

ASA's FAR/AIM and Flight Crew 2009 Update

5/19/09

Changes to the Federal Aviation Regulations can occur daily via the Federal Registers, and the *Aeronautical Information Manual* is updated every 6 months. ASA keeps you current by publishing the FAR/AIM series annually, providing online Updates and an email subscription service so you're notified when a change affecting the information in your books has been made. ASA's Updates provide regulation changes shortly after their release, and includes final rules *released* by the FAA but not yet *effective*.

With this Update, the 2009 FAR/AIM and FAR for Flight Crew regulations are current through **May 19, 2009**.

Aeronautical Information Manual:

Change 1, effective July 31, 2008, is printed in ASA's 2009 FAR/AIM book.
Change 2, effective March 12, 2009, is included at the end of this Update.

All rule changes are listed by RELEASE DATE.



MISCELLANEOUS

§91.177: On Page 179 of ASA's 2009 FAR/AIM book, remove the paragraph that begins "However, if both a MEA and a MOCA..."

MAY 14, 2009

Effective Date: July 13, 2009

Part 61—Certification: Pilots, Flight Instructors, and Ground Instructors

§61.14 [Removed and Reserved]

Section 61.14 is removed and reserved.

[As amended by Amdt. 61–122, 74 FR 22652, May 14, 2009]

Part 63—Certification: Flight Crewmembers Other Than Pilots

§63.12b [Removed and Reserved]

Section 63.12b is removed and reserved.

[As amended by Amdt. 63–37, 74 FR 22652, May 14, 2009]

Part 65—Certification: Airmen Other Than Flight Crewmembers

§65.23 [Removed and Reserved]

Section 65.23 is removed and reserved.

§65.46 [Removed and Reserved]

Section 65.46 is removed and reserved.

§65.46a [Removed and Reserved]

Section 65.46a is removed and reserved.

§65.46b [Removed and Reserved]

Section 65.46b is removed and reserved.

[As amended by Amdt. 65–53, 74 FR 22652, May 14, 2009]

Part 91—General Operating and Flight Rules

Section 91.147(d) is revised to read as follows:

§91.147 Passenger-carrying flights for compensation or hire.

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(d) The Operator must register and implement its drug and alcohol testing programs in accordance with part 120 of this chapter.

* * * * *

[As amended by Amdt. 91–307, 74 FR 22652, May 14, 2009]

Section 91.1047(c)(3) is revised to read as follows:

§91.1047 Drug and alcohol misuse education program.

* * * * *

(c) ***

(3) The degree to which the program manager's company testing program is comparable to the federally mandated drug and alcohol testing program required under part 120 of this chapter regarding the information in paragraphs (c)(1) and (c)(2) of this section.

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[As amended by Amdt. 91–307, 74 FR 22653, May 14, 2009]

Add Part 120 to read as follows:

EDITORIAL NOTE: PART 120 WILL BE PRINTED IN ASA'S 2010 FAR FOR FLIGHT CREW BOOK.

Part 120—Drug and Alcohol Testing Program

Subpart A—General

- Sec.
- §120.1 Applicability.
- §120.3 Purpose.
- §120.5 Procedures.
- §120.7 Definitions.

Subpart B—Individuals Certificated Under Parts 61, 63, and 65

- §120.11 Refusal to submit to a drug or alcohol test by a Part 61 certificate holder.
- §120.13 Refusal to submit to a drug or alcohol test by a Part 63 certificate holder.
- §120.15 Refusal to submit to a drug or alcohol test by a Part 65 certificate holder.

Subpart C—Air Traffic Controllers

- §120.17 Use of prohibited drugs.
- §120.19 Misuse of alcohol.
- §120.21 Testing for alcohol.

Subpart D—Part 119 Certificate Holders Authorized To Conduct Operations Under Part 121 or Part 135 or Operators Under §91.147 of This Chapter and Safety-Sensitive Employees

- §120.31 Prohibited drugs.
- §120.33 Use of prohibited drugs.
- §120.35 Testing for prohibited drugs.
- §120.37 Misuse of alcohol.
- §120.39 Testing for alcohol.

Subpart E—Drug Testing Program Requirements

- §120.101 Scope.
- §120.103 General.
- §120.105 Employees who must be tested.
- §120.107 Substances for which testing must be conducted.
- §120.109 Types of drug testing required.
- §120.111 Administrative and other matters.
- §120.113 Medical Review Officer, Substance Abuse Professional, and employer responsibilities.
- §120.115 Employee Assistance Program (EAP).
- §120.117 Implementing a drug testing program.
- §120.119 Annual reports.
- §120.121 Preemption.
- §120.123 Drug testing outside of the territory of the United States.
- §120.125 Waivers from 49 CFR 40.21.

Subpart F—Alcohol Testing Program Requirements

- §120.201 Scope.
- §120.203 General.
- §120.205 Preemption of State and local laws.
- §120.207 Other requirements imposed by employers.
- §120.209 Requirement for notice.
- §120.211 Applicable Federal regulations.
- §120.213 Falsification.
- §120.215 Covered employees.
- §120.217 Tests required.

- §120.219 Handling of test results, record retention, and confidentiality.
- §120.221 Consequences for employees engaging in alcohol-related conduct.
- §120.223 Alcohol misuse information, training, and substance abuse professionals.
- §120.225 How to implement an alcohol testing program.
- §120.227 Employees located outside the U.S.

Authority: 49 U.S.C. 106(g), 40101–40103, 40113, 40120, 41706, 41721, 44106, 44701, 44702, 44703, 44709, 44710, 44711, 45101–45105, 46105, 46306.

Source: Docket No. FAA–2008–0937, 74 FR 22653, May 14, 2009, unless otherwise noted.

Subpart A—General

§120.1 Applicability.

This part applies to the following persons:

(a) All air carriers and operators certificated under part 119 of this chapter authorized to conduct operations under part 121 or part 135 of this chapter, all air traffic control facilities not operated by the FAA or by or under contract to the U.S. military; and all operators as defined in 14 CFR 91.147.

(b) All individuals who perform, either directly or by contract, a safety-sensitive function listed in subpart E or subpart F of this part.

(c) All part 145 certificate holders who perform safety-sensitive functions and elect to implement a drug and alcohol testing program under this part.

(d) All contractors who elect to implement a drug and alcohol testing program under this part.

§120.3 Purpose.

The purpose of this part is to establish a program designed to help prevent accidents and injuries resulting from the use of prohibited drugs or the misuse of alcohol by employees who perform safety-sensitive functions in aviation.

§120.5 Procedures.

Each employer having a drug and alcohol testing program under this part must ensure that all drug and alcohol testing conducted pursuant to this part complies with the procedures set forth in 49 CFR part 40.

§120.7 Definitions.

For the purposes of this part, the following definitions apply:

(a) **Accident** means an occurrence associated with the operation of an aircraft which takes place between the time any individual boards the aircraft with the intention of flight and all such individuals have disembarked, and in which any individual suffers death or serious injury, or in which the aircraft receives substantial damage.

(b) **Alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

(c) **Alcohol concentration (or content)** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under subpart F of this part.

(d) **Alcohol use** means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

(e) **Contractor** is an individual or company that performs a safety-sensitive function by contract for an employer or another contractor.

(f) **Covered employee** means an individual who performs, either directly or by contract, a safety-sensitive function listed in §§120.105 and 120.215 for an employer (as defined in paragraph (i) of this section). For purposes of pre-employment testing only, the term “covered employee” includes an individual applying to perform a safety-sensitive function.

(g) **DOT agency** means an agency (or “operating administration”) of the United States Department of Transportation administering regulations requiring drug testing (14 CFR part 61 et al.; 46 CFR part 16; 49 CFR parts 199, 219, and 382) in accordance with 49 CFR part 40.

(h) **Employee** is an individual who is hired, either directly or by contract, to perform a safety-sensitive function for an employer, as defined in paragraph (i) of this section. An employee is also an individual who transfers into a position to perform a safety-sensitive function for an employer.

(i) **Employer** is a part 119 certificate holder with authority to operate under parts 121 and/or 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. An employer may use a contract employee who is not included under that employer’s FAA-mandated drug testing program to perform a safety-sensitive function only if that contract employee is included under the contractor’s FAA-mandated drug testing program and is performing a safety-sensitive function on behalf of that contractor (i.e., within the scope of employment with the contractor.)

(j) **Hire** means retaining an individual for a safety-sensitive function as a paid employee, as a volunteer, or through barter or other form of compensation.

(k) **Performing (a safety-sensitive function)**: an employee is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform such function.

(l) **Positive rate for random drug testing** means the number of verified positive results for random drug tests conducted under subpart E of this part, plus the number of refusals of random drug tests required by subpart E of this part, divided by the total number of random drug test results (i.e., positives, negatives, and refusals) under subpart E of this part.

(m) **Prohibited drug** means marijuana, cocaine, opiates, phenylclidine (PCP), and amphetamines, as specified in 49 CFR 40.85.

(n) **Refusal to submit to alcohol test** means that a covered employee has engaged in conduct including but not limited to that described in 49 CFR 40.261, or has failed to remain readily available for post-accident testing as required by subpart F of this part.

(o) **Refusal to submit to drug test** means that an employee engages in conduct including but not limited to that described in 49 CFR 40.191.

(p) **Safety-sensitive function** means a function listed in §§120.105 and 120.215.

(q) **Verified negative drug test result** means a drug test result from an HHS-certified laboratory that has undergone review by an MRO and has been determined by the MRO to be a negative result.

(r) **Verified positive drug test result** means a drug test result from an HHS-certified laboratory that has undergone review by an MRO and has been determined by the MRO to be a positive result.

(s) **Violation rate for random alcohol testing** means the number of 0.04, and above, random alcohol confirmation test results conducted under subpart F of this part, plus the number of refusals of random alcohol tests required by subpart F of this part, divided by the total number of random alcohol screening tests (including refusals) conducted under subpart F of this part.

Subpart B—Individuals Certificated Under Parts 61, 63, and 65

§120.11 Refusal to submit to a drug or alcohol test by a Part 61 certificate holder.

(a) This section applies to all individuals who hold a certificate under part 61 of this chapter and who are subject to drug and alcohol testing under this part.

(b) Refusal by the holder of a certificate issued under part 61 of this chapter to take a drug or alcohol test required under the provisions of this part is grounds for:

(1) Denial of an application for any certificate, rating, or authorization issued under part 61 of this chapter for a period of up to 1 year after the date of such refusal; and

(2) Suspension or revocation of any certificate, rating, or authorization issued under part 61 of this chapter.

§120.13 Refusal to submit to a drug or alcohol test by a Part 63 certificate holder.

(a) This section applies to all individuals who hold a certificate under part 63 of this chapter and who are subject to drug and alcohol testing under this part.

(b) Refusal by the holder of a certificate issued under part 63 of this chapter to take a drug or alcohol test required under the provisions of this part is grounds for:

(1) Denial of an application for any certificate, rating, or authorization issued under part 63 of this chapter for a period of up to 1 year after the date of such refusal; and

(2) Suspension or revocation of any certificate, rating, or authorization issued under part 63 of this chapter.

§120.15 Refusal to submit to a drug or alcohol test by a Part 65 certificate holder.

(a) This section applies to all individuals who hold a certificate under part 65 of this chapter and who are subject to drug and alcohol testing under this part.

(b) Refusal by the holder of a certificate issued under part 65 of this chapter to take a drug or alcohol test required under the provisions of this part is grounds for:

(1) Denial of an application for any certificate, rating, or authorization issued under part 65 of this chapter for a period of up to 1 year after the date of such refusal; and

(2) Suspension or revocation of any certificate, rating, or authorization issued under part 65 of this chapter.

Subpart C—Air Traffic Controllers

§120.17 Use of prohibited drugs.

(a) Each employer shall provide each employee performing a function listed in subpart E of this part, and his or her supervisor, with the training specified in that subpart. No employer may use any contractor to perform an air traffic control function unless that contractor provides each of its employees performing that function for the employer, and his or her supervisor, with the training specified in subpart E of this part.

(b) No employer may knowingly use any individual to perform, nor may any individual perform for an employer, either directly or by contract, any air traffic control function while that individual has a prohibited drug, as defined in subpart E of this part, in his or her system.

(c) No employer shall knowingly use any individual to perform, nor may any individual perform for an employer, either directly or by contract, any air traffic control function if the individual has a verified positive drug test result on, or has refused to submit to, a drug test required by subpart E of this part and the individual has not met the requirements of subpart E of this part for returning to the performance of safety-sensitive duties.

(d) Each employer shall test each of its employees who perform any air traffic control function in accordance with subpart E of this part. No employer may use any contractor to perform any air traffic control function unless that contractor tests each employee performing such a function for the employer in accordance with subpart E of this part.

§120.19 Misuse of alcohol.

(a) This section applies to covered employees who perform air traffic control duties directly or by contract for an employer that is an air traffic control facility not operated by the FAA or the U.S. military.

(b) **Alcohol concentration.** No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that an employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform safety-sensitive functions.

(c) **On-duty use.** No covered employee shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.

(d) **Pre-duty use.** No covered employee shall perform air traffic control duties within 8 hours after using alcohol. No employer having actual knowledge that such an employee has used alcohol within 8 hours shall permit the employee to perform or continue to perform air traffic control duties.

(e) **Use following an accident.** No covered employee who has actual knowledge of an accident involving an aircraft for which he or she performed a safety-sensitive function at or near the time of the accident shall use alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under subpart F of this part or the employer has determined that the employee's performance could not have contributed to the accident.

(f) **Refusal to submit to a required alcohol test.** A covered employee may not refuse to submit to any alcohol test required under subpart F of this part. An employer may not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

§120.21 Testing for alcohol.

(a) Each air traffic control facility not operated by the FAA or the U.S. military must establish an alcohol testing program in accordance with the provisions of subpart F of this part.

(b) No employer shall use any individual who meets the definition of covered employee in subpart A of this part to perform a safety-sensitive function listed in subpart F of this part unless that

individual is subject to testing for alcohol misuse in accordance with the provisions of that subpart.

Subpart D—Part 119 Certificate Holders Authorized To Conduct Operations under Part 121 or Part 135 or Operators Under §91.147 of This Chapter and Safety-Sensitive Employees

§120.31 Prohibited drugs.

(a) Each certificate holder or operator shall provide each employee performing a function listed in subpart E of this part, and his or her supervisor, with the training specified in that subpart.

(b) No certificate holder or operator may use any contractor to perform a function listed in subpart E of this part unless that contractor provides each of its employees performing that function for the certificate holder or operator, and his or her supervisor, with the training specified in that subpart.

§120.33 Use of prohibited drugs.

(a) This section applies to individuals who perform a function listed in subpart E of this part for a certificate holder or operator. For the purpose of this section, an individual who performs such a function pursuant to a contract with the certificate holder or the operator is considered to be performing that function for the certificate holder or the operator.

(b) No certificate holder or operator may knowingly use any individual to perform, nor may any individual perform for a certificate holder or an operator, either directly or by contract, any function listed in subpart E of this part while that individual has a prohibited drug, as defined in that subpart, in his or her system.

(c) No certificate holder or operator shall knowingly use any individual to perform, nor shall any individual perform for a certificate holder or operator, either directly or by contract, any safety-sensitive function if that individual has a verified positive drug test result on, or has refused to submit to, a drug test required by subpart E of this part and the individual has not met the requirements of that subpart for returning to the performance of safety-sensitive duties.

§120.35 Testing for prohibited drugs.

(a) Each certificate holder or operator shall test each of its employees who perform a function listed in subpart E of this part in accordance with that subpart.

(b) Except as provided in paragraph (c) of this section, no certificate holder or operator may use any contractor to perform a function listed in subpart E of this part unless that contractor tests each employee performing such a function for the certificate holder or operator in accordance with that subpart.

(c) If a certificate holder conducts an on-demand operation into an airport at which no maintenance providers are available that are subject to the requirements of subpart E of this part and emergency maintenance is required, the certificate holder may use individuals not meeting the requirements of paragraph (b) of this section to provide such emergency maintenance under both of the following conditions:

(1) The certificate holder must give written notification of the emergency maintenance to the Drug Abatement Program Division, AAM-800, 800 Independence Avenue, SW., Washington, DC 20591, within 10 days after being provided same in accordance with this paragraph. A certificate holder must retain copies of all such written notifications for two years.

(2) The aircraft must be reinspected by maintenance personnel who meet the requirements of paragraph (b) of this section when the aircraft is next at an airport where such maintenance personnel are available.

(d) For purposes of this section, emergency maintenance means maintenance that—

(1) Is not scheduled and

(2) Is made necessary by an aircraft condition not discovered prior to the departure for that location.

§120.37 Misuse of alcohol.

(a) **General.** This section applies to covered employees who perform a function listed in subpart F of this part for a certificate holder. For the purpose of this section, an individual who meets the definition of covered employee in subpart F of this part is considered to be performing the function for the certificate holder.

(b) **Alcohol concentration.** No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No certificate holder having actual knowledge that an employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform safety-sensitive functions.

(c) **On-duty use.** No covered employee shall use alcohol while performing safety-sensitive functions. No certificate holder having actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.

(d) **Pre-duty use.**

(1) No covered employee shall perform flight crewmember or flight attendant duties within 8 hours after using alcohol. No certificate holder having actual knowledge that such an employee has used alcohol within 8 hours shall permit the employee to perform or continue to perform the specified duties.

(2) No covered employee shall perform safety-sensitive duties other than those specified in paragraph (d)(1) of this section within 4 hours after using alcohol. No certificate holder having actual knowledge that such an employee has used alcohol within 4 hours shall permit the employee to perform or to continue to perform safety-sensitive functions.

(e) **Use following an accident.** No covered employee who has actual knowledge of an accident involving an aircraft for which he or she performed a safety-sensitive function at or near the time of the accident shall use alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under subpart F of this part, or the employer has determined that the employee's performance could not have contributed to the accident.

(f) **Refusal to submit to a required alcohol test.** A covered employee must not refuse to submit to any alcohol test required under subpart F of this part. A certificate holder must not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

§120.39 Testing for alcohol.

(a) Each certificate holder must establish an alcohol testing program in accordance with the provisions of subpart F of this part.

(b) Except as provided in paragraph (c) of this section, no certificate holder or operator may use any individual who meets the definition of covered employee in subpart A of this part to perform a safety-sensitive function listed in that subpart F of this part

unless that individual is subject to testing for alcohol misuse in accordance with the provisions of that subpart.

(c) If a certificate holder conducts an on-demand operation into an airport at which no maintenance providers are available that are subject to the requirements of subpart F of this part and emergency maintenance is required, the certificate holder may use individuals not meeting the requirements of paragraph (b) of this section to provide such emergency maintenance under both of the following conditions:

(1) The certificate holder must give written notification of the emergency maintenance to the Drug Abatement Program Division, AAM-800, 800 Independence Avenue, SW., Washington, DC 20591, within 10 days after being provided same in accordance with this paragraph. A certificate holder must retain copies of all such written notifications for two years.

(2) The aircraft must be reinspected by maintenance personnel who meet the requirements of paragraph (b) of this section when the aircraft is next at an airport where such maintenance personnel are available.

(d) For purposes of this section, emergency maintenance means maintenance that—

(1) Is not scheduled and

(2) Is made necessary by an aircraft condition not discovered prior to the departure for that location.

Subpart E—Drug Testing Program Requirements

§120.101 Scope.

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

§120.103 General.

(a) **Purpose.** The purpose of this subpart is to establish a program designed to help prevent accidents and injuries resulting from the use of prohibited drugs by employees who perform safety-sensitive functions.

(b) **DOT procedures.**

(1) Each employer shall ensure that drug testing programs conducted pursuant to 14 CFR parts 65, 91, 121, and 135 comply with the requirements of this subpart and the "Procedures for Transportation Workplace Drug Testing Programs" published by the Department of Transportation (DOT) (49 CFR part 40).

(2) An employer may not use or contract with any drug testing laboratory that is not certified by the Department of Health and Human Services (HHS) under the National Laboratory Certification Program.

(c) **Employer responsibility.** As an employer, you are responsible for all actions of your officials, representatives, and service agents in carrying out the requirements of this subpart and 49 CFR part 40.

(d) **Applicable Federal Regulations.** The following applicable regulations appear in 49 CFR or 14 CFR:

(1) 49 CFR Part 40—Procedures for Transportation Workplace Drug Testing Programs

(2) 14 CFR:

(i) §67.107—First-Class Airman Medical Certificate, Mental.

(ii) §67.207—Second-Class Airman Medical Certificate, Mental.

(iii) §67.307—Third-Class Airman Medical Certificate, Mental.

(iv) §91.147—Passenger carrying flight for compensation or hire.

(e) **Falsification.** No individual may make, or cause to be made, any of the following:

(1) Any fraudulent or intentionally false statement in any application of a drug testing program.

(2) Any fraudulent or intentionally false entry in any record or report that is made, kept, or used to show compliance with this part.

(3) Any reproduction or alteration, for fraudulent purposes, of any report or record required to be kept by this part.

§120.105 Employees who must be tested.

Each employee, including any assistant, helper, or individual in a training status, who performs a safety-sensitive function listed in this section directly or by contract (including by subcontract at any tier) for an employer as defined in this subpart must be subject to drug testing under a drug testing program implemented in accordance with this subpart. This includes full-time, part-time, temporary, and intermittent employees regardless of the degree of supervision. The safety-sensitive functions are:

- (a) Flight crewmember duties.
- (b) Flight attendant duties.
- (c) Flight instruction duties.
- (d) Aircraft dispatcher duties.
- (e) Aircraft maintenance and preventive maintenance duties.
- (f) Ground security coordinator duties.
- (g) Aviation screening duties.
- (h) Air traffic control duties.

§120.107 Substances for which testing must be conducted.

Each employer shall test each employee who performs a safety-sensitive function for evidence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines during each test required by §120.109.

§120.109 Types of drug testing required.

Each employer shall conduct the types of testing described in this section in accordance with the procedures set forth in this subpart and the DOT "Procedures for Transportation Workplace Drug Testing Programs" (49 CFR part 40).

(a) Pre-employment drug testing.

(1) No employer may hire any individual for a safety-sensitive function listed in §120.105 unless the employer first conducts a pre-employment test and receives a verified negative drug test result for that individual.

(2) No employer may allow an individual to transfer from a non-safety-sensitive to a safety-sensitive function unless the employer first conducts a pre-employment test and receives a verified negative drug test result for the individual.

(3) Employers must conduct another pre-employment test and receive a verified negative drug test result before hiring or transferring an individual into a safety-sensitive function if more than 180 days elapse between conducting the pre-employment test required by paragraphs (a)(1) or (2) of this section and hiring or transferring the individual into a safety-sensitive function, resulting in that individual being brought under an FAA drug testing program.

(4) If the following criteria are met, an employer is permitted to conduct a pre-employment test, and if such a test is conducted, the employer must receive a negative test result before putting the individual into a safety-sensitive function:

(i) The individual previously performed a safety-sensitive function for the employer and the employer is not required to pre-employment test the individual under paragraphs (a)(1) or (2) of

this section before putting the individual to work in a safety-sensitive function;

(ii) The employer removed the individual from the employer's random testing program conducted under this subpart for reasons other than a verified positive test result on an FAA-mandated drug test or a refusal to submit to such testing; and

(iii) The individual will be returning to the performance of a safety-sensitive function.

(5) Before hiring or transferring an individual to a safety-sensitive function, the employer must advise each individual that the individual will be required to undergo pre-employment testing in accordance with this subpart, to determine the presence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines, or a metabolite of those drugs in the individual's system. The employer shall provide this same notification to each individual required by the employer to undergo pre-employment testing under paragraph (a)(4) of this section.

(b) Random drug testing.

(1) Except as provided in paragraphs (b)(2) through (b)(4) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered employees.

(2) The Administrator's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported positive rate for the entire industry. All information used for this determination is drawn from the statistical reports required by §120.119. In order to ensure reliability of the data, the Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry positive rate. Each year, the Administrator will publish in the **Federal Register** the minimum annual percentage rate for random drug testing of covered employees. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication.

(3) When the minimum annual percentage rate for random drug testing is 50 percent, the Administrator may lower this rate to 25 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of this subpart for two consecutive calendar years indicate that the reported positive rate is less than 1.0 percent.

(4) When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of this subpart for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered employees.

(5) The selection of employees for random drug testing shall be made by a scientifically valid method, such as a random-number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

(6) As an employer, you must select and test a percentage of employees at least equal to the minimum annual percentage rate each year.

(i) As an employer, to determine whether you have met the minimum annual percentage rate, you must divide the number of random testing results for safety-sensitive employees by the average number of safety-sensitive employees eligible for random testing.

(A) To calculate whether you have met the annual minimum percentage rate, count all random positives, random negatives, and random refusals as your “random testing results.”

(B) To calculate the average number of safety-sensitive employees eligible for random testing throughout the year, add the total number of safety-sensitive employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Only safety-sensitive employees are to be in an employer's random testing pool, and all safety-sensitive employees must be in the random pool. If you are an employer conducting random testing more often than once per month (e.g., you select daily, weekly, bi-weekly) you do not need to compute this total number of safety-sensitive employees more than on a once per month basis.

(ii) As an employer, you may use a service agent to perform random selections for you, and your safety-sensitive employees may be part of a larger random testing pool of safety-sensitive employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only safety-sensitive employees are in the random testing pool. For example:

(A) If the service agent has your employees in a random testing pool for your company alone, you must ensure that the testing is conducted at least at the minimum annual percentage rate under this part.

(B) If the service agent has your employees in a random testing pool combined with other FAA-regulated companies, you must ensure that the testing is conducted at least at the minimum annual percentage rate under this part.

(C) If the service agent has your employees in a random testing pool combined with other DOT-regulated companies, you must ensure that the testing is conducted at least at the highest rate required for any DOT-regulated company in the pool.

(7) Each employer shall ensure that random drug tests conducted under this subpart are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.

(8) Each employer shall require that each safety-sensitive employee who is notified of selection for random drug testing proceeds to the collection site immediately; provided, however, that if the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the collection site as soon as possible.

(9) If a given covered employee is subject to random drug testing under the drug testing rules of more than one DOT agency, the employee shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's function.

(10) If an employer is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the employer may—

(i) Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or

(ii) Randomly select covered employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the employer is subject.

(11) An employer required to conduct random drug testing under the anti-drug rules of more than one DOT agency shall provide each such agency access to the employer's records of random drug testing, as determined to be necessary by the agency to ensure the employer's compliance with the rule.

(c) Post-accident drug testing. Each employer shall test each employee who performs a safety-sensitive function for the presence of marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines, or a metabolite of those drugs in the employee's system if that employee's performance either contributed to an accident or can not be completely discounted as a contributing factor to the accident. The employee shall be tested as soon as possible but not later than 32 hours after the accident. The decision not to administer a test under this section must be based on a determination, using the best information available at the time of the determination, that the employee's performance could not have contributed to the accident. The employee shall submit to post-accident testing under this section.

(d) Drug testing based on reasonable cause. Each employer must test each employee who performs a safety-sensitive function and who is reasonably suspected of having used a prohibited drug. The decision to test must be based on a reasonable and articulable belief that the employee is using a prohibited drug on the basis of specific contemporaneous physical, behavioral, or performance indicators of probable drug use. At least two of the employee's supervisors, one of whom is trained in detection of the symptoms of possible drug use, must substantiate and concur in the decision to test an employee who is reasonably suspected of drug use; except that in the case of an employer, other than a part 121 certificate holder, who employs 50 or fewer employees who perform safety-sensitive functions, one supervisor who is trained in detection of symptoms of possible drug use must substantiate the decision to test an employee who is reasonably suspected of drug use.

(e) Return to duty drug testing. Each employer shall ensure that before an individual is returned to duty to perform a safety-sensitive function after refusing to submit to a drug test required by this subpart or receiving a verified positive drug test result on a test conducted under this subpart the individual shall undergo a return-to-duty drug test. No employer shall allow an individual required to undergo return-to-duty testing to perform a safety-sensitive function unless the employer has received a verified negative drug test result for the individual. The test cannot occur until after the SAP has determined that the employee has successfully complied with the prescribed education and/or treatment.

(f) Follow-up drug testing.

(1) Each employer shall implement a reasonable program of unannounced testing of each individual who has been hired to perform or who has been returned to the performance of a safety-sensitive function after refusing to submit to a drug test required by this subpart or receiving a verified positive drug test result on a test conducted under this subpart.

(2) The number and frequency of such testing shall be determined by the employer's Substance Abuse Professional conducted in accordance with the provisions of 49 CFR part 40, but shall consist of at least six tests in the first 12 months following the employee's return to duty.

(3) The employer must direct the employee to undergo testing for alcohol in accordance with subpart F of this part, in addition to drugs, if the Substance Abuse Professional determines that alcohol testing is necessary for the particular employee. Any such alcohol testing shall be conducted in accordance with the provisions of 49 CFR part 40.

(4) Follow-up testing shall not exceed 60 months after the date the individual begins to perform or returns to the performance of a safety-sensitive function. The Substance Abuse Professional may terminate the requirement for follow-up testing at any time after

the first six tests have been conducted, if the Substance Abuse Professional determines that such testing is no longer necessary.

§120.111 Administrative and other matters.

(a) MRO record retention requirements.

(1) Records concerning drug tests confirmed positive by the laboratory shall be maintained by the MRO for 5 years. Such records include the MRO copies of the custody and control form, medical interviews, documentation of the basis for verifying as negative test results confirmed as positive by the laboratory, any other documentation concerning the MRO's verification process.

(2) Should the employer change MROs for any reason, the employer shall ensure that the former MRO forwards all records maintained pursuant to this rule to the new MRO within ten working days of receiving notice from the employer of the new MRO's name and address.

(3) Any employer obtaining MRO services by contract, including a contract through a C/TPA, shall ensure that the contract includes a recordkeeping provision that is consistent with this paragraph, including requirements for transferring records to a new MRO.

(b) Access to records. The employer and the MRO shall permit the Administrator or the Administrator's representative to examine records required to be kept under this subpart and 49 CFR part 40. The Administrator or the Administrator's representative may require that all records maintained by the service agent for the employer must be produced at the employer's place of business.

(c) Release of drug testing information. An employer shall release information regarding an employee's drug testing results, evaluation, or rehabilitation to a third party in accordance with 49 CFR part 40. Except as required by law, this subpart, or 49 CFR part 40, no employer shall release employee information.

(d) Refusal to submit to testing. Each employer must notify the FAA within 2 working days of any employee who holds a certificate issued under part 61, part 63, or part 65 of this chapter who has refused to submit to a drug test required under this subpart. Notification must be sent to: Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591, or by fax to (202) 267-5200.

(e) Permanent disqualification from service.

(1) An employee who has verified positive drug test results on two drug tests required by this subpart of this chapter, and conducted after September 19, 1994, is permanently precluded from performing for an employer the safety-sensitive duties the employee performed prior to the second drug test.

(2) An employee who has engaged in prohibited drug use during the performance of a safety-sensitive function after September 19, 1994 is permanently precluded from performing that safety-sensitive function for an employer.

(f) DOT management information system annual reports.

Copies of any annual reports submitted to the FAA under this subpart must be maintained by the employer for a minimum of 5 years.

§120.113 Medical Review Officer, Substance Abuse Professional, and Employer Responsibilities.

(a) The employer shall designate or appoint a Medical Review Officer (MRO) who shall be qualified in accordance with 49 CFR part 40 and shall perform the functions set forth in 49 CFR part 40 and this subpart. If the employer does not have a qualified individ-

ual on staff to serve as MRO, the employer may contract for the provision of MRO services as part of its drug testing program.

(b) Medical Review Officer (MRO). The MRO must perform the functions set forth in subpart G of 49 CFR part 40, and subpart E of this part. The MRO shall not delay verification of the primary test result following a request for a split specimen test unless such delay is based on reasons other than the fact that the split specimen test result is pending. If the primary test result is verified as positive, actions required under this rule (e.g., notification to the Federal Air Surgeon, removal from safety-sensitive position) are not stayed during the 72-hour request period or pending receipt of the split specimen test result.

(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 or this subpart.

(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.

§120.115 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 test result, or refusing to submit to a drug test required under the rule.

(c) EAP training program.

(1) Each employer shall implement a reasonable program of initial training for employees. The employee training program must include at least the following elements:

(i) The effects and consequences of drug use on individual health, safety, and work environment;

(ii) The manifestations and behavioral cues that may indicate drug use and abuse; and

(iii) Documentation of training given to employees and employer's supervisory personnel.

(2) The employer's supervisory personnel who will determine when an employee is subject to testing based on reasonable cause shall receive specific training on specific, contemporaneous physical, behavioral, and performance indicators of probable drug use in addition to the training specified in §120.115(c).

(3) The employer shall ensure that supervisors who will make reasonable cause determinations receive at least 60 minutes of initial training.

(4) The employer shall implement a reasonable recurrent training program for supervisory personnel making reasonable cause determinations during subsequent years.

(5) The employer shall identify the employee and supervisor for EAP training in the employer's drug testing plan submitted to the FAA for approval.

§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:

If you are...	You must...
(1) A part 119 certificate holder with authority to operate under parts 121 and/or 135.	Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your FAA Principal Operations Inspector.
(2) A sightseeing operator as defined in §91.147 of this chapter	Register with the FAA by contacting the Flight Standards District Office nearest to your principal place of business.
(3) An air traffic control facility not operated by the FAA or by or under contract to the U.S. Military.	Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591.
(4) A part 145 certificate holder who has your own drug testing program.	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.
(5) A contractor who has your own drug testing program.	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.

(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 deter-

mine 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...	You must...
(1) Apply for a part 119 certificate with authority to operate under parts 121 or 135	(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.	(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).	(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...	And you opt to conduct your own drug program, you must...
(1) Are a part 145 certificate holder.	(i) Have an Antidrug and Alcohol Misuse Prevention Program Operations Specification or register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 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.
(2) Are a contractor	(i) Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 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, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. Military, and (iii) Meet the requirements of this subpart as if you were an employer.

(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) 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 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.

§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 subpart 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.

§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 testing are made applicable to employers by this subpart.

(c) **Employer responsibility.** As an employer, you are responsible for all actions of your officials, representatives, and service agents in carrying out the requirements of the DOT agency regulations.

§120.205 Preemption of State and local laws.

(a) Except as provided in paragraph (a)(2) of this section, these regulations preempt any State or local law, rule, regulation, or order to the extent that:

(1) Compliance with both the State or local requirement and this subpart is not possible; or

(2) Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any requirement in this subpart.

(b) The alcohol testing requirements of this title shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

§120.207 Other requirements imposed by employers.

Except as expressly provided in these alcohol testing requirements, nothing in this subpart shall be construed to affect the authority of employers, or the rights of employees, with respect to the use or possession of alcohol, including any authority and rights with respect to alcohol testing and rehabilitation.

§120.209 Requirement for notice.

Before performing an alcohol test under this subpart, each employer shall notify a covered employee that the alcohol test is required by this subpart. No employer shall falsely represent that a test is administered under this subpart.

§120.211 Applicable Federal regulations.

The following applicable regulations appear in 49 CFR and 14 CFR:

(a) 49 CFR Part 40—Procedures for Transportation Workplace Drug Testing Programs

(b) 14 CFR:

(1) §67.107—First-Class Airman Medical Certificate, Mental.

(2) §67.207—Second-Class Airman Medical Certificate, Mental.

(3) §67.307—Third-Class Airman Medical Certificate, Mental.

(4) §91.147—Passenger carrying flights for compensation or hire.

§120.213 Falsification.

No individual may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application of an alcohol testing program.

(b) Any fraudulent or intentionally false entry in any record or report that is made, kept, or used to show compliance with this subpart.

(c) Any reproduction or alteration, for fraudulent purposes, of any report or record required to be kept by this subpart.

§120.215 Covered employees.

(a) Each employee, including any assistant, helper, or individual in a training status, who performs a safety-sensitive function listed in this section directly or by contract (including by subcontract at any tier) for an employer as defined in this subpart must be subject to alcohol testing under an alcohol testing program implemented in accordance with this subpart. This includes full-time, part-time, temporary, and intermittent employees regardless of the degree of supervision. The safety-sensitive functions are:

(1) Flight crewmember duties.

(2) Flight attendant duties.

(3) Flight instruction duties.

(4) Aircraft dispatcher duties.

(5) Aircraft maintenance or preventive maintenance duties.

(6) Ground security coordinator duties.

(7) Aviation screening duties.

(8) Air traffic control duties.

(b) Each employer must identify any employee who is subject to the alcohol testing regulations of more than one DOT agency. Prior to conducting any alcohol test on a covered employee subject to the alcohol testing regulations of more than one DOT agency, the employer must determine which DOT agency authorizes or requires the test.

§120.217 Tests required.

(a) **Pre-employment alcohol testing.** As an employer, you may, but are not required to, conduct pre-employment alcohol testing under this subpart. If you choose to conduct pre-employment alcohol testing, you must comply with the following requirements:

(1) You must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions).

(2) You must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., you must not test some covered employees and not others).

(3) You must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test.

(4) You must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40.

(5) You must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee's test indicates an alcohol concentration of less than 0.04. If a pre-employment test result under this paragraph indicates an alcohol concentration of 0.02 or greater but less than 0.04, the provisions of §120.221(f) apply.

(b) Post-accident alcohol testing.

(1) As soon as practicable following an accident, each employer shall test each surviving covered employee for alcohol if that employee's performance of a safety-sensitive function either contributed to the accident or cannot be completely discounted as a contributing factor to the accident. The decision not to administer a test under this section shall be based on the employer's determination, using the best available information at the time of the determination, that the covered employee's performance could not have contributed to the accident.

(2) If a test required by this section is not administered within 2 hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within 8 hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FAA upon request of the Administrator or his or her designee.

(3) A covered employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

(c) Random alcohol testing.

(1) Except as provided in paragraphs (c)(2) through (c)(4) of this section, the minimum annual percentage rate for random alcohol testing will be 25 percent of the covered employees.

(2) The Administrator's decision to increase or decrease the minimum annual percentage rate for random alcohol testing is based on the violation rate for the entire industry. All information used for this determination is drawn from MIS reports required by this subpart. In order to ensure reliability of the data, the Administrator considers the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry violation rate. Each year, the Administrator will publish in the **Federal Register** the minimum annual percentage rate for random alcohol testing of covered employees. The new minimum annual percentage rate for random alcohol testing will be applicable starting January 1 of the calendar year following publication.

(3)(i) When the minimum annual percentage rate for random alcohol testing is 25 percent or more, the Administrator may lower this rate to 10 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of this subpart for two consecutive calendar years indicate that the violation rate is less than 0.5 percent.

(ii) When the minimum annual percentage rate for random alcohol testing is 50 percent, the Administrator may lower this rate to 25 percent of all covered employees if the Administrator determines that the data received under the reporting requirements of this subpart for two consecutive calendar years indicate that the violation rate is less than 1.0 percent but equal to or greater than 0.5 percent.

(4)(i) When the minimum annual percentage rate for random alcohol testing is 10 percent, and the data received under the reporting requirements of this subpart for that calendar year indicate that the violation rate is equal to or greater than 0.5 percent but less than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random alcohol testing to 25 percent of all covered employees.

(ii) When the minimum annual percentage rate for random alcohol testing is 25 percent or less, and the data received under the reporting requirements of this subpart for that calendar year indicate that the violation rate is equal to or greater than 1.0 percent, the Administrator will increase the minimum annual percentage rate for random alcohol testing to 50 percent of all covered employees.

(5) The selection of employees for random alcohol testing shall be made by a scientifically valid method, such as a random-number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

(6) As an employer, you must select and test a percentage of employees at least equal to the minimum annual percentage rate each year.

(i) As an employer, to determine whether you have met the minimum annual percentage rate, you must divide the number of random alcohol screening test results for safety-sensitive employees by the average number of safety-sensitive employees eligible for random testing.

(A) To calculate whether you have met the annual minimum percentage rate, count all random screening test results below 0.02 breath alcohol concentration, random screening test results of

0.02 or greater breath alcohol concentration, and random refusals as your "random alcohol screening test results."

(B) To calculate the average number of safety-sensitive employees eligible for random testing throughout the year, add the total number of safety-sensitive employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. Only safety-sensitive employees are to be in an employer's random testing pool, and all safety-sensitive employees must be in the random pool. If you are an employer conducting random testing more often than once per month (e.g., you select daily, weekly, bi-weekly) you do not need to compute this total number of safety-sensitive employees more than on a once per month basis.

(ii) As an employer, you may use a service agent to perform random selections for you, and your safety-sensitive employees may be part of a larger random testing pool of safety-sensitive employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only safety-sensitive employees are in the random testing pool. For example:

(A) If the service agent has your employees in a random testing pool for your company alone, you must ensure that the testing is conducted at least at the minimum annual percentage rate under this part.

(B) If the service agent has your employees in a random testing pool combined with other FAA-regulated companies, you must ensure that the testing is conducted at least at the minimum annual percentage rate under this part.

(C) If the service agent has your employees in a random testing pool combined with other DOT-regulated companies, you must ensure that the testing is conducted at least at the highest rate required for any DOT-regulated company in the pool.

(7) Each employer shall ensure that random alcohol tests conducted under this subpart are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year.

(8) Each employer shall require that each covered employee who is notified of selection for random testing proceeds to the testing site immediately; provided, however, that if the employee is performing a safety-sensitive function at the time of the notification, the employer shall instead ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

(9) A covered employee shall only be randomly tested while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

(10) If a given covered employee is subject to random alcohol testing under the alcohol testing rules of more than one DOT agency, the employee shall be subject to random alcohol testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the employee's functions.

(11) If an employer is required to conduct random alcohol testing under the alcohol testing rules of more than one DOT agency, the employer may—

(i) Establish separate pools for random selection, with each pool containing the covered employees who are subject to testing at the same required rate; or

(ii) Randomly select such employees for testing at the highest percentage rate established for the calendar year by any DOT agency to which the employer is subject.

(d) Reasonable suspicion alcohol testing.

(1) An employer shall require a covered employee to submit to an alcohol test when the employer has reasonable suspicion to believe that the employee has violated the alcohol misuse prohibitions in §§120.19 or 120.37.

(2) The employer's determination that reasonable suspicion exists to require the covered employee to undergo an alcohol test shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. The required observations shall be made by a supervisor who is trained in detecting the symptoms of alcohol misuse. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on that employee.

(3) Alcohol testing is authorized by this section only if the observations required by paragraph (d)(2) of this section are made during, just preceding, or just after the period of the work day that the covered employee is required to be in compliance with this rule. An employee may be directed by the employer to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

(4)(i) If a test required by this section is not administered within 2 hours following the determination made under paragraph (d)(2) of this section, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within 8 hours following the determination made under paragraph (d)(2) of this section, the employer shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(ii) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of, or impaired by, alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, nor shall an employer permit the covered employee to perform or continue to perform safety-sensitive functions until:

(A) An alcohol test is administered and the employee's alcohol concentration measures less than 0.02; or

(B) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following the determination made under paragraph (d)(2) of this section that there is reasonable suspicion that the employee has violated the alcohol misuse provisions in §§120.19 or 120.37.

(iii) No employer shall take any action under this subpart against a covered employee based solely on the employee's behavior and appearance in the absence of an alcohol test. This does not prohibit an employer with authority independent of this subpart from taking any action otherwise consistent with law.

(e) Return-to-duty alcohol testing. Each employer shall ensure that before a covered employee returns to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited in §§120.19 or 120.37 the employee shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02. The test cannot occur until after the SAP has determined that the employee has successfully complied with the prescribed education and/or treatment.

(f) Follow-up alcohol testing.

(1) Each employer shall ensure that the employee who engages in conduct prohibited by §§120.19 or 120.37, is subject to unannounced follow-up alcohol testing as directed by a SAP.

(2) The number and frequency of such testing shall be determined by the employer's SAP, but must consist of at least six tests in the first 12 months following the employee's return to duty.

(3) The employer must direct the employee to undergo testing for drugs in accordance with subpart E of this part, in addition to alcohol, if the SAP determines that drug testing is necessary for the particular employee. Any such drug testing shall be conducted in accordance with the provisions of 49 CFR part 40.

(4) Follow-up testing shall not exceed 60 months after the date the individual begins to perform, or returns to the performance of, a safety-sensitive function. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been conducted, if the SAP determines that such testing is no longer necessary.

(5) A covered employee shall be tested for alcohol under this section only while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

(g) Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04. Each employer shall retest a covered employee to ensure compliance with the provisions of §120.221(f) if the employer chooses to permit the employee to perform a safety-sensitive function within 8 hours following the administration of an alcohol test indicating an alcohol concentration of 0.02 or greater but less than 0.04.

§120.219 Handling of test results, record retention, and confidentiality.

(a) Retention of records.

(1) General requirement. In addition to the records required to be maintained under 49 CFR part 40, employers must maintain records required by this subpart in a secure location with controlled access.

(2) Period of retention.

(i) Five years.

(A) Copies of any annual reports submitted to the FAA under this subpart for a minimum of 5 years.

(B) Records of notifications to the Federal Air Surgeon of refusals to submit to testing and violations of the alcohol misuse prohibitions in this chapter by covered employees who hold medical certificates issued under part 67 of this chapter.

(C) Documents presented by a covered employee to dispute the result of an alcohol test administered under this subpart.

(D) Records related to other violations of §§120.19 or 120.37.

(ii) Two years. Records related to the testing process and training required under this subpart.

(A) Documents related to the random selection process.

(B) Documents generated in connection with decisions to administer reasonable suspicion alcohol tests.

(C) Documents generated in connection with decisions on post-accident tests.

(D) Documents verifying existence of a medical explanation of the inability of a covered employee to provide adequate breath for testing.

(E) Materials on alcohol misuse awareness, including a copy of the employer's policy on alcohol misuse.

(F) Documentation of compliance with the requirements of §120.223(a).

(G) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(H) Certification that any training conducted under this subpart complies with the requirements for such training.

(b) Annual reports.

(1) Annual reports of alcohol testing program 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 provisions of paragraphs (b)(1)(i) through (iii) of this section.

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

(ii) Each entity conducting an alcohol 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.

(iii) 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.

(2) 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 the 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/

(3) 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.

(c) Access to records and facilities.

(1) Except as required by law or expressly authorized or required in this subpart, no employer shall release covered employee information that is contained in records required to be maintained under this subpart.

(2) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests in accordance with 49 CFR part 40. The employer shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

(3) Each employer shall permit access to all facilities utilized in complying with the requirements of this subpart to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its covered employees.

§120.221 Consequences for employees engaging in alcohol-related conduct.

(a) Removal from safety-sensitive function.

(1) Except as provided in 49 CFR part 40, no covered employee shall perform safety-sensitive functions if the employee has engaged in conduct prohibited by §§120.19 or 120.37, or an alcohol misuse rule of another DOT agency.

(2) No employer shall permit any covered employee to perform safety-sensitive functions if the employer has determined that the employee has violated this section.

(b) Permanent disqualification from service. An employee who violates §§120.19 or 120.37, or who engages in alcohol use that violates another alcohol misuse provision of §§120.19 or 120.37 and who had previously engaged in alcohol use that violated the provisions of §§120.19 or 120.37 after becoming subject to such prohibitions is permanently precluded from performing for an employer the safety-sensitive duties the employee performed before such violation.

(c) Notice to the Federal Air Surgeon.

(1) An employer who determines that a covered employee who holds an airman medical certificate issued under part 67 of this chapter has engaged in alcohol use that violated the alcohol misuse provisions of §§120.19 or 120.37 shall notify the Federal Air Surgeon within 2 working days.

(2) Each such employer shall forward to the Federal Air Surgeon a copy of the report of any evaluation performed under the provisions of §120.223(c) within 2 working days of the employer's receipt of the report.

(3) All documents must be sent 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.

(4) No covered employee who is required to hold an airman medical certificate in order to perform a safety-sensitive duty may perform that duty following a violation of this subpart until the covered employee obtains an airman medical certificate issued by the Federal Air Surgeon dated after the alcohol test result or refusal to test date. After the covered employee obtains this airman medical certificate, the SAP may recommend to the employer that the covered employee 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 or this subpart.

(5) Once the Federal Air Surgeon has recommended under paragraph (c)(4) of this section that the employee be permitted to perform safety-sensitive duties, the employer cannot permit the employee to perform those safety-sensitive duties until the employer has ensured that the employee meets the return to duty requirements in accordance with 49 CFR part 40.

(d) Notice of refusals. Each covered employer must notify the FAA within 2 working days of any employee who holds a certificate issued under part 61, part 63, or part 65 of this chapter who has refused to submit to an alcohol test required under this subpart. Notification must be sent to: Federal Aviation Administration, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591, or by fax to (202) 267-5200.

(e) Required evaluation and alcohol testing. No covered employee who has engaged in conduct prohibited by §§120.19 or 120.37 shall perform safety-sensitive functions unless the employee has met the requirements of 49 CFR part 40. No employer shall permit a covered employee who has engaged in

such conduct to perform safety-sensitive functions unless the employee has met the requirements of 49 CFR part 40.

(f) Other alcohol-related conduct.

(1) No covered employee tested under this subpart who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for an employer, nor shall an employer permit the employee to perform or continue to perform safety-sensitive functions, until:

(i) The employee's alcohol concentration measures less than 0.02; or

(ii) The start of the employee's next regularly scheduled duty period, but not less than 8 hours following administration of the test.

(2) Except as provided in paragraph (f)(1) of this section, no employer shall take any action under this rule against an employee based solely on test results showing an alcohol concentration less than 0.04. This does not prohibit an employer with authority independent of this rule from taking any action otherwise consistent with law.

§120.223 Alcohol misuse information, training, and substance abuse professionals.

(a) Employer obligation to promulgate a policy on the misuse of alcohol.

(1) General requirements. Each employer shall provide educational materials that explain these alcohol testing requirements and the employer's policies and procedures with respect to meeting those requirements.

(i) The employer shall ensure that a copy of these materials is distributed to each covered employee prior to the start of alcohol testing under the employer's FAA-mandated alcohol testing program and to each individual subsequently hired for or transferred to a covered position.

(ii) Each employer shall provide written notice to representatives of employee organizations of the availability of this information.

(2) *Required content.* The materials to be made available to employees shall include detailed discussion of at least the following:

(i) The identity of the individual designated by the employer to answer employee questions about the materials.

(ii) The categories of employees who are subject to the provisions of these alcohol testing requirements.

(iii) Sufficient information about the safety-sensitive functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with these alcohol testing requirements.

(iv) Specific information concerning employee conduct that is prohibited by this chapter.

(v) The circumstances under which a covered employee will be tested for alcohol under this subpart.

(vi) The procedures that will be used to test for the presence of alcohol, protect the employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.

(vii) The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart.

(viii) An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.

(ix) The consequences for covered employees found to have violated the prohibitions in this chapter, including the requirement

that the employee be removed immediately from performing safety-sensitive functions, and the process in 49 CFR part 40, subpart O.

(x) The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.

(xi) Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; available methods of evaluating and resolving problems associated with the misuse of alcohol; and intervening when an alcohol problem is suspected, including confrontation, referral to any available employee assistance program, and/or referral to management.

(xii) Optional provisions. The materials supplied to covered employees may also include information on additional employer policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the employer's authority independent of this subpart. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(b) Training for supervisors. Each employer shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §120.217(d) of this subpart receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

(c) Substance abuse professional (SAP) duties. The SAP must perform the functions set forth in 49 CFR part 40, subpart O, and this subpart.

§120.225 How to implement an alcohol 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:

If you are...	You must...
(1) A part 119 certificate holder with authority to operate under parts 121 and/or 135.	Obtain an Antidrug and Alcohol Misuse Prevention Program Operations Specification by contacting your FAA Principal Operations Inspector.
(2) An operator as defined in §91.147 of this chapter.	Register with the FAA, by contacting the Flight Standards District Office nearest to your principal place of business.
(3) An air traffic control facility not operated by the FAA or by or under contract to the U.S. Military.	Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591.
(4) A part 145 certificate holder who has your own alcohol testing program.	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 alcohol testing program.
(5) A contractor who has your own alcohol testing program.	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 alcohol testing program.

(b) Use the following chart for implementing an alcohol testing program if you are applying for a part 119 certificate with authority to operate under parts 121 and/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 operations as defined air traffic control operations (not operated by the FAA or by or under contract to the U.S. Mili-

tary). 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 duties must be tested in accordance with this subpart. The chart follows:

If you...	You must...
(1) Apply for a part 119 certificate with authority to operate under parts 121 and/or 135.	(i) Have an Antidrug and Alcohol Misuse Prevention Program Operations Specification, (ii) Implement an FAA alcohol 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.	(i) Register with the FAA by contacting the Flight Standards District Office nearest your principal place of business prior to starting operations, (ii) Implement an FAA alcohol 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).	(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 alcohol 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 a 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 or an operator as defined in §91.147 of this chapter, use the following chart to determine what you must do if you opt to have your own alcohol testing program.

If you...	And you opt to conduct your own Alcohol Testing Program, you must...
(1) Are a part 145 certificate holder.	(i) Have an Antidrug and Alcohol Misuse Prevention Program Operations Specifications or register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591, (ii) Implement an FAA alcohol testing program no later than the date you start performing safety-sensitive functions for a part 119 certificate holder with the authority to operate under parts 121 and/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.
(2) Are a contractor	(i) Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-800), 800 Independence Avenue, SW., Washington, DC 20591, (ii) Implement an FAA alcohol 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 and/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.

(d)(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 covered employees, or 49 or fewer covered 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)(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 covered 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 135 of this chapter, an operator as defined by §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 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 subpart E of this part and your alcohol testing program under this subpart.

§120.227 Employees located outside the U.S.

(a) No covered employee shall be tested for alcohol misuse while located outside the territory of the United States.

(1) Each covered 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 paragraph 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 person who performs a safety-sensitive function by contract for an employer outside the territory of the United States.

Part 121—Operating Requirements: Domestic, Flag, and Supplemental Operations

§121.429 [Removed and Reserved]

Section 121.429 is removed and reserved.

§121.455 [Removed and Reserved]

Section 121.455 is removed and reserved.

§121.457 [Removed and Reserved]

Section 121.457 is removed and reserved.

§121.458 [Removed and Reserved]

Section 121.458 is removed and reserved.

§121.459 [Removed and Reserved]

Section 121.459 is removed and reserved.

Appendix I to Part 121 [Removed and Reserved]

Appendix I is removed and reserved.

Appendix J to Part 121 [Removed and Reserved]

Appendix J is removed and reserved.

[As amended by Amdt. 121–343, 74 FR 22668, May 14, 2009]

Part 135—Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons On Board Such Aircraft

Section 135.1(a)(5) is revised to read as follows:

§135.1 Applicability

(a) * * *

(5) Nonstop Commercial Air Tour flights conducted for compensation or hire in accordance with §119.1(e)(2) of this chapter that begin and end at the same airport and are conducted within a 25-statute-mile radius of that airport; provided further that these operations must comply only with the drug and alcohol testing requirements in §§120.31, 120.33, 120.35, 120.37, and 135.39 of this chapter; and with the provisions of part 136, subpart A, and §91.147 of this chapter by September 11, 2007.

* * * * *

§135.249 [Removed and Reserved]

Section 135.249 is removed and reserved.

§135.251 [Removed and Reserved]

Section 135.251 is removed and reserved.

§135.253 [Removed and Reserved]

Section 135.253 is removed and reserved.

§135.255 [Removed and Reserved]

Section 135.255 is removed and reserved.

§135.353 [Removed and Reserved]

Section 135.353 is removed and reserved.

[As amended by Amdt. 135–11774, FR 22668, May 14, 2009]

MAY 8, 2009

**Part 25—Airworthiness Standards:
Transport Category Airplanes**

In Part 25, add SFAR No.109.

PART 25 IS AVAILABLE AS A FREE DOWNLOAD FROM ASA'S FAR/AIM UPDATE
WEBPAGE:

WWW.ASA2FLY.COM/FARUPDATE

MAY 1, 2009

Effective Date: June 30, 2009

Part 91—General Operating and Flight Rules

Revise Section 91.175(f)(3) to read as follows:

§91.175 Takeoff and landing under IFR.

* * * * *

(f) * * *

(3) Except as provided in paragraph (f)(4) of this section, no pilot may takeoff under IFR from a civil airport having published obstacle departure procedures (ODPs) under part 97 of this chapter for the takeoff runway to be used, unless the pilot uses such ODPs or an alternative procedure or route assigned by air traffic control.

* * * * *

[As amended by Amdt. 91–306, 74 FR 20205, May 1, 2009]

**Part 135—Operating Requirements: Commuter
and On Demand Operations and Rules
Governing Persons On Board Such Aircraft**

In Section 135.161, revise paragraphs (a)(1) and (a)(3) to read as follows:

**§135.161 Communication and navigation equipment for
aircraft operations under VFR over routes navigated by
pilotage.**

(a) * * *

(1) Communicate with at least one appropriate station from any point on the route, except in remote locations and areas of mountainous terrain where geographical constraints make such communication impossible.

* * * * *

(3) Receive meteorological information from any point en route, except in remote locations and areas of mountainous terrain

where geographical constraints make such communication impossible.

* * * * *

[As amended by Amdt. 135–110, 74 FR 20205, May 1, 2009]

MARCH 26, 2009

Part 137—Agricultural Aircraft Operations

Amend §137.43(c) by removing the reference “§91.157(a)(2)” and adding in its place the reference “§91.157(b)(4).”

[As amended at 74 FR 13099, March 26, 2009]

JANUARY 15, 2009

Effective Date: January 15, 2009

**Part 121—Operating Requirements: Domestic,
Flag, and Supplemental Operations**

Amend SFAR 106 by revising sections 2 and 3(a) introductory text to read as follows:

**Special Federal Aviation Regulation 106—Rules for Use of
Portable Oxygen Concentrator Systems On Board Aircraft**

* * * * *

Section 2. Definitions—For the purposes of this SFAR the following definitions apply: Portable Oxygen Concentrator: means the AirSep FreeStyle, AirSep LifeStyle, Delphi RS-00400, Inogen One, Invacare XPO2, Respironics EverGo, and SeQual Eclipse Portable Oxygen Concentrator medical devices as long as those medical devices: (1) Do not contain hazardous materials as determined by the Pipeline and Hazardous Materials Safety Administration; (2) are also regulated by the Food and Drug Administration; and (3) assist a user of medical oxygen under a doctor's care. These units perform by separating oxygen from nitrogen and other gases contained in ambient air and dispensing it in concentrated form to the user.

Section 3. Operating Requirements—

(a) No person may use and no aircraft operator may allow the use of any portable oxygen concentrator device, except the AirSep FreeStyle, AirSep LifeStyle, Delphi RS-00400, Inogen One, Invacare XPO2, Respironics EverGo, or SeQual Eclipse Portable Oxygen Concentrator devices. These devices may be carried on and used by a passenger on board an aircraft provided the aircraft operator ensures that the following conditions are satisfied:

* * * * *

[Docket No. FAA–2008–1227, SFAR 106, 74 FR 2354, Jan. 14, 2009]

DATES

Effective date: February 13, 2009.

Voluntary Compliance Date: PHMSA is authorizing voluntary compliance beginning January 1, 2009.

Delayed Compliance Date: Except as specified in §§171.14, 171.25, 172.102, 172.448, and 178.703 as amended herein, compliance with the amendments adopted in this final rule is required beginning January 1, 2010.

Incorporation by Reference Date: The incorporation by reference of the publications adopted in §171.7 of this final rule has been approved by the Director of the Federal Register as of February 13, 2009.

Part 175—Carriage By Aircraft

In Section 175.10, paragraphs (a) introductory text, (a)(10), (a)(15)(i) through (iv), (a)(17), and (a)(18) are revised and a new paragraph (c) is added to read as follows:

§175.10 Exceptions for passengers, crewmembers, and air operators.

(a) This subchapter does not apply to the following hazardous materials when carried by aircraft passengers or crewmembers provided the requirements of §§171.15 and 171.16 (see paragraph (c) of this section) and the requirements of this section are met:

* * * * *

(10) Dry ice (carbon dioxide, solid), with the approval of the operator:

(i) Quantities may not exceed 2.5 kg (5.5 pounds) per person when used to pack perishables not subject to the HMR. The package must permit the release of carbon dioxide gas; and

(ii) When carried in checked baggage, each package is marked “DRY ICE” or “CARBON DIOXIDE, SOLID,” and marked with the net weight of dry ice or an indication the net weight is 2.5 kg (5.5 pounds) or less.

* * * * *

(15) * * *

(i) The battery meets the requirements of §173.159a(d) of this subchapter for non-spillable batteries;

(ii) Visual inspection including removal of the battery, where necessary, reveals no obvious defects (removal of the battery from the housing should be performed by qualified airline personnel only);

(iii) The battery is disconnected and the battery terminals are protected to prevent short circuits, unless the wheelchair or mobility aid design provides an effective means of preventing unintentional activation, and

(iv) The battery is—

(A) Securely attached to the wheelchair or mobility aid;

(B) Is removed and placed in a strong, rigid packaging marked “NONSPILLABLE BATTERY” (unless fully enclosed in a rigid housing that is properly marked), or

(C) Is handled in accordance with paragraph (a)(16)(iv) of this section.

* * * * *

(17) Except as provided in §173.21 of this subchapter, portable electronic devices (for example, watches, calculating machines, cameras, cellular phones, lap-top and notebook computers, camcorders, etc.) containing cells or batteries (including lithium cells or batteries) and spare batteries and cells for these devices, when carried by passengers or crew members for personal use. Each spare battery must be individually protected so as to prevent short

circuits (by placement in original retail packaging or by otherwise insulating terminals, e.g., by taping over exposed terminals or placing each battery in a separate plastic bag or protective pouch) and carried in carry-on baggage only. In addition, each installed or spare battery must not exceed the following:

(i) For a lithium metal battery, a lithium content of not more than 2 grams per battery; or

(ii) For a lithium-ion battery, an aggregate equivalent lithium content of not more than 8 grams per battery, except that up to two batteries with an aggregate equivalent lithium content of more than 8 grams but not more than 25 grams may be carried.

(18) Portable electronic devices (for example, cameras, cellular phones, laptop computers, and camcorders) powered by fuel cell systems, and not more than two spare fuel cell cartridges per passenger or crew member, when transported in carry-on baggage for personal use under the following conditions:

(i) Fuel cell cartridges may contain only Division 2.1 liquefied flammable gas, or hydrogen in a metal hydride, Class 3 flammable liquids (including methanol), Division 4.3 water reactive substances, or Class 8 corrosive materials;

(ii) The maximum quantity of fuel in any fuel cell cartridge may not exceed:

(A) 200 mL (6.76 ounces) for liquids,

(B) 120 mL (4 fluid ounces) for liquefied gases in non-metallic fuel cell cartridges, or 200 mL (6.76 ounces) for liquefied gases in metal fuel cell cartridges;

(C) 200 g (7 ounces) for solids; or

(D) 120 mL (4 fluid ounces) for hydrogen in a metal hydride.

(iii) No more than two spare fuel cell cartridges may be carried by a passenger;

(iv) Fuel cell systems containing fuel and fuel cell cartridges including spare cartridges are permitted in carry-on baggage only;

(v) Fuel cell cartridges containing hydrogen in a metal hydride must meet the requirements in §173.230(d);

(vi) Fuel cell cartridges may not be refillable by the user. Refueling of fuel cell systems is not permitted except that the installation of a spare cartridge is allowed. Fuel cell cartridges that are used to refill fuel cell systems but that are not designed or intended to remain installed (fuel cell refills) in a portable electronic device are not permitted;

(vii) Fuel cell systems and fuel cell cartridges must conform to IEC/PAS 62282-6-1 (IBR; see §171.7 of this subchapter);

(viii) Interaction between fuel cells and integrated batteries in a device must conform to IEC/PAS 62282-6-1 (IBR, see §171.7 of this subchapter). Fuel cell systems for which the sole function is to charge a battery in the device are not permitted;

(ix) Fuel cell systems must be of a type that will not charge batteries when the consumer electronic device is not in use; and

(x) Each fuel cell cartridge and system that conforms to the requirements in this paragraph (a)(18) must be durably marked by the manufacturer with the wording: “APPROVED FOR CARRIAGE IN AIRCRAFT CABIN ONLY” to certify that the fuel cell cartridge or system meets the specifications in IEC/PAS 62282-6-1 (IBR, see §171.7 of this subchapter) and with the maximum quantity and type of fuel contained in the cartridge or system.

* * * * *

(c) The requirements to submit incident reports as required under §§171.15 and 171.16 of this subchapter apply to the air carrier.

[Docket Nos. PHMSA–2007–0065 (HM-224D) and PHMSA–2008–0005 (HM-215J), 74 FR 2266, Jan. 14, 2009]

In Section 175.33, paragraphs (a)(1)(i) and (c)(4) are revised and a new paragraph (a)(11) is added to read as follows:

§175.33 Shipping paper and notification of pilot-in-command.

* * * * *

(a) * * *

(1) * * *

(i) Section 172.101 of this subchapter. Except for the requirement to indicate the type of package, any additional description requirements provided in §§172.202, and 172.203 of this subchapter must also be shown on the notification.

* * * * *

(11) For UN1845, Carbon dioxide, solid (dry ice), only the UN number, proper shipping name, hazard class, total quantity in each hold aboard the aircraft, and the airport at which the package(s) is to be unloaded must be provided.

* * * * *

(c) * * *

(4) Make available, upon request, to an authorized official of a Federal, State, or local government agency (including an emergency responder(s)) at reasonable times and locations, the documents or information required to be retained by this paragraph. In the event of a reportable incident, as defined in §171.15 of this subchapter, make immediately available to an authorized official of a Federal, State, or local government agency (including an emergency responders), the documents or information required to be retained by this paragraph.

* * * * *

[Docket Nos. PHMSA–2007–0065 (HM-224D) and PHMSA–2008–0005 (HM-215J), 74 FR 2267, Jan. 14, 2009]

In Section 175.75, paragraph (d) and (e) are revised, and add a new paragraph (f) to read as follows:

§175.75 Quantity limitations and cargo location.

* * * * *

(d) Each package displaying a “Cargo Aircraft Only” label must be loaded on cargo aircraft as follows:

(1) In a manner that a crew member or other authorized person can access, handle and when size and weight permit, separate such packages from other cargo during flight;

(2) In a cargo compartment certified by FAA as a Class C aircraft cargo compartment as defined in 14 CFR 25.857(c); or

(3) In an FAA-certified freight container that has an approved fire or smoke detection system and fire suppression system equivalent to that required by the certification requirements for a Class C aircraft cargo compartment.

(e) For cargo aircraft only, the requirements of paragraph (c) and (d) do not apply to the following hazardous materials:

(1) Class 3—Packing Group III (that do not meet the definition of another hazard class), Division 6.1 (except those also labeled FLAMMABLE), Division 6.2, Class 7, Class 9 or ORM-D.

(2) Division 2.2 in that an additional 75 kg (165 pounds) net weight of Division 2.2 material is authorized in inaccessible locations.

(3) Packages of hazardous materials transported aboard a cargo aircraft, when other means of transportation are impracticable or not available, in accordance with procedures approved in writing by the FAA Regional or Field Security Office in the region where the operator is located.

(4) Packages of hazardous materials carried on small, single pilot, cargo aircraft if:

(i) No person is carried on the aircraft other than the pilot, an FAA inspector, the shipper or consignee of the material, a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material;

(ii) The pilot is provided with written instructions on the characteristics and proper handling of the materials; and

(iii) Whenever a change of pilots occurs while the material is on board, the new pilot is briefed under a hand-to-hand signature service provided by the operator of the aircraft.

(f) At a minimum, quantity limits and loading instructions in the following quantity and loading tables must be followed to maintain acceptable quantity and loading between packages containing hazardous materials. These requirements do not apply to Class 9 or ORM-D materials. For cargo aircraft only packages containing hazardous materials, packages loaded in conformance with paragraph (d) of this section are considered accessible for the purposes of the Cargo Only Aircraft table. The quantity and loading tables are as follows:

* * * * *

[Docket Nos. PHMSA–2007–0065 (HM-224D) and PHMSA–2008–0005 (HM-215J), 74 FR 2267, Jan. 14, 2009]

In Section 175.88, paragraph (c) is revised to read as follows:

§175.88 Inspection, orientation and securing packages of hazardous materials.

* * * * *

(c) Packages containing hazardous materials must be secured in an aircraft in a manner that will prevent any shifting or any change in the orientation of the packages. Packages containing Class 7 (radioactive) materials must be secured in a manner that ensures that the separation requirements of §§175.701 and 175.702 will be maintained at all times during flight.

[Docket Nos. PHMSA–2007–0065 (HM-224D) and PHMSA–2008–0005 (HM-215J), 74 FR 2268, Jan. 14, 2009]

In Section 175.700, paragraph (a) is revised to read as follows:

§175.700 Special limitations and requirements for Class 7 materials.

(a) Except as provided in §§173.4a, 173.422 and 173.423 of this subchapter, no person may carry any Class 7 materials aboard a passenger-carrying aircraft unless that material is intended for use in, or incident to research (See §171.8 of this subchapter), medical diagnosis or treatment. Regardless of its intended use, no person may carry a Type B(M) package aboard a passenger-carrying aircraft, a vented Type B(M) package aboard any aircraft, or a liquid pyrophoric Class 7 material aboard any aircraft.

* * * * *

[Docket Nos. PHMSA–2007–0065 (HM-224D) and PHMSA–2008–0005 (HM-215J), 74 FR 2268, Jan. 14, 2009]

DECEMBER 16, 2008

Effective date: February 17, 2009

Part 1—Definitions and Abbreviations

Amend Section 1.1 by adding the definition of “National defense airspace” in alphabetical order to read as follows:

§1.1 General definitions.

* * * * *

National defense airspace means airspace established by a regulation prescribed, or an order issued under, 49 U.S.C. 40103(b)(3).

* * * * *

[As amended by Amdt. 1–63, 73 FR 76213, Dec. 16, 2008]

DECEMBER 4, 2008

Effective date: February 2, 2009

Part 1—Definitions and Abbreviations

Add the following definition of *Amateur rocket* in alphabetical order to Section 1.1 to read as follows:

§1.1 General definitions.

* * * * *

Amateur rocket means an unmanned rocket that:

(1) Is propelled by a motor or motors having a combined total impulse of 889,600 Newton-seconds (200,000 pound-seconds) or less; and

(2) Cannot reach an altitude greater than 150 kilometers (93.2 statute miles) above the earth's surface.

* * * * *

[As amended by Amdt. 1–62, 73 FR 73781, Dec. 4, 2008]

DECEMBER 2, 2008

Effective date: February 2, 2009

Part 91—General Operating and Flight Rules

Amend Section 91.609 by adding a new paragraph (k) to read as follows:

§91.609 Flight data recorders and cockpit voice recorders.

* * * * *

(k) An aircraft operated under this part under deviation authority from part 125 of this chapter must comply with all of the applicable flight data recorder requirements of part 125 applicable to the aircraft, notwithstanding such deviation authority.

[As amended by Amdt. 91–304, 73 FR 73178, Dec. 2, 2008]

Part 121—Operating Requirements: Domestic, Flag, and Supplemental Operations

Amend Section 121.344 by removing the word “and” after paragraph (a)(87); by removing the period after paragraph (a)(88) and adding a semicolon in its place; by adding new paragraphs (a)(89), (90), and (91), (e)(3) and (n); and by revising paragraph (f) to read as follows:

§121.344 Digital flight data recorders for transport category airplanes.

(a) * * *

(89) Yaw damper status;

(90) Yaw damper command; and

(91) Standby rudder valve status.

* * * * *

(e) * * *

(3) In addition to the requirements of paragraphs (e)(1) and (e)(2) of this section, all Boeing 737 model airplanes must also comply with the requirements of paragraph (n) of this section, as applicable.

(f) For all turbine-engine-powered transport category airplanes manufactured after August 19, 2002—

(1) The parameters listed in paragraphs (a)(1) through (a)(88) of this section must be recorded within the ranges, accuracies, reso-

lutions, and recording intervals specified in appendix M to this part.

(2) In addition to the requirements of paragraphs (f)(1) of this section, all Boeing 737 model airplanes must also comply with the requirements of paragraph (n) of this section.

* * * * *

(n) In addition to all other applicable requirements of this section, all Boeing 737 model airplanes manufactured after August 18, 2000 must record the parameters listed in paragraphs (a)(88) through (a)(91) of this section within the ranges, accuracies, resolutions, and recording intervals specified in Appendix M to this part. Compliance with this paragraph is required no later than February 2, 2011.

[As amended by Amdt. 121–342, 73 FR 73178, Dec. 2, 2008]

Amend Appendix M to part 121 by revising item 88 and adding items 89 through 91 and footnote 19 to read as follows:

Appendix M to Part 121—Airplane Flight Recorder Specifications

* * * * *

Parameter	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
*	*	*	*	*	*
88. All cockpit flight control input forces (control wheel, control column, rudder pedal) ^{18 19}	Full range Control wheel ± 70 lbs. Control column ± 85 lbs. Rudder pedal ± 165 lbs.	$\pm 5\%$	1	0.3% of full range	For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.
89. Yaw damper status	Discrete (on/off)	—	0.5	—	—
90. Yaw damper command	Full range	As installed	0.5	1% of full range	—
91. Standby rudder valve status	Discrete	—	0.5		—

* * * * *

¹⁸ For all aircraft manufactured on or after April 7, 2010, the seconds per sampling interval is 0.125. Each input must be recorded at this rate. Alternately sampling inputs (interleaving) to meet this sampling interval is prohibited.

¹⁹ For 737 model airplanes manufactured between August 19, 2000 and April 6, 2010: the seconds per sampling interval is 0.5 per control input; the remarks regarding the sampling rate do not apply; a single control wheel force transducer installed on the left cable control is acceptable provided the left and right control wheel positions also are recorded.

[As amended by Amdt. 121–342, 73 FR 73178, Dec. 2, 2008]

NOVEMBER 19, 2008

Effective date: December 19, 2008

Part 91—General Operating and Flight Rules

Amend Section 91.307 by revising paragraph (a) to read as follows:

§91.307 Parachutes and parachuting.

(a) No pilot of a civil aircraft may allow a parachute that is available for emergency use to be carried in that aircraft unless it is an approved type and has been packed by a certificated and appropriately rated parachute rigger—

(1) Within the preceding 180 days, if its canopy, shrouds, and harness are composed exclusively of nylon, rayon, or other similar synthetic fiber or materials that are substantially resistant to damage from mold, mildew, or other fungi and other rotting agents propagated in a moist environment; or

(2) Within the preceding 60 days, if any part of the parachute is composed of silk, pongee, or other natural fiber or materials not specified in paragraph (a)(1) of this section.

* * * * *

[As amended by Amdt. 91–305, 73 FR 69530, Nov. 19, 2008]

Part 105—Parachute Operations

Amend Section 105.43 by revising paragraph (a) and (b)(1) to read as follows:

§105.43 Use of single-harness, dual-parachute systems.

* * * * *

(a) The main parachute must have been packed within 180 days before the date of its use by a certificated parachute rigger, the person making the next jump with that parachute, or a non-certificated person under the direct supervision of a certificated parachute rigger.

(b) ***

(1) Within 180 days before the date of its use, if its canopy, shroud, and harness are composed exclusively of nylon, rayon, or similar synthetic fiber or material that is substantially resistant to damage from mold, mildew, and other fungi, and other rotting agents propagated in a moist environment; or

* * * * *

[Docket No. FAA–1999–5483, 66 FR 23553, May 9, 2001; as amended by Amdt. 105–13, 73 FR 69531, Nov. 19, 2008]

OCTOBER 28, 2008

Part 25—Airworthiness Standards: Transport Category Airplanes

Section 25.795 Security considerations is revised.

PART 25 IS AVAILABLE AS A FREE DOWNLOAD FROM ASA'S FAR/AIM UPDATE
WEBPAGE:

WWW.ASA2FLY.COM/FARUPDATE

Part 121—Operating Requirements: Domestic, Flag, and Supplemental Operations

Add Section 121.295 to read as follows:

§121.295 Location for a suspect device.

After November 28, 2009, all airplanes with a maximum certificated passenger seating capacity of more than 60 persons must have a location where a suspected explosive or incendiary device found in flight can be placed to minimize the risk to the airplane.

[Docket No. FAA-2006-26722, 73 FR 63880, Oct. 28, 2008]

OCTOBER 24, 2008

Effective date: December 23, 2008

Part 25—Airworthiness Standards: Transport Category Airplanes

The FAA amends the airworthiness standards for issuance of original and amended type certificates for airplane propellers.

PART 25 IS AVAILABLE AS A FREE DOWNLOAD FROM ASA'S FAR/AIM UPDATE
WEBPAGE:

WWW.ASA2FLY.COM/FARUPDATE

OCTOBER 15, 2008

Effective Date: These regulations are effective October 31, 2008. The incorporation by reference of FAA Order 7400.9S is approved by the Director of the Federal Register as of October 31, 2008, through September 15, 2009.

Part 71—Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points

Section 71.1 is revised to read as follows:

§71.1 Applicability.

A listing for Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points can be found in FAA Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552 (a) and 1 CFR part 51. The approval to incorporate by reference FAA Order 7400.9S is effective October 31, 2008, through September 15, 2009. During the incorporation by reference period, proposed changes to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as proposed rule documents in the Federal Register. Amendments to the listings of Class A, B, C, D, and E airspace areas; air traffic service routes; and reporting points will be published in full text as final rules in the Federal Register. Periodically, the final rule amendments will be integrated into a revised edition of the Order and submitted to the Director of the Federal Register for approval for incorporation by reference in this

section. Copies of FAA Order 7400.9S may be obtained from Airspace and Rules Group, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267-8783. An electronic version of the Order is available on the FAA Web site at:

<http://www.faa.gov/airports-airtraffic/air-traffic/publications/>

Copies of FAA Order 7400.9S may be inspected in Docket No. 29334 at:

<http://www.regulations.gov>

or at the National Archives and Records Administration.

[Docket No. 29334, 73 FR 60939, Oct. 15, 2008]

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

The following Sections are amended by removing the words "FAA Order 7400.9R" and adding, in their place, the words "FAA Order 7400.9S."

§71.5 Reporting points.

§71.15 Designation of jet routes and VOR Federal airways.

§71.31 Class A airspace.

§71.33 Class A airspace areas.

§71.41 Class B airspace.

§71.51 Class C airspace.

§71.61 Class D airspace

§71.71 Class E airspace.

§71.901 Applicability.

[As amended by Amdt. 71-40, 73 FR 60940, Oct. 15, 2008]

OCTOBER 1, 2008

Part 175—Hazardous Materials: Carriage by Aircraft

In Section 175.30, paragraphs (a)(2) and (a)(3) are revised to read as follows:

§175.30 Inspecting shipments.

(a) ***

(2) Described and certified on a shipping paper prepared in duplicate in accordance with part 172 of this subchapter or as authorized by subpart C of part 171 of this subchapter. See §175.33 for shipping paper retention requirements;

(3) Marked and labeled in accordance with subparts D and E of part 172 or as authorized by subpart C of part 171 of this subchapter, and placarded (when required) in accordance with subpart F of part 172 of this subchapter; and

* * * * *

[As amended by Docket No. PHMSA-2008-0227 (HM-244A), 73 FR 57006, Oct. 1, 2008]

In Section 175.33, paragraph (a)(6) is revised to read as follows:

§175.33 Shipping paper and notification of pilot-in-command.

(a) ***

(6) For Class 7 (radioactive) materials, the number of packages, overpacks or freight containers, their category, transport index (if applicable), and their location aboard the aircraft;

* * * * *

[As amended by Docket No. PHMSA-2008-0227 (HM-244A), 73 FR 57006, Oct. 1, 2008]

SEPTEMBER 22, 2008

Effective Date: These regulations are effective September 16, 2008 until October 31, 2008. The incorporation by reference of FAA Order 7400.9R is approved by the Director of the Federal Register as of September 16, 2008 until October 31, 2008.

Part 71—Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points

See Section 71.1 revised October 15, 2008:

§71.5 Reporting points.

The reporting points listed in Subpart H of FAA Order 7400.9R (incorporated by reference, see §71.1) consist of geographic locations at which the position of an aircraft must be reported in accordance with part 91 of this chapter.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

Section 71.15 is revised to read as follows:

§71.15 Designation of jet routes and VOR Federal airways.

Unless otherwise specified, the place names appearing in the descriptions of airspace areas designated as jet routes in Subpart A of FAA Order 7400.9R, and as VOR Federal airways in Subpart E of FAA Order 7400.9R, are the names of VOR or VORTAC navigation aids. FAA Order 7400.9R is incorporated by reference in §71.1.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

Section 71.31 is revised to read as follows:

§71.31 Class A airspace.

The airspace descriptions contained in §71.33 and the routes contained in Subpart A of FAA Order 7400.9R (incorporated by reference, see §71.1) are designated as Class A airspace within which all pilots and aircraft are subject to the rating requirements, operating rules, and equipment requirements of part 91 of this chapter.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

In Section 71.33 revise paragraph (c) to read as follows:

§71.33 Class A airspace areas.

* * * * *

(c) The airspace areas listed as offshore airspace areas in Subpart A of FAA Order 7400.9R (incorporated by reference, see §71.1) that are designated in international airspace within areas of domestic radio navigational signal or ATC radar coverage, and within which domestic ATC procedures are applied.

[As amended by Amdt. 71–40, 73 FR 54495, Sept. 22, 2008]

Section 71.41 is revised to read as follows:

§71.41 Class B airspace.

The Class B airspace areas listed in Subpart B of FAA Order 7400.9R (incorporated by reference, see §71.1) consist of specified airspace within which all aircraft operators are subject to the minimum pilot qualification requirements, operating rules, and aircraft equipment requirements of part 91 of this chapter. Each Class B airspace area designated for an airport in Subpart B of FAA Order 7400.9R (incorporated by reference, see §71.1) contains at least one primary airport around which the airspace is designated.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

Section 71.51 is revised to read as follows:

§71.51 Class C airspace.

The Class C airspace areas listed in Subpart C of FAA Order 7400.9R (incorporated by reference, see §71.1) consist of specified airspace within which all aircraft operators are subject to operating rules and equipment requirements specified in part 91 of this chapter. Each Class C airspace area designated for an airport in Subpart C of FAA Order 7400.9R (incorporated by reference, see §71.1) contains at least one primary airport around which the airspace is designated.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

Section 71.61 is revised to read as follows:

§71.61 Class D airspace.

The Class D airspace areas listed in Subpart D of FAA Order 7400.9R (incorporated by reference, see §71.1) consist of specified airspace within which all aircraft operators are subject to operating rules and equipment requirements specified in part 91 of this chapter. Each Class D airspace area designated for an airport in Subpart D of FAA Order 7400.9R (incorporated by reference, see §71.1) contains at least one primary airport around which the airspace is designated.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

Section 71.71 is revised to read as follows:

§71.71 Class E airspace.

Class E Airspace consists of:

(a) The airspace of the United States, including that airspace overlying the waters within 12 nautical miles of the coast of the 48 contiguous states and Alaska, extending upward from 14,500 feet MSL up to, but not including 18,000 feet MSL, and the airspace above FL600, excluding—

(1) The Alaska peninsula west of longitude 160°00'00" W.; and

(2) The airspace below 1,500 feet above the surface of the earth.

(b) The airspace areas designated for an airport in Subpart E of FAA Order 7400.9R (incorporated by reference, see §71.1) within which all aircraft operators are subject to the operating rules specified in part 91 of this chapter.

(c) The airspace areas listed as domestic airspace areas in Subpart E of FAA Order 7400.9R (incorporated by reference, see §71.1) which extend upward from 700 feet or more above the surface of the earth when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed, or from 1,200 feet or more above the surface of the earth for the purpose of transitioning to or from the terminal or en route environment. When such areas are designated in conjunction with airways or routes, the extent of such designation has the lateral extent identical to that of a Federal airway and extends upward from 1,200 feet or higher. Unless otherwise specified, the airspace areas in the paragraph extend upward from 1,200 feet or higher above the surface to, but not including, 14,500 feet MSL.

(d) The Federal airways described in Subpart E of FAA Order 7400.9R (incorporated by reference, see §71.1).

(e) The airspace areas listed as en route domestic airspace areas in Subpart E of FAA Order 7400.9R (incorporated by reference, see §71.1). Unless otherwise specified, each airspace area has a lateral extent identical to that of a Federal airway and extends upward from 1,200 feet above the surface of the earth to the overlying or adjacent controlled airspace.

(f) The airspace areas listed as offshore airspace areas in Subpart E of FAA Order 7400.9R (incorporated by reference, see §71.1) that are designated in international airspace within areas of domestic radio navigational signal or ATC radar coverage, and within which domestic ATC procedures are applied. Unless otherwise specified, each airspace area extends upward from a specified altitude up to, but not including, 18,000 feet MSL.

[Docket No. 29334, 73 FR 54495, Sept. 22, 2008]

Section 71.901 is revised to read as follows:

§71.901 Applicability.

Unless otherwise designated:

(a) Each reporting point listed in Subpart H of FAA Order 7400.9R (incorporated by reference, see §71.1) applies to all directions of flight. In any case where a geographic location is designated as a reporting point for less than all airways passing through that point, or for a particular direction of flight along an airway only, it is so indicated by including the airways or direction of flight in the designation of geographical location.

(b) Place names appearing in the reporting point descriptions indicate VOR or VORTAC facilities identified by those names.

[Docket No. 29334, 73 FR 54496, Sept. 22, 2008]

AUGUST 18, 2008

Effective date: October 17, 2008

Part 1—Definitions and Abbreviations

Amend Section 1.1 by revising the following definitions:

§1.1 General definitions.

* * * * *

Rated 30-second OEI Power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter, for continuation of one flight operation after the failure or shutdown of one engine in multiengine rotorcraft, for up to three periods of use no longer than 30 seconds each in any one flight, and followed by mandatory inspection and prescribed maintenance action.

Rated 2-minute OEI Power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter, for continuation of one flight operation after the failure or shutdown of one engine in multiengine rotorcraft, for up to three periods of use no longer than 2 minutes each in any one flight, and followed by mandatory inspection and prescribed maintenance action.

Rated continuous OEI power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter, and limited in use to the time required to complete the flight after the failure or shutdown of one engine of a multi-engine rotorcraft.

* * * * *

Rated 30-minute OEI power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter, and limited in use to one period of use no longer than

30 minutes after the failure or shutdown of one engine of a multi-engine rotorcraft.

Rated 2-1/2-minute OEI power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter for periods of use no longer than 2-1/2 minutes each after the failure or shutdown of one engine of a multi-engine rotorcraft.

* * * * *

[As amended at 73 FR 48123, Aug. 18, 2008]

Part 61—Certification: Pilots, Flight Instructors, and Ground Instructors

EDITORIAL NOTE: THE FAA IS CORRECTING A FINAL RULE. THE AMENDMENT OF JULY 24, 2008 IN THIS UPDATE REFLECTS THAT CORRECTION.

[As amended by Amdt. 61-121, 73 FR 48125, Aug. 18, 2008]

AUGUST 12, 2008

DATES: This final rule is effective on February 9, 2009.

Affected parties, however, do not have to comply with the information collection requirement in §91.161 until the FAA publishes in the Federal Register the control number assigned by the Office of Management and Budget (OMB) for this information collection requirement.

Part 91—General Operating and Flight Rules

Add Section 91.161 to read as follows:

§91.161 Special awareness training required for pilots flying under visual flight rules within a 60-nautical mile radius of the Washington, DC VOR/DME.

(a) **Operations within a 60-nautical mile radius of the Washington, DC VOR/DME under visual flight rules (VFR).** Except as provided under paragraph (e) of this section, no person may serve as a pilot in command or as second in command of an aircraft while flying within a 60-nautical mile radius of the DCA VOR/DME, under VFR, unless that pilot has completed Special Awareness Training and holds a certificate of training completion.

(b) **Special Awareness Training.** The Special Awareness Training consists of information to educate pilots about the procedures for flying in the Washington, DC area and, more generally, in other types of special use airspace. This free training is available on the FAA's Web site. Upon completion of the training, each person will need to print out a copy of the certificate of training completion.

(c) **Inspection of certificate of training completion.** Each person who holds a certificate for completing the Special Awareness Training must present it for inspection upon request from:

(1) An authorized representative of the FAA;

(2) An authorized representative of the National Transportation Safety Board;

(3) Any Federal, State, or local law enforcement officer; or

(4) An authorized representative of the Transportation Security Administration.

(d) **Emergency declared.** The failure to complete the Special Awareness Training course on flying in and around the Washington, DC Metropolitan Area is not a violation of this section if an emergency is declared by the pilot, as described under §91.3(b), or there was a failure of two-way radio communications when operating under IFR as described under §91.185.

(e) **Exceptions.** The requirements of this section do not apply if the flight is being performed in an aircraft of an air ambulance operator certificated to conduct part 135 operations under this chapter, the U.S. Armed Forces, or a law enforcement agency.
[Docket No. FAA–2006–25250, 73 FR 46803, Aug. 12, 2008]

JULY 24, 2008

DATES: These amendments become effective August 25, 2008 except for the amendments to Section 61.23(d) which become effective on July 24, 2008.

Part 61—Certification: Pilots, Flight Instructors, and Ground Instructors

Amend Section 61.23 by revising paragraph (d) to read as follows:

§61.23 Medical certificates: Requirement and duration.

* * * * *

(d) **Duration of a medical certificate.** Use the following table to determine duration for each class of medical certificate:

If you hold	And on the date of examination for your most recent medical certificate you were	And you are conducting an operation requiring	Then your medical certificate expires, for that operation, at the end of the last day of the
(1) A first-class medical certificate	(i) Under age 40	an airline transport pilot certificate	12th month after the month of the date of examination shown on the medical certificate.
	(ii) Age 40 or older	an airline transport pilot certificate	6th month after the month of the date of examination shown on the medical certificate.
	(iii) Any age	a commercial pilot certificate or an air traffic control tower operator certificate.	12th month after the month of the date of examination shown on the medical certificate.
	(iv) Under age 40	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	60th month after the month of the date of examination shown on the medical certificate.
	(v) Age 40 or older	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	24th month after the month of the date of examination shown on the medical certificate.
(2) A second-class medical certificate	(i) Any age	a commercial pilot certificate or an air traffic control tower operator certificate.	12th month after the month of the date of examination shown on the medical certificate.
	(ii) Under age 40	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	60th month after the month of the date of examination shown on the medical certificate.
	(iii) Age 40 or older	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	24th month after the month of the date of examination shown on the medical certificate.

If you hold	And on the date of examination for your most recent medical certificate you were	And you are conducting an operation requiring	Then your medical certificate expires, for that operation, at the end of the last day of the
(3) A third-class medical certificate	(i) Under age 40	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	60th month after the month of the date of examination shown on the medical certificate.
	(ii) Age 40 or older	a recreational pilot certificate, a private pilot certificate, a flight instructor certificate (when acting as pilot in command or a required pilot flight crewmember in operations other than glider or balloon), a student pilot certificate, or a sport pilot certificate (when not using a U.S. driver's license as medical qualification).	24th month after the month of the date of examination shown on the medical certificate.

* * * * *

[As amended by Amdt. 61–121, 73 FR 43064, July 24, 2008; Amdt. 61–121, 73 FR 48125, Aug. 18, 2008]

Amend Section 61.29 by revising paragraph (b) to read as follows:

§61.29 Replacement of a lost or destroyed airman or medical certificate or knowledge test report.

* * * * *

(b) A request for the replacement of a lost or destroyed medical certificate must be made by letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA.

* * * * *

[As amended by Amdt. 61–121, 73 FR 43064, July 24, 2008]

Part 65—Certification: Airmen Other Than Flight Crewmembers

Amend Section 65.16 by revising paragraph (c) introductory text to read as follows:

§65.16 Change of name: Replacement of lost or destroyed certificate.

* * * * *

(c) An application for a replacement of a lost or destroyed medical certificate is made by letter to the Department of Transportation, Federal Aviation Administration, Aerospace Medical Certification Division, Post Office Box 26200, Oklahoma City, OK 73125, accompanied by a check or money order for \$2.00.

* * * * *

[As amended by Amdt. 65–52, 73 FR 43065, July 24, 2008]

Part 67—Medical Standards and Certification

Revise Section 67.3 to read as follows:

§67.3 Issue.

A person who meets the medical standards prescribed in this part, based on medical examination and evaluation of the person's history and condition, is entitled to an appropriate medical certificate.

[Docket No. FAA–2007–27812, 73 FR 43065, July 24, 2008]

Add Section 67.4 to read as follows:

§67.4 Application.

An applicant for first-, second- and third-class medical certification must:

(a) Apply on a form and in a manner prescribed by the Administrator;

(b) Be examined by an aviation medical examiner designated in accordance with part 183 of this chapter. An applicant may obtain a list of aviation medical examiners from the FAA Office of Aerospace Medicine homepage on the FAA Web site, from any FAA Regional Flight Surgeon, or by contacting the Manager of the Aerospace Medical Education Division, P.O. Box 26200, Oklahoma City, Oklahoma 73125.

(c) Show proof of age and identity by presenting a government-issued photo identification (such as a valid U.S. driver's license, identification card issued by a driver's license authority, military identification, or passport). If an applicant does not have government-issued identification, he or she may use non-photo, government-issued identification (such as a birth certificate or voter registration card) in conjunction with photo identification (such as a work identification card or a student identification card).

[Docket No. FAA–2007–27812, 73 FR 43065, July 24, 2008]

Amend Section 67.401 by revising paragraph (j) to read as follows:

§67.401 Special issuance of medical certificates.

* * * * *

(j) An Authorization or SODA granted under the provisions of this section to a person who does not meet the applicable provisions of subparts B, C, or D of this part must be in that person's physical possession or readily accessible in the aircraft.

[As amended by Amdt. 67–20, 73 FR 43065, July 24, 2008]

Revise Section 67.405 to read as follows:

§67.405 Medical examinations: Who may perform?

(a) **First-class.** Any aviation medical examiner who is specifically designated for the purpose may perform examinations for the first-class medical certificate.

(b) Second- and third-class. Any aviation medical examiner may perform examinations for the second-or third-class medical certificate.

[Docket No. FAA–2007–27812, 73 FR 43066, July 24, 2008]

Remove and reserve Section 67.411.

§67.411 [Removed and Reserved]

[Docket No. FAA–2007–27812, 73 FR 43066, July 24, 2008]

Revise Section 67.413 to read as follows:

§67.413 Medical records.

(a) Whenever the Administrator finds that additional medical information or history is necessary to determine whether you meet the medical standards required to hold a medical certificate, you must:

- (1) Furnish that information to the FAA; or
- (2) Authorize any clinic, hospital, physician, or other person to release to the FAA all available information or records concerning that history.

(b) If you fail to provide the requested medical information or history or to authorize its release, the FAA may suspend, modify, or revoke your medical certificate or, in the case of an applicant, deny the application for a medical certificate.

(c) If your medical certificate is suspended, modified, or revoked under paragraph (b) of this section, that suspension or modification remains in effect until you provide the requested information, history, or authorization to the FAA and until the FAA determines that you meet the medical standards set forth in this part.

[Docket No. FAA–2007–27812, 73 FR 43066, July 24, 2008]

JULY 21, 2008

Effective Date: September 19, 2008

**Part 25—Airworthiness Standards:
Transport Category Airplanes**

§25.5 was added, §25.981 was revised, and Appendix M and Appendix N were added to Part 25.

PART 25 IS AVAILABLE AS A FREE DOWNLOAD FROM ASA'S FAR/AIM UPDATE WEBPAGE:

WWW.ASA2FLY.COM/FARUPDATE

**Part 121—Operating Requirements:
Domestic, Flag, and Supplemental Operations**

Amend Part 121 by adding a new Section 121.1117 to Subpart AA, to read as follows:

§121.1117 Flammability reduction means.

(a) Applicability. Except as provided in paragraph (o) of this section, this section applies to transport category, turbine-powered airplanes with a type certificate issued after January 1, 1958, that, as a result of original type certification or later increase in capacity have:

- (1) A maximum type-certificated passenger capacity of 30 or more, or
- (2) A maximum payload capacity of 7,500 pounds or more.

(b) New Production Airplanes. Except in accordance with §121.628, no certificate holder may operate an airplane identified in Table 1 of this section (including all-cargo airplanes) for which the State of Manufacture issued the original certificate of airworthiness or export airworthiness approval after September 20,

2010 unless an Ignition Mitigation Means (IMM) or Flammability Reduction Means (FRM) meeting the requirements of §26.33 of this chapter is operational.

TABLE 1

MODEL—BOEING	MODEL—AIRBUS
747 Series 737 Series 777 Series 767 Series	A318, A319, A320, A321 Series A330, A340 Series

(c) Auxiliary Fuel Tanks. After the applicable date stated in paragraph (e) of this section, no certificate holder may operate any airplane subject to §26.33 of this chapter that has an Auxiliary Fuel Tank installed pursuant to a field approval, unless the following requirements are met:

(1) The certificate holder complies with 14 CFR 26.35 by the applicable date stated in that section.

(2) The certificate holder installs Flammability Impact Mitigation Means (FIMM), if applicable, that is approved by the FAA Oversight Office.

(3) Except in accordance with §121.628, the FIMM, if applicable, is operational.

(d) Retrofit. Except as provided in paragraphs (j), (k), and (l) of this section, after the dates specified in paragraph (e) of this section, no certificate holder may operate an airplane to which this section applies unless the requirements of paragraphs (d)(1) and (d)(2) of this section are met.

(1) IMM, FRM or FIMM, if required by §§26.33, 26.35, or 26.37 of this chapter, that are approved by the FAA Oversight Office, are installed within the compliance times specified in paragraph (e) of this section.

(2) Except in accordance with §121.628, the IMM, FRM or FIMM, as applicable, are operational.

(e) Compliance Times. Except as provided in paragraphs (k) and (l) of this section, the installations required by paragraph (d) of this section must be accomplished no later than the applicable dates specified in paragraph (e)(1), (e)(2), or (e)(3) of this section.

(1) Fifty percent of each certificate holder's fleet identified in paragraph (d)(1) of this section must be modified no later than September 19, 2014.

(2) One hundred percent of each certificate holder's fleet identified in paragraph (d)(1) of this section must be modified no later than September 19, 2017.

(3) For those certificate holders that have only one airplane of a model identified in Table 1 of this section, the airplane must be modified no later than September 19, 2017.

(f) Compliance After Installation. Except in accordance with §121.628, no certificate holder may—

(1) Operate an airplane on which IMM or FRM has been installed before the dates specified in paragraph (e) of this section unless the IMM or FRM is operational, or

(2) Deactivate or remove an IMM or FRM once installed unless it is replaced by a means that complies with paragraph (d) of this section.

(g) Maintenance Program Revisions. No certificate holder may operate an airplane for which airworthiness limitations have been approved by the FAA Oversight Office in accordance with §§26.33, 26.35, or 26.37 of this chapter after the airplane is modified in accordance with paragraph (d) of this section unless the maintenance program for that airplane is revised to include those applicable airworthiness limitations.

(h) After the maintenance program is revised as required by paragraph (g) of this section, before returning an airplane to service after any alteration for which airworthiness limitations are required by §§25.981, 26.33, or 26.37 of this chapter, the certificate holder must revise the maintenance program for the airplane to include those airworthiness limitations.

(i) The maintenance program changes identified in paragraphs (g) and (h) of this section must be submitted to the operator's Principal Maintenance Inspector responsible for review and approval prior to incorporation.

(j) The requirements of paragraph (d) of this section do not apply to airplanes operated in all-cargo service, but those airplanes are subject to paragraph (f) of this section.

(k) The compliance dates specified in paragraph (e) of this section may be extended by one year, provided that—

(1) No later than December 18, 2008, the certificate holder notifies its assigned Flight Standards Office or Principal Inspector that it intends to comply with this paragraph;

(2) No later than March 18, 2009, the certificate holder applies for an amendment to its operations specification in accordance with §119.51 of this chapter and revises the manual required by §121.133 to include a requirement for the airplane models specified in Table 2 of this section to use ground air conditioning systems for actual gate times of more than 30 minutes, when available at the gate and operational, whenever the ambient temperature exceeds 60 degrees Fahrenheit; and

(3) Thereafter, the certificate holder uses ground air conditioning systems as described in paragraph (k)(2) of this section on each airplane subject to the extension.

TABLE 2

MODEL—BOEING	MODEL—AIRBUS
747 Series	A318, A319, A320, A321 Series
737 Series	A300, A310 Series
777 Series	A330, A340 Series
767 Series	
757 Series	

(l) For any certificate holder for which the operating certificate is issued after September 19, 2008, the compliance date specified in paragraph (e) of this section may be extended by one year, provided that the certificate holder meets the requirements of paragraph (k)(2) of this section when its initial operations specifications are issued and, thereafter, uses ground air conditioning systems as described in paragraph (k)(2) of this section on each airplane subject to the extension.

(m) After the date by which any person is required by this section to modify 100 percent of the affected fleet, no certificate holder may operate in passenger service any airplane model specified in Table 2 of this section unless the airplane has been modified to comply with §26.33(c) of this chapter.

(n) No certificate holder may operate any airplane on which an auxiliary fuel tank is installed after September 19, 2017 unless the FAA has certified the tank as compliant with §25.981 of this chapter, in effect on September 19, 2008.

(o) **Exclusions.** The requirements of this section do not apply to the following airplane models:

(1) Convair CV-240, 340, 440, including turbine powered conversions.

(2) Lockheed L-188 Electra.

(3) Vickers Armstrong Viscount.

(4) Douglas DC-3, including turbine powered conversions.

(5) Bombardier CL-44.

(6) Mitsubishi YS-11.

(7) BAC 1-11.

(8) Concorde.

(9) deHavilland D.H. 106 Comet 4C.

(10) VFW—Vereinigte Flugtechnische VFW-614.

(11) Ilyushin Aviation IL 96T.

(12) Vickers Armstrong Viscount.

(13) Bristol Aircraft Britannia 305.

(14) Handley Page Herald Type 300.

(15) Avions Marcel Dassault—Breguet Aviation Mercure 100C.

(16) Airbus Caravelle.

(17) Fokker F-27/Fairchild Hiller FH-227.

(18) Lockheed L-300.

[Docket No. FAA–2005–22997, 73 FR 42501, July 21, 2008]

Aeronautical Information Manual

THE FAA RELEASED AN ERRATA SHEET TO CHANGE 1 (EFFECTIVE JULY 31, 2008). ASA'S 2009 FAR/AIM BOOK IS CORRECT; NO CHANGES ARE NEEDED. FOLLOWING ARE THE CHANGES OF AIM CHANGE 2, EFFECTIVE MARCH 12, 2009.

Explanation of Changes

1–1–4. VOR Receiver Check

A/G voice communications panels are no longer depicted on the FAA IFR area chart and IFR enroute low altitude chart.

2–1–6. Runway Status Light (RWSL)

Adds new information concerning Runway Status Lights.

4–1–3. Flight Service Stations

This proposal re-writes subparagraph 4-1-3.a, and deletes subparagraph 4-1-3.b, which is obsolete.

4–3–18. Taxiing

Flight crews can expect to receive the route to follow while on the movement area at tower controlled airports.

5–1–8. Flight Plan—IFR Flights

This proposal adds a second part to the note following paragraph 5-1-8.a, and adds subparagraph 5-1-8.a.5. These changes recommend that the pilot identify the city name and state and/or airport identifier when requesting an ATC clearance and when initially filing an IFR flight plan.

5–4–5. Instrument Approach Procedure Charts

To explain a military exception to civilian depiction on Instrument Approach Procedure Charts.

7–1–30. Key to Aerodrome Forecast (TAF) and Aviation Routine Weather Report (METAR)

To bring the US TAF format up to date with the new ICAO requirement.

7–1–31. International Civil Aviation Organization (ICAO) Weather Formats

To bring the US TAF format up to date with the new ICAO requirement.

Appendix 4. Abbreviations/Acronyms

Adds new information concerning Runway Status Lights.

Entire publication.

Editorial/format changes were made where necessary. Revision bars were not used because of the insignificant nature of these changes.

Chapter 1 Air Navigation

1–1–4 VOR Receiver Check

* * * * *

f. * * *

1. * * *

2. Locations of airborne check points, ground check points and VOTs are published in the A/FD.

* * * * *

Chapter 2 Aeronautical Lighting and Other Airport Visual Aids

2–1–6 Runway Status Light (RWSL) System

a. Introduction.

RWSL is a fully automated system that provides runway status to pilots and surface vehicle operators to indicate clearly when it is unsafe to enter, cross, or takeoff from a runway. The RWSL system processes information from surveillance systems and illuminates Runway Entrance Lights (REL) and Takeoff Hold Lights (THL) in accordance with the motion of the detected traffic. REL and THL are in-pavement fixtures that are directly visible to pilots and surface vehicle operators. RWSL is an independent safety enhancement that does not substitute for an ATC clearance. Clearance to enter, cross, or takeoff from a runway must be issued by ATC. ATC personnel do not directly use, and may not be able to view, light fixture output in their operations even though ATC has limited control over the system.

b. **Runway Entrance Lights (REL).** The REL system is composed of flush mounted, in-pavement, unidirectional fixtures that are parallel to and focused along the taxiway centerline toward the hold line. Fixtures are located at the runway centerline, the runway edge, and the runway hold line; additional fixtures are evenly spaced between those at the hold line and the runway edge (see Figure 2-1-9.) When activated, the red lights indicate that there is high speed traffic on the runway or there is an aircraft on final approach within the activation area.

[SEE NEW FIGURE 2-1-9 AT THE END OF THIS UPDATE.]

1. **Operating Characteristics—Departing Aircraft:** When a departing aircraft reaches 30 knots, all taxiway intersections with REL arrays along the runway ahead of the aircraft illuminate (see Figure 2-1-9.) As the aircraft approaches an REL equipped taxiway intersection, the lights at that intersection extinguish approximately 2 to 3 seconds before the aircraft reaches it. This allows controllers to apply “anticipated separation” to permit ATC to move traffic more expeditiously without compromising safety. After the aircraft is declared “airborne” by the system, all lights will extinguish.

2. **Operating Characteristics—Arriving Aircraft:** When an aircraft on final approach is approximately 1 mile from the runway threshold all light arrays along the runway illuminate. The distance is adjustable and can be configured for specific operations at particular airports. Lights extinguish at each equipped taxiway intersection approximately 2 to 3 seconds before the aircraft reaches it to apply anticipated separation until the aircraft has slowed to approximately 80 knots (site adjustable parameter.) Below 80 knots, all arrays that are not within 30 seconds of the aircraft's forward path are extinguished. Once the arriving aircraft slows to approximately 34 knots (site adjustable parameter), it is declared to be in a taxi state, and all lights extinguish.

3. **What a pilot would observe:** A pilot at or approaching the hold line to a runway will observe REL illumination and extinguishing in reaction to an aircraft or vehicle operating on the runway, or an arriving aircraft operating less than 1 mile from the runway threshold.

4. Whenever a pilot observes the red lights of the REL, that pilot will stop at the hold line, or remain stopped. The pilot will then contact ATC for resolution if the clearance is in conflict with the lights. Should pilots note illuminated lights under circumstances when remaining clear of the runway is impractical for safety reasons (i.e., aircraft is already on the runway), the crew should proceed according to their best judgment while understanding the illuminated lights indicate the runway is unsafe to enter or cross. Contact ATC at the earliest possible opportunity.

c. Takeoff Hold Lights (THL): The THL system is composed of flush mounted, in-pavement, unidirectional fixtures in a double longitudinal row aligned either side of the runway centerline lighting. Fixtures are focused toward the arrival end of the runway at the “position and hold” point, and they extend for 1,500 feet in front of the holding aircraft (see Figure 2-1-9.) Illuminated red lights provide a signal, to an aircraft in position for takeoff or rolling, that it is unsafe to takeoff because the runway is occupied or about to be occupied by another aircraft or ground vehicle. Two aircraft, or a surface vehicle and an aircraft, are required for the lights to illuminate. The departing aircraft must be in position for takeoff or beginning takeoff roll. Another aircraft or a surface vehicle must be on or about to cross the runway.

1. Operating Characteristics—Departing Aircraft:

THLs will illuminate for an aircraft in position for departure or departing when there is another aircraft or vehicle on the runway or about to enter the runway (see Figure 2-1-9.) Once that aircraft or vehicle exits the runway, the THLs extinguish. A pilot may notice lights extinguish prior to the downfield aircraft or vehicle being completely clear of the runway but still moving. Like RELs, THLs have an “anticipated separation” feature.

Note 1: When the THLs extinguish, this is not clearance to begin a takeoff roll. All takeoff clearances will be issued by ATC.

Note 2: What a pilot would observe: A pilot in position to depart from a runway, or has begun takeoff roll, will observe THL illuminate in reaction to an aircraft or vehicle on the runway or about to enter or cross it. Lights will extinguish when the runway is clear. A pilot may observe several cycles of illumination and extinguishing depending on the amount of crossing traffic.

Note 3: Whenever a pilot observes the red light of the THLs, the pilot will stop or remain stopped. The pilot will contact ATC for resolution if any clearance is in conflict with the lights. Should pilots note illuminated lights while in takeoff roll and under circumstances when stopping is impractical for safety reasons, the crew should proceed according to their best judgment while understanding the illuminated lights indicate that continuing the takeoff is unsafe. Contact ATC at the earliest possible opportunity.

d. Pilot Actions

1. When operating at airports with RWSL, pilots will operate with the transponder “On” when departing the gate or parking area until shutdown upon arrival at the gate or parking area. This ensures interaction with the FAA surveillance systems which provide information to RWSL system.

2. Pilots will always inform ATCT when you’ve stopped due to RWSL indications that are in conflict with ATC instructions, and request clarification of the taxi or takeoff clearance.

3. Never cross over illuminated red lights. Under normal circumstances, RWSL will confirm the pilot’s taxi or takeoff clearance. If RWSL indicates that it is unsafe to takeoff from or taxi across a runway, immediately notify ATC of the conflict and confirm your clearance.

4. Do not proceed when lights have extinguished without an ATC clearance. RWSL verifies an ATC clearance, it does not substitute for an ATC clearance.

e. ATC Control of RWSL system:

1. Controllers can set lights to one of five (5) brightness levels to assure maximum conspicuity under all visibility and lighting conditions. REL and THL subsystems may be independently set.

2. The system can be shutdown should RWSL operations impact the efficient movement of air traffic or contribute, in the opinion of the ATC Supervisor, to unsafe operations. REL and THL subsystems may be shutdown separately. Whenever the system or a component is shutdown, a NOTAM will be issued, and the Automatic Terminal Information System (ATIS) will be updated.

2–1–7. Control of Lighting Systems

2–1–8. Pilot Control of Airport Lighting

2–1–9. Airport/Heliport Beacons

2–1–10. Taxiway Lights

Chapter 4 Air Traffic Control

4–1–3 Flight Service Stations

Flight Service Stations (FSS’s) are air traffic facilities which provide pilot briefings, flight plan processing, en route radio communications, search and rescue services, and assistance to lost aircraft and aircraft in emergency situations. FSS’s also relay ATC clearances, process Notices to Airmen, broadcast aviation weather and aeronautical information, and notify Customs and Border Protection of transborder flights. In addition, at selected locations FSS’s provide En Route Flight Advisory Service (Flight Watch) and Airport Advisory Service (AAS). In Alaska, designated FSS’s also provide TWEB recordings and take weather observations.

4–3–18 Taxiing

Page 634 of ASA’s 2009 FAR/AIM book, right column, delete the following Example (and the word “or” between paragraphs):

Tower: “Beechcraft One Three One Five Niner, Washington ground, taxi to runway three six, wind zero three zero at two five, altimeter three zero zero four.”

Chapter 5 Air Traffic Procedures

5–1–8 Flight Plan—IFR Flights

a. General

1. ***

Note 1: There are several methods of obtaining IFR clearances at nontower, non-FSS, and outlying airports. The procedure may vary due to geographical features, weather conditions, and the complexity of the ATC system. To determine the most effective means of receiving an IFR clearance, pilots should ask the nearest FSS the most appropriate means of obtaining the IFR clearance.

Note 2: When requesting an IFR clearance, it is highly recommended that the departure airport be identified by stating the city name and state and/or the airport location identifier in order to clarify to ATC the exact location of the intended airport of departure.

* * * * *

5. When filing an IFR flight plan via telephone or radio, it is highly recommended that the departure airport be clearly identified by stating the city name and state and/or airport location identifier. With cell phone use and flight service specialists covering larger areas of the country, clearly identifying the departure airport can prevent confusing your airport of departure with those of identical or similar names in other states.

5-4-5 Instrument Approach Procedure Charts

a. ***

1. ***

2. ***

3. ***

(a) ***

(b) ***

Note: Some military (i.e., U.S. Air Force and U.S. Navy) IAPs have these "additional equipment required" notes charted only in the planview of the approach procedure and do not conform to the same application standards used by the FAA.

(c) ***

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Chapter 7 Safety of Flight

7-1-6 Inflight Aviation Weather Advisories

* * * * *

h. Center Weather Advisories (CWAs) ***

Figure 7-1-4

Geographical Areas and Terrain Features

[SEE REVISED FIGURE 7-1-4 AT THE END OF THIS UPDATE]

7-1-30 Key to Aerodrome Forecast (TAF) and Aviation Routine Weather Report (METAR)

Figure 7-1-21

[SEE THE REVISED FIGURE AT THE END OF THIS UPDATE]

Figure 7-1-22

[SEE THE REVISED FIGURE AT THE END OF THIS UPDATE]

7-1-31 International Civil Aviation Organization (ICAO) Weather Formats

* * * * *

a. ***

b. ***

c. **Aerodrome Forecast (TAF).** A concise statement of the expected meteorological conditions at an airport during a specified period. At most locations, TAFs have a 24 hour forecast period. However, TAFs for some locations have a 30 hour forecast period. These forecast periods may be shorter in the case of an amended TAF. TAFs use the same codes as METAR weather reports. They are scheduled four times daily for 24-hour periods beginning at 0000Z, 0600Z, 1200Z, and 1800Z.

Forecast times in the TAF are depicted in two ways. The first is a 6-digit number to indicate a specific point in time, consisting of a two-digit date, two-digit hour, and two-digit minute (such as issuance time or FM). The second is a pair of four-digit numbers separated by a "/" to indicate a beginning and end for a period of time.

In this case, each four-digit pair consists of a two-digit date and a two-digit hour.

TAFs are issued in the following format:

TYPE OF REPORT/ICAO STATION IDENTIFIER/DATE AND TIME OF ORIGIN/VALID PERIOD DATE AND TIME/FORECAST METEOROLOGICAL CONDITIONS

Note: The "/" above and in the following descriptions are for separation purposes in this publication and do not appear in the actual TAFs.

TAF KORD 051130Z 0512/0618 14008KT 5SM BR BKN030
TEMPO 0513/0516 1 1/2SM BR
FM051600 16010KT P6SM SKC
FM052300 20013G20KT 4SM SHRA OVC020
PROB40 0600/0606 2SM TSRA OVC008CB
BECMG 0606/0608 21015KT P6SM NSW
SCT040

TAF format observed in the above example:

TAF = type of report

KORD = ICAO station identifier

051130Z = date and time of origin (issuance time)

0512/0618 = valid period date and times

14008KT 5SM BR BKN030 = forecast meteorological conditions

Explanation of TAF elements:

1. ***

2. ***

3. ***

4. **Valid Period Date and Time.** The UTC valid period of the forecast consists of two four-digit sets, separated by a "/". The first four-digit set is a two-digit date followed by the two-digit beginning hour, and the second four-digit set is a two-digit date followed by the two-digit ending hour. Although most airports have a 24-hour TAF, a select number of airports have a 30-hour TAF. In the case of an amended forecast, or a forecast which is corrected or delayed, the valid period may be for less than 24 hours. Where an airport or terminal operates on a part-time basis (less than 24 hours/day), the TAFs issued for those locations will have the abbreviated statement "NIL AMD SKED AFT (closing time) Z" added to the end of the forecasts. For the TAFs issued while these locations are closed, the word "NIL" will appear in place of the forecast text. A delayed (RTD) forecast will then be issued for these locations after two complete observations are received.

* * * * *

d. **Probability Forecast.** The probability or chance of thunderstorms or other precipitation events occurring, along with associated weather conditions (wind, visibility, and sky conditions). The PROB30 group is used when the occurrence of thunderstorms or precipitation is 30-39% and the PROB40 group is used when the occurrence of thunderstorms or precipitation is 40-49%. This is followed by two four-digit groups separated by a "/", giving the beginning date and hour, and the ending date and hour of the time period during which the thunderstorms or precipitation are expected.

Note: Neither PROB30 nor PROB40 will be shown during the first six hours of a forecast.

Example

PROB40 2221/2302 1/2SM +TSRA*“chance between 2100Z and 0200Z of visibility one-half statute mile in thunderstorms and heavy rain.”*

PROB30 3010/3014 1SM RASN*“chance between 1000Z and 1400Z of visibility one statute mile in mixed rain and snow.”*

e. Forecast Change Indicators. * * *

1. From (FM) group. The FM group is used when a rapid change, usually occurring in less than one hour, in prevailing conditions is expected. Typically, a rapid change of prevailing conditions to more or less a completely new set of prevailing conditions is associated with a synoptic feature passing through the terminal area (cold or warm frontal passage). Appended to the “FM” indicator is the six-digit date, hour, and minute the change is expected to begin and continues until the next change group or until the end of the current forecast. A “FM” group will mark the beginning of a new line in a TAF report (indented 5 spaces). Each “FM” group contains all the required elements—wind, visibility, weather, and sky condition. Weather will be omitted in “FM” groups when it is not significant to aviation. FM groups will not include the contraction NSW.

Example

FM210100 14010KT P6SM SKC.....*“after 0100Z on the 21st, wind one four zero at one zero, visibility more than six, sky clear.”*

2. Becoming (BECMG) group. The BECMG group is used when a gradual change in conditions is expected over a longer time period, usually two hours. The time period when the change is expected is two four-digit groups separated by a “/”, with the beginning date and hour, and ending date and hour of the change period which follows the BECMG indicator. The gradual change will occur at an unspecified time within this time period. Only the changing forecast meteorological conditions are included in BECMG groups. The omitted conditions are carried over from the previous time group.

Example

OVC012 BECMG 0114/0116 BKN020*“ceiling one thousand two hundred overcast. Then a gradual change to ceiling two thousand broken between 1400Z on the 1st and 1600Z on the 1st.”*

3. Temporary (TEMPO) group. The TEMPO group is used for any conditions in wind, visibility, weather, or sky condition which are expected to last for generally less than an hour at a time (occasional), and are expected to occur during less than half the time period. The TEMPO indicator is followed by two four-digit groups separated by a “/”. The first four digit group gives the beginning date and hour, and the second four digit group gives the ending date and hour of the time period during which the temporary conditions are expected. Only the changing forecast meteorological conditions are included in TEMPO groups. The omitted conditions are carried over from the previous time group.

Example 1:

SCT030 TEMPO 0519/0523 BKN030.....*“three thousand scattered with occasional ceilings three thousand broken between 1900Z on the 5th and 2300Z on the 5th.”*

Example 2:

4SM HZ TEMPO 1900/1906 2SM BR HZ...*“visibility four in haze with occasional visibility two in mist and haze between 0000Z on the 19th and 0600Z on the 19th.”*

Appendix 4 Abbreviations/Acronyms

* * * * *

REL Runway Entrance Lights

* * * * *

RWSL Runway Status Light

* * * * *

THL Takeoff Hold Lights

* * * * *

Pilot/Controller Glossary

Explanation of Changes

Terms Added:

ATC Security Services

ATC Security Services Position

ATC Security Tracking

Navigation Specification [ICAO]

Operations Specifications

Performance-Based Navigation (PBN) [ICAO]

Security Services Airspace

Transponder Observed

Terms Modified:

Area Navigation (RNAV) [ICAO]

Delay Assignment (DAS)

Flight Service Station

Monitor Alert (MA)

Monitor Alert Parameter (MAP)

In addition to the following, editorial/format changes were made where necessary.

* * * * *

AREA NAVIGATION (RNAV) [ICAO]. A method of navigation which permits aircraft operation on any desired flight path within the coverage of ground- or space-based navigation aids or within the limits of the capability of self-contained aids, or a combination of these.

Note: Area navigation includes performance-based navigation as well as other operations that do not meet the definition of performance-based navigation.

* * * * *

ATC SECURITY SERVICES. Communications and security tracking provided by an ATC facility in support of the DHS, the DOD, or other Federal security elements in the interest of national security. Such security services are only applicable within designated areas. ATC security services do not include ATC basic radar services or flight following.

ATC SECURITY SERVICES POSITION. The position responsible for providing ATC security services as defined. This position does not provide ATC, IFR separation, or VFR flight following services, but is responsible for providing security services in an area comprising airspace assigned to one or more ATC operating sectors. This position may be combined with control positions.

ATC SECURITY TRACKING. The continuous tracking of aircraft movement by an ATC facility in support of the DHS, the DOD, or other security elements for national security using radar (i.e., radar tracking) or other means (e.g., manual tracking) without providing basic radar services (including traffic advisories) or other ATC services not defined in this section.

* * * * *

DELAY ASSIGNMENT (DAS). Delays are distributed to aircraft based on the traffic management program parameters. The delay assignment is calculated in 15-minute increments and appears as a table in Traffic Flow Management System (TFMS).

* * * * *

FLIGHT SERVICE STATION (FSS). An air traffic facility which provides pilot briefings, flight plan processing, en route radio communications, search and rescue services, and assistance to lost aircraft and aircraft in emergency situations. FSS's also relay ATC clearances, process Notices to Airmen, broadcast aviation weather and aeronautical information, and notify Customs and Border Protection of transborder flights. In addition, at selected locations, FSS's provide En Route Flight Advisory Service (Flight Watch) and Airport Advisory Service (AAS). In Alaska, designated FSS's also provide TWEB recordings and take weather observations.

* * * * *

MONITOR ALERT (MA). A function of the TFMS that provides traffic management personnel with a tool for predicting potential capacity problems in individual operational sectors. The MA is an indication that traffic management personnel need to analyze a particular sector for actual activity and to determine the required action(s), if any, needed to control the demand.

MONITOR ALERT PARAMETER (MAP). The number designated for use in monitor alert processing by the TFMS. The MAP is designated for each operational sector for increments of 15 minutes.

* * * * *

NAVIGATION SPECIFICATION [ICAO]. A set of aircraft and flight crew requirements needed to support performance-based navigation operations within a defined airspace. There are two kinds of navigation specifications:

a. **RNP specification.** A navigation specification based on area navigation that includes the requirement for performance monitoring and alerting, designated by the prefix RNP; e.g., RNP 4, RNP APCH.

b. **RNAV specification.** A navigation specification based on area navigation that does not include the requirement for performance monitoring and alerting, designated by the prefix RNAV; e.g., RNAV 5, RNAV 1.

Note: The Performance-based Navigation Manual (Doc 9613), Volume II contains detailed guidance on navigation specifications.

* * * * *

OPERATIONS SPECIFICATIONS [ICAO]. The authorizations, conditions and limitations associated with the air operator certificate and subject to the conditions in the operations manual.

* * * * *

PBN. (See ICAO Term PERFORMANCE-BASED NAVIGATION.)

* * * * *

PERFORMANCE-BASED NAVIGATION (PBN) [ICAO]. Area navigation based on performance requirements for aircraft operating along an ATS route, on an instrument approach procedure or in a designated airspace.

Note: Performance requirements are expressed in navigation specifications (RNAV specification, RNP specification) in terms of accuracy, integrity, continuity, availability, and functionality needed for the proposed operation in the context of a particular airspace concept.

* * * * *

RNAV. (See AREA NAVIGATION (RNAV).) (See ICAO Term AREA NAVIGATION (RNAV).)

RNAV APPROACH. An instrument approach procedure which relies on aircraft area navigation equipment for navigational guidance. (See AREA NAVIGATION (RNAV).) (See INSTRUMENT APPROACH PROCEDURE.)

* * * * *

SECURITY SERVICES AIRSPACE. Areas established through the regulatory process or by NOTAM, issued by the Administrator under Title 14 CFR sections 99.7, 91.141, and 91.139, which specify that ATC security services are required; i.e., ADIZ or temporary flight rules areas.

* * * * *

TRANSPONDER OBSERVED. Phraseology used to inform a VFR pilot the aircraft's assigned beacon code and position have been observed. Specifically, this term conveys to a VFR pilot the transponder reply has been observed and its position correlated for transit through the designated area.

* * * * *

FIGURE 2-1-9
Runway Status Light System

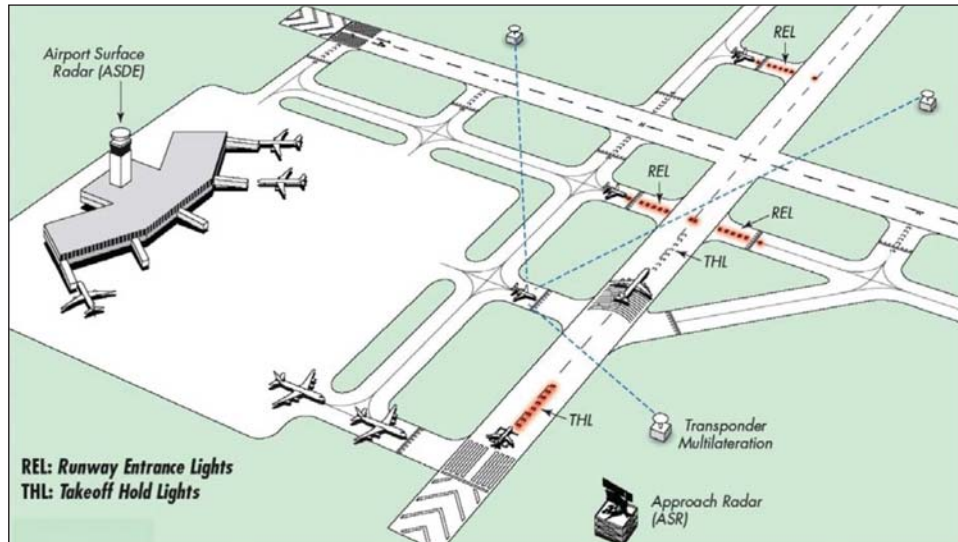


FIGURE 7-1-4
Geographical Areas and Terrain Features





FIGURE 7-1-21

Key to Aerodrome Forecast (TAF) and Aviation Routine Weather Report (METAR) (Front)



TAF KPIT 091730Z 0918/1024 15005KT 5SM HZ FEW020 WS010/31022KT
FM091930 30015G25KT 3SM SHRA OVC015
TEMPO 0920/0922 1/2SM +TSRA OVC008CB
FM100100 27008KT 5SM SHRA BKN020 OVC040
PROB30 1004/1007 1SM -RA BR
FM101015 18005KT 6SM -SHRA OVC020
BECMG 1013/1015 P6SM NSW SKC

Note: Users are cautioned to confirm **DATE** and **TIME** of the TAF. For example FM100000 is 0000Z on the **10th**. Do not confuse with **1000Z**!

METAR KPIT 091955Z COR 22015G25KT 3/4SM R28L/2600FT TSRA OVC010CB
18/16 A2992 RMK SLP045 T01820159

Forecast	Explanation	Report
TAF	Message type: TAF: routine or TAF AMD: amended forecast; METAR: hourly; SPECI: special or TESTM: noncommissioned ASOS report	METAR
KPIT	ICAO location indicator	KPIT
091730Z	Issuance time: ALL times in UTC "Z", 2-digit date, 4-digit time	091955Z
0918/1024	Valid period: Either 24 hours or 30 hours. The first two digits of EACH four-digit number indicate the date of the valid period, the final two digits indicate the time (valid from 18Z on the 9th to 24Z on the 10th). In U.S. METAR : CORrected ob; or AUTOMated ob for automated report with no human intervention; omitted when observer logs on.	COR
15005KT	Wind: 3-digit true-north direction, nearest 10 degrees (or VaRiaBle); next 2-3 digits for speed and unit, KT (KMH or MPS); as needed, Gust and maximum speed; 00000KT for calm; for METAR , if direction varies 60 degrees or more, Variability appended, e.g., 180V260	22015G25KT
5SM	Prevailing visibility: In U.S., Statute Miles and fractions; above 6 miles in TAF Plus6SM. (Or, 4-digit minimum visibility in meters and as required, lowest value with direction.)	3/4SM
HZ	Runway Visual Range: R; 2-digit runway designator Left, Center, or Right as needed; "/" ; Minus or Plus in U.S., 4-digit value, FeeT in U.S., (usually meters elsewhere); 4-digit value Variability 4-digit value (and tendency Down, Up or No change)	R28L/2600FT
FEW020	Significant present, forecast and recent weather: See table (Fig 7-1-22) Cloud amount, height and type: SKy Clear 0/8, FEW >0/8-2/8, SCaTtered 3/8-4/8, BroKeN 5/8-7/8, OVerCast 8/8; 3-digit height in hundreds of feet; Towering CUmulus or CumulonimBus in METAR ; in TAF , only CB. Vertical Visibility for obscured sky and height "VV004". More than 1 layer may be reported or forecast. In automated METAR reports only, CLear for "clear below 12,000 feet."	TSRA OVC010CB
	Temperature: Degrees Celsius; first 2 digits, temperature "/" last 2 digits, dewpoint temperature; Minus for below zero, e.g., M06	18/16
	Altimeter setting: Indicator and 4 digits; in U.S., A: inches and hundredths; (Q: hectoPascals, e.g., Q1013)	A2992
WS010/31022KT	In U.S. TAF , nonconventive low-level (<2,000 feet) Wind Shear; 3-digit height (hundreds of feet); "/" ; 3-digit wind direction and 2-3 digit wind speed above the indicated height, and unit, KT	



FIGURE 7-1-22

Key to Aerodrome Forecast (TAF) and Aviation Routine Weather Report (METAR) (Back)



Forecast	Explanation	Report
	In METAR , ReMarK indicator and remarks. For example: Sea-Level Pressure in hectoPascals and tenths, as shown: 1004.5 hPa; Temp/dewpoint in tenths °C, as shown: temp. 18.2°C, dewpoint 15.9°C	RMK SLP045 T01820159
FM091930	FrOM: Changes are expected at: 2-digit date, 2-digit hour, and 2-digit minute beginning time: indicates significant change. Each FM starts on new line, indented 5 spaces	
TEMPO 0920/0922	TEMPOrary: Changes expected for <1 hour and in total, < half of the period between the 2-digit date and 2-digit hour beginning , and 2-digit date and 2-digit hour ending time	
PROB30 1004/1007	PROBability and 2-digit percent (30 or 40): Probable condition in the period between the 2-digit date and 2-digit hour beginning time, and the 2-digit date and 2-digit hour ending time	
BECMG 1013/1015	BECoMinG: Change expected in the period between the 2-digit date and 2-digit hour beginning time, and the 2-digit date and 2-digit hour ending time	

Table of Significant Present, Forecast and Recent Weather – Grouped in categories and used in the order listed below; or as needed in TAF, No Significant Weather.

QUALIFIERS

Intensity or Proximity

“—” = Light **No sign** = Moderate “+” = Heavy

“VC” = Vicinity, but not at aerodrome. In the U.S. **METAR**, between 5 to 10 SM from the point of observation. In the U.S. **TAF**, 5 to 10 SM from the center of the runway complex. Elsewhere within 8000m.

Descriptor

BC Patches **BL** Blowing **DR** Drifting **FZ** Freezing
MI Shallow **PR** Partial **SH** Showers **TS** Thunderstorm

WEATHER PHENOMENA

Precipitation

DZ Drizzle **GR** Hail **GS** Small hail or snow pellets
IC Ice crystals **PL** Ice pellets **RA** Rain **SG** Snow grains
SN Snow **UP** Unknown precipitation in automated observations

Obscuration

BR Mist (≥5/8SM) **DU** Widespread dust **FG** Fog (<5/8SM) **FU** Smoke
HZ Haze **PY** Spray **SA** Sand **VA** Volcanic ash

Other

DS Dust storm **FC** Funnel cloud **+FC** Tornado or waterspout
PO Well-developed dust or sand whirls **SQ** Squall **SS** Sandstorm

- Explanations in parentheses “()” indicate different worldwide practices.
- Ceiling is not specified; defined as the lowest broken or overcast layer, or the vertical visibility.
- NWS **TAFs** exclude BECMG groups and temperature forecasts, NWS **TAFs** do not use PROB in the first 9 hours of a TAF; NWS **METARs** exclude trend forecasts. U.S. Military TAFs include Turbulence and Icing groups.

March 2009