odapc.

If you have any questions, please contact the FAA's Drug Abatement Division directly at (202) 267-8442 or drugabatement@faa.gov.

The Drug Abatement Division strives to provide quality service. We invite you to complete a feedback form at http://www.faa.gov/about/office_org/headquarters_offices/avs/stakeholder_feedback/aam/aam800/.