

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

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*(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.

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

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*(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.