

# **SAMPLE FAA/DOT AUDIT PROTOCOLS USED BY FEDREADY**

The following are just a few sample protocols used by FedReady LLC to conduct an audit of an FAA Drug and Alcohol Testing Program. How would you respond to these questions/issues if asked by an auditor?

**Regulatory Reference:** 14 CFR part 120.109(a)(5)

**Requirement:** 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.

**Audit Questions/Issues:**

How do you define, maintain and document the jobs categorized as safety-sensitive?

How are applicants (new and transferred) notified of the FAA required drug testing before they are pre-employment tested?

**Findings and Recommendations:**

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**Regulatory Reference:** 14 CFR part 120.109(a)(1) and (a)(2)

**Requirement:** No employer may hire any individual for a safety-sensitive function listed in section 120.105, or allow any individual to transfer from a nonsafety-sensitive to a safety-sensitive position, unless the employer first conducts a pre-employment test and receives a verified negative drug test result for that individual.

**Audit Questions/Issues:**

Explain the process to assure that a verified negative drug test result is received prior to the event of hiring or transferring an individual into a safety-sensitive function.

Randomly select an appropriate number of employees hired in the past two years and request to see documentation of the receipt of the verified negative drug test result. Include at least one transfer and one terminated employee.

Request documentation (timecard, job ticket, etc.) showing when each of the selected people began doing covered work and compare to date of receipt of verified negative drug test result.

**Findings and Recommendations:**

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**Regulatory Reference:** 49CFR Part 40.25 (a), (b)

**Requirement:** The employer must check on the drug and alcohol testing record of employees it is intending to use for the first time to perform safety-sensitive duties.

You must request the information listed in this paragraph (b) from DOT-regulated employers who have employed the employee during any period during the two years before the date of the employee's application or transfer:

- (1) Alcohol tests with a result of 0.04 or higher alcohol concentration;
- (2) Verified positive drug tests;
- (3) Refusals to be tested (including verified adulterated or substituted drug test results);
- (4) Other violations of DOT agency drug and alcohol testing regulations; and
- (5) With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests). If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test), you must seek to obtain this information from the employee.

**Audit Questions/Issues:**

Provide a copy of "Release of Information" form for each applicable "new" employee hired in past two years.

Provide documentation that record was obtained within 30 days of first performing safety-sensitive work, or documentation of effort made to obtain information; otherwise, documentation of removal from job. Check records that this information is retained for three years from the date the employee's first performance of safety-sensitive duties for you.

**Findings and Recommendations:**

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**Regulatory Reference:** 14 CFR part 120.223(a)

**Requirement:** (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 misuse requirements and the employer's policies and procedures with respect to meeting those requirements.

(1)(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 person subsequently hired for or transferred to a covered position.

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

**Audit Questions/Issues:**

Review the alcohol educational materials/policies and procedures to assure each topic in (i) through (xii) is covered.

How does employer document that each employee received materials prior to alcohol testing (new and transferred)?

Findings and Recommendations:

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Regulatory Reference: 14 CFR part 120.115

Requirement: Drug Training

(c)(1). EAP Training Program. Each employer shall implement a reasonable program of initial training for employees. The employee training program must include at least the following elements: The effects and consequences of drug use on individual health, safety, and work environment; the manifestations and behavioral cues that may indicate drug use and abuse; and documentation of training given to employees and employer's supervisory personnel.

(c)(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 section 120.115(c)(1). The employer shall ensure that supervisors who will make reasonable cause determinations receive at least 60 minutes of initial training. The employer shall implement a reasonable recurrent training program for supervisory personnel making reasonable cause determinations during subsequent years.

Regulatory Reference: 14 CFR part 120.31

(a) Each certificate holder or operator shall provide each employee performing a function listed in part 120 Subpart E 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 part 120 Subpart E 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.

Audit Questions/Issues:

Check the training records for employees hired in the past two years to verify they received the employee training. Compare the date of training completion to the date each began performing safety-sensitive work.

Review the material used to initially train supervisors in making a reasonable cause determination. Assess its content to determine if it is satisfactory to meet the EAP Program requirements for content and length.

Findings and Recommendations:

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**Regulatory Reference:** 14 CFR part 120.109(b)(5)

**Requirement:** 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.

**Audit Questions/Issues:**

Describe the process for maintaining the integrity of the pool, running the random test list, and notifying the selected employees.

**Findings and Recommendations:**

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**Regulatory Reference:** 49CFR 40.27

**Requirement:** As an employer, you must not require an employee to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process covered by this part (including, but not limited to, collections, laboratory testing, MRO and SAP services).

**Audit Questions/Issues:**

Ask the employer if they require their employees or contractors to sign any release/waiver/indemnification agreement.

**Findings and Recommendations:**

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**Regulatory Reference:** 49CFR Part 40.61(a)

**Requirement:** When a specific time for an employee's test has been scheduled, or the collection site is at the employee's work site, and the employee does not appear at the collection site at the scheduled time, contact the DER to determine the appropriate interval within which the DER has determined the employee is authorized to arrive. If the employee's arrival is delayed beyond that time, you must notify the DER that the employee has not reported for testing.

**Audit Questions/Issues:**

Describe the process for getting the notified employee from the worksite to the collection site. Is the time interval managed? What is the employer's policy regarding escorting the employee?

**Findings and Recommendations:**

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