



**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

National Policy

**ORDER
9120.1E**

Effective Date:
April 1, 2023

SUBJ: Drug and Alcohol Compliance and Enforcement Surveillance Handbook

The Federal Aviation Administration (FAA), Office of Aerospace Medicine (AAM) has prepared this Order for Drug Abatement Division (AAM-800) personnel to follow when assessing drug and alcohol testing programs of aviation industry employers, contractors, service agents, employees, and individuals for compliance with the Department of Transportation's (DOT) 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs;" the FAA's 14 CFR part 120, "Drug and Alcohol Testing Program;" and other relevant Federal Aviation Regulations.

Unless otherwise directed by the AAM-800 Director, all program personnel must adhere to the procedures in this order. The FAA invites comments and suggestions from those who use the order. Input should be sent via email to drugabatement@faa.gov or in writing to:

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Office of Aerospace Medicine
Drug Abatement Division (AAM-800)
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Chapter 1. General Information

1. Purpose of this Order. This Order documents the surveillance procedures used by Federal Aviation Administration (FAA) Drug Abatement Division (AAM-800) to assess the compliance of aviation industry employers, contractors, and service agents with the drug and alcohol testing requirements in the Code of Federal Regulations (CFR). Specifically, the regulatory requirements including the Department of Transportation's (DOT) 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs;" the FAA's 14 CFR part 120, "Drug and Alcohol Testing Program;" and other relevant Federal Aviation Regulations. This Order is used in conjunction with FAA's Compliance and Enforcement Program Order 2150.3, as amended, and Safety Risk Management Policy Order 8040.4, as amended, to ensure that inspections, investigations, and voluntary disclosure decisions are conducted accurately, fairly, and consistently throughout the Drug Abatement Division.

2. Audience. All AAM-800 personnel.

3. Where Can I Find this Order? You can find this Order on the MyFAA Employee Web site: https://employees.faa.gov/tools_resources/orders_notices/. This Order is available to the public at: <https://drs.faa.gov>.

4. What this Order Cancels. This Order cancels Order 9120.1D, FAA Drug and Alcohol Compliance and Enforcement Inspector Order, dated August 9, 2018.

5. Explanation of Policy Changes.

a. This Order was revised to reflect program policy and guidance changes, including the addition of a permanent virtual method of inspecting and new electronic file documentation process.

b. This Order was changed to reflect the new AAM-800 Director's title and add organization responsibilities.

c. This Order was changed to streamline and reformat for consistency and clarity, including removing repetitive information and improving grammar and plain language.

d. This Order was changed to refer to the location of tools, templates, and other references from AAM-800's QMS to AAM-800's SharePoint.

6. Inspection Authority. The Omnibus Transportation Employee Testing Act of 1991 (49 USC §§ 45101-45107) and the FAA's general statutory safety authority outlined in 49 USC §§ 106(g), 40113(a), and 44701 provide the authority to conduct the inspections and investigations described in this order.

7. Objectives of the Inspection and Investigation Process. Ensuring compliance with the drug and alcohol testing regulations is the primary objective of the Drug Abatement Division's surveillance program. The safety of the traveling public and integrity of the inspection and investigation process and voluntary safety reporting program form the foundation of our program. The regulations and oversight processes described in this Order balance the privacy interests of aviation employees with the FAA's safety mandate to detect and deter illegal drug use and alcohol misuse. We must conduct our inspections, investigations, and voluntary disclosure report analyses in a constructive, ethical,

unbiased, and professional manner. Implementation of the procedural safeguards within Federal regulations and this Order will ensure these objectives.

8. Responsibilities. The following personnel are responsible for conducting the surveillance activities described in this Order:

a. The Drug Abatement Division Director (AAM-800 Director) is responsible for all surveillance activities and directly involved in some parts of the inspection process.

b. The Program Administration Branch Manager (AAM-810 Manager) and AAM-810 program analysts are responsible for the inspection scheduling process and management of the Division's Voluntary Disclosure Reporting Program as described in this Order.

c. The Special Investigations Branch Manager (AAM-830 Manager) and investigators are responsible for the investigations of individuals who perform safety-sensitive functions as described in Chapter 3 of this Order.

d. The Compliance and Enforcement Center Managers (Center Managers), Team Coordinators, and inspectors are responsible for conducting inspections and investigations of employers and service agents as described in this Order.

9. Who Do We Surveil? We inspect and investigate employers, contractors, service agents, and individuals or employees to verify their compliance with the drug and alcohol testing regulations under 14 CFR part 120 and 49 CFR part 40. For purposes of this Order, we use the term "employer" to include an employer or contractor, unless otherwise specified.

a. Employers. Part 120 defines an employer as "a part 119 certificate holder with authority to operate under parts 121 and/or 135, an operator as defined in 14 CFR § 91.147, or an air traffic control facility not operated by the FAA or by or under contract for the U.S. Military." 14 CFR § 120.7(i). Part 40 defines an employer as "[a] person or entity employing one or more employees (including an individual who is self-employed) subject to DOT agency regulations requiring compliance with this part. The term includes an employer's officers, representatives, and management personnel. Service agents are not employers for the purposes of this part." 49 CFR § 40.3.

(1) An employer must ensure that individuals hired to perform safety-sensitive functions, directly or by contract (including subcontract at any tier), are subject to drug and alcohol testing.

(2) Employers are responsible for all actions of their officials, representatives, and service agents in carrying out the requirements of the testing regulations.

b. Contractors. Part 120 defines a contractor as, "an individual or company that performs a safety-sensitive function by contract for an employer or another contractor." A contractor may be non-certificated or hold an FAA certificate issued under 14 CFR part 145. There are two options for drug and alcohol testing contractors:

(1) The contractor obtains and implements its own drug and alcohol testing program. If the contractor chooses this option, it must implement the program as if it were the employer.

(2) The employer includes the contractor under its own drug and alcohol testing program.

c. Service Agents. Part 40 defines a service agent as, “[a]ny person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements.” 49 CFR § 40.3.

(1) A Consortium/Third-Party Administrator (C/TPA) is a service agent that may implement portions of the testing program for an employer. Program elements may include random testing and/or education or training for employees or supervisors.

(2) Other service agents may provide services including but not limited to the following:

- (a) Urine drug collections, as specimen collectors
- (b) Breath alcohol testing, as breath alcohol technicians (BAT)
- (c) Alcohol saliva testing, as screening test technicians (STT)
- (d) Laboratory¹
- (e) Medical review officer (MRO) functions
- (f) Substance abuse professional (SAP) functions.

(3) The roles and responsibilities of service agents are prescribed in 49 CFR part 40, subpart Q and Appendix F. Inspections or investigations of any employer may include a review of its service agent’s practices and procedures. The employer is responsible for compliance with the regulations even when using a service agent. Therefore, a service agent’s failure to comply with the regulations may result in violations against the employer.

A service agent may be subject to a public interest exclusion (PIE), as described under subpart R of part 40, if the service agent, by serious noncompliance with 49 CFR part 40 or other DOT agency drug and alcohol testing regulations (including 14 CFR part 120), has shown that it is not currently acting in a responsible matter.

d. Covered Employees or Employees.² Part 40 defines an employee under 49 CFR § 40.3 as “[a]ny person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing.” Part 120 lists the following types of safety-sensitive functions that must be subject to drug and alcohol testing under 14 CFR §§ 120.105 and 120.215:

- (1) Flight crewmember duties

¹ The Department of Health and Human Services is responsible for oversight of all certified laboratories.

² A covered employee is defined in 14 CFR § 120.7(f) as an individual who performs either directly or by contract, a safety-sensitive function listed in §§ 120.105 or 120.215 for an employer. For purposes of pre-employment testing only, the term ‘covered employee’ includes an individual applying to perform a safety-sensitive function. An employee is defined in 14 CFR § 120.7(h) as an individual who is hired, either directly or by contract, to perform a safety-sensitive function for an employer. An employee is also an individual who transfers into a position to perform a safety-sensitive function for an employer.

- (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, and
- (9) Operations control specialist duties.

Chapter 2. Inspection

1. Purpose. This chapter provides the Compliance and Enforcement Drug and Alcohol Inspectors, Team Coordinators, and Center Managers with policies and procedures for conducting inspections of employers' drug and alcohol testing programs.

2. General. The Compliance and Enforcement Centers are responsible for conducting employer or service agent inspections. A successful inspection entails accomplishing a sequence of five interrelated activities. This sequence begins with inspection scheduling, proceeds through detailed planning, conducting the inspection activity, reporting of inspection results, and concludes with post-inspection follow-up activities. Inspections are executed according to the procedures established in this chapter. The Drug Abatement Division has established an Inspection Guide (Guide), which is found under Appendix A of this Order. All inspectors must follow the Guide during each inspection. Deviations from the Guide are strictly prohibited and failure by AAM-800 personnel to follow the procedures in this chapter may result in a nonconformity and corrective action (NCA). Drug Abatement Personnel must use the Compliance and Enforcement Tracking Subsystem (CETS) Reference List when entering noncompliance issues or concerns. The CETS Reference List is available on AAM-800's SharePoint.

3. Inspection Activities. The FAA employs a variety of inspection activities to determine whether employers are in compliance with the drug and alcohol testing regulations. Inspections are conducted based on AAM-800's priorities defined in its Strategic Compliance Monitoring Plan (SCMP) and resources. To use its resources to their fullest capacity, AAM-800 uses two different methods to conduct an inspection, employs different types of inspection activities, and determines the scope of the inspection based on the size and complexity of the employer. Inspection activities are conducted by an inspection lead, working independently or with a team of inspectors.

a. *Methods of Inspecting.* The method of inspecting an employer depends on the size and complexity of the employer, and the availability or limits of our inspector resources. Based on recent events, AAM-800 conducted virtual inspections that were effective and allowed continued surveillance while inspectors were working virtually. It has proven to be a beneficial improvement to AAM-800's surveillance activities, both for the employer and inspection workforce. There are small differences between inspecting on-site, the traditional way to conduct an inspection, and virtually. The differences include the scheduling of the inspection, obtaining the records, and the employer's cooperation.

(1) On-Site Inspection. An on-site inspection requires the inspection lead and team members to travel to the location where the employer operates and/or maintains its program records. While on-site, the inspection team interviews the employer representatives, reviews the records, and conducts all inspection procedures in accordance with this Order.

(2) Virtual Inspection. A virtual inspection requires the inspection lead and team member(s), if applicable, to conduct the inspection from an alternate workplace and not onsite at an employer's location. Travel requirements do not apply in this situation, and scheduling requires cooperation by the employer to provide records prior to the scheduled inspection date and time. The inspection lead follows the same inspection procedures in accordance with this Order.

b. *Other Types of Inspection Activities.* Additionally, inspectors will be assigned to participate in

high impact, special emphasis, and service agent inspections.

(1) High Impact Inspections. A high impact inspection focuses on promoting consistency within the inspection process and the application of the regulations, provides an opportunity for cross-training, and allows a manager to directly observe and assess an inspector's performance. High impact inspections are conducted on-site by multiple teams of inspectors from two or more Drug Abatement centers during a one or two-week period. This approach permits the concentration of inspector resources in a planned geographic area and maximizes visibility for the Drug Abatement Program. During high impact inspection weeks, a meeting is scheduled for inspectors and managers to meet and discuss program issues. These discussions provide management with topics to be covered in future inspector training or identify a need for guidance and/or policy development.

(2) Special Emphasis Inspections. An on-site or virtual special emphasis inspection is scheduled to focus on one part of the regulations (e.g., MRO, SAP, or collection site review) at a national level.

(3) Service Agent Inspections. An on-site or virtual inspection of a service agent will focus directly on a C/TPA, MRO, SAP, or collection facility. It is not typically related to an employer inspection. The standard operating procedures (SOP) for service agent inspections are in Appendix B of this Order.

c. *Scope of an Inspection*. Whether an inspection is conducted on-site or virtually, the scope of the inspection is determined by the AAM-810 Manager or Center Manager.

(1) Comprehensive Inspections. Comprehensive inspections are thorough reviews of all aspects of an employer's drug and alcohol testing program. Although we may sometimes focus on specific areas based on information concerning potential problems, the overall format of such inspections is standardized in accordance with this Order. In some cases, the comprehensive inspection may be conducted without advance notice to the employer.

(2) Focused Inspections. Under certain circumstances, focused inspections, which are narrow or limited in scope, may be conducted in response to a specific problem. Problems may be identified from various information sources, including analyses of prior inspection results, annual testing reports, individual or union complaints, or other alternative means. For example, FAA headquarters may receive complaints concerning improper collection procedures. In that case, Drug Abatement may conduct an inspection focusing on the employer's collection procedures. Focused inspections may involve a single employer or entity, as in the example above, or a representative group of employers if information indicates that a problem is widespread. A focused inspection must include the employer's administrative and quality assurance activities (e.g., Medical Review Officer (MRO) verification) and mandatory testing (i.e., pre-employment, random, post-accident, reasonable cause/suspicion, return to duty, and follow-up).

4. Inspection Scheduling. Prior to the beginning of the fiscal year, the inspection weeks are published in CETS. Before every quarter, the Drug Abatement Division composes a quarterly inspection schedule based on this chapter, Drug Abatement's Strategic Compliance Monitoring Plan³ (SCMP), and the Memorandum of Understanding (MOU) between the FAA and the National Air

³ The Strategic Compliance Monitoring Plan (SCMP) is the Drug Abatement Division's policy for scheduling inspections.

Traffic Controllers Association (NATCA). The AAM-810 Manager is responsible for scheduling inspection activities that meet the requirements of the SCMP and MOU. Once the priorities are set, an AAM-810 program analyst assembles the teams of employers and pre-inspection materials (located on the AAM-800's SharePoint) for the national inspection schedule. These procedures are found in Appendix E of this Order.

a. The inspection team assignments are made in conjunction with the existing MOU. The AAM-810 Manager or designated program analyst is responsible for appointing the inspection lead and identifying whether the inspection will be comprehensive or focused. Additionally, inspectors will be assigned to participate in high impact, special emphasis, and service agent inspections. Inspectors must access their schedules in CETS.

(1) *Announced Inspections.* An announced inspection requires advance notification to the employer. To announce an inspection, the inspection lead must contact the employer by phone or email to notify it of its scheduled inspection and obtain information in accordance with the procedures in Appendix E of this Order (e.g., the employer's size, service agents, new hires, affiliations with other employers, etc.). If the inspector discovers the employer is affiliated with another employer, the inspector must verify whether the two employers are managing a combined drug and alcohol program or conducting testing under two separate programs. If managing a combined program, the inspector must review the employers' information in CETS and verify that the records are properly annotated.⁴ The inspector must notify their Team Coordinator and Center Manager if the employer is affiliated and not properly annotated. Refer to Appendix E of this Order for further instructions. The inspector must update the Activity Narrative in the inspection profile with the date and time they communicated with the employer representative to schedule the inspection.

Once the inspector finalizes the schedule with the employer, he/she must send an email to his/her Center Manager, Team Coordinator, and AAM-810-Scheduling@faa.gov indicating the employers have been notified of their inspections. An AAM-810 designated program analyst retrieves the information in CETS and sends the letter of notification (LON) to the employer's President, CEO, or Designated Employer Representative via electronic mail, copying AAM-810-Scheduling@faa.gov and the inspection lead/inspection team, to confirm the pending inspection. The AAM-810 designated program analyst must request and confirm a delivery receipt from the employer. If the analyst is unable to confirm receipt by the employer, he/she must contact the AAM-810 Manager for further instructions. The LON template is contained on AAM-800's SharePoint. The AAM-810 designated program analyst must follow the AAM-810 Manager's procedures to prepare the LON and attachment and document the notification in the employer's inspection profile in CETS. In cases where an employer is added to the schedule after the work plan is sent to the inspector, the inspector and the AAM-810 designated program analyst must follow the same scheduling and notification procedures as outlined above and in Appendix E of this Order.

(a) The LON package, sent by AAM-810, includes a list of records and documents necessary for inspection (to cover 12, 18, or 24 months, or since the employer's last inspection) and a request for the employer's points of contact. After sending the LON, the AAM-810 designated program analyst will provide an initial work plan to the inspectors, Center Manager, Team Coordinators, Administrative Officer, and AAM-810-Scheduling@faa.gov. The union

⁴ A drug and alcohol paragraph (A449) or Letter of Authorization (A049) in the employer's Operations Specifications (OPSPEC) must be annotated with an "A2" or "A3" if affiliated with another operator.

representative may request and receive a copy of the work plan(s), and it must be provided upon request.

(b) Prior to the inspection, the inspection lead ensures that the point of contact information has been received from the employer and updated in CETS. During any pre-inspection contact with an employer, inspectors must refrain from initiating an inspection prior to on-site arrival or the commencement of the virtual inspection. All inspectors are strictly prohibited from coaching employers or distributing unauthorized documents at any time.

(c) There may be instances in which an employer, after receiving an LON, will question the need for an inspection because it has ceased operations under 14 CFR § 119.63, but continues to hold a part 119 certificate with authority to conduct part 121 or 135 operations. Regardless of whether an employer that holds a certificate is exercising the privileges of its certificate, it must be available for inspection. If the employer advises the inspector that it has ceased its operations, or the employer does not respond to the inspector's email or follow-up phone calls, the inspector must contact the employer's Principal Operations Inspector (POI) or Principal Maintenance Inspector (PMI) to determine whether the employer has surrendered its certificate. That information must then be given to the AAM-810 Scheduling Team for a determination as to whether the employer will be inspected. If an employer has ceased operations under 14 CFR § 119.63 but has retained its certificate and is unwilling to be inspected, the employer must contact its POI/PMI to surrender its certificate. The inspector must follow-up with the POI/PMI to ensure that this has been accomplished.

(2) *Unannounced On-Site Inspections.* Unannounced inspections are essential to an effective compliance program. Each inspector may be responsible for conducting unannounced inspections during the fiscal year.

(a) Center Managers may schedule an unannounced on-site inspection for any inspector during any inspection week.

(b) Inspection teams may conduct an unscheduled, unannounced inspection, as time allows, which requires the inspectors to locate employers in their assigned geographical areas.

(c) Preparations for unannounced inspections might include contact with the local Flight Standards District Office (FSDO) to ascertain that the employer is still operating and has an active certificate.

(d) Inspection leads must inform their Center Manager and other teams in the geographical area, if possible, before conducting unscheduled inspections, to preclude multiple inspection attempts at the same employer. The Center Manager will notify and consult with the AAM-810 Manager accordingly.

(e) For all unannounced inspections, the inspection lead or team must not contact the employer in advance of the inspection.

(3) *Inspection Schedule Changes and Cancellations.* While all efforts are made to maintain the inspection schedule as is, at times it is essential to the program to make necessary changes or cancel a scheduled inspection. During the inspection scheduling process, the inspector sends the Notification of FAA Drug Abatement Inspection email (template located on AAM-800's SharePoint)

to the employer. If the employer fails to contact or acknowledge the inspector's notification that was completed in accordance with Appendix E of this Order, the inspection is not scheduled and the inspector must notify AAM-810-Scheduling@faa.gov and copy their Center Manager and Team Coordinator.

AAM-810 will verify whether there are known or suspected problems that require the employer's inspection in accordance with the SCMP. Once AAM-810 makes a determination about the status of the employer's inspection, AAM-810 will update the schedule and notify the inspector by email that the employer was or was not removed from his/her inspection schedule, and if a new employer was added to his/her schedule (if applicable). AAM-810 will copy the Center Manager and Team Coordinator in their communication with the inspector.

Once an employer is notified of its inspection and the schedule is established, an inspector must notify their Center Manager if there is a need to cancel the inspection. The Center Manager must notify the AAM-810 Manager to allow AAM-810 an opportunity to approve or deny the cancellation after verifying there are no known or suspected problems that required the inspection in accordance with the SCMP. AAM-810 must make a determination and notify the Center Manager to cancel the inspection and may assign a new employer for the inspector. The Center Manager must notify the inspector and provide further instructions. When a scheduled inspection is cancelled, the inspector must document the cancellation in CETS.

5. Travel Requirements for On-Site Inspections. Each inspector is responsible for adhering to the following requirements when travel for an on-site inspection is required:

- a. Inspectors must adhere to the FAA Travel Policy (FAATP), which is available on the FAA's Employee Web site, and the Bargaining Unit Contract.
- b. Whenever possible, inspectors will arrive in the inspection city at approximately the same time. All travel and lodging preparations must be confirmed at least one week prior to the inspection, unless precluded by schedule changes.
- c. Inspectors must conserve time and fiscal resources. For instance, inspectors will lodge near inspection sites, when possible. The FAATP states, "You must take the same care in incurring expenses a prudent person would take if traveling on personal business." The Policy further states, "You must pay for all costs you incur for personal preference or convenience. We will not pay for excess costs resulting from indirect routes, delays, or luxury accommodations or services unnecessary or unjustified in the performance of official business."
- d. Inspectors must arrange travel according to the inspection team's work plan. When exceptions occur, the inspector must notify his/her Center Manager or Team Coordinator. This notification may occur prior to or during travel.

6. Final Inspection Work Plan. Each inspector must submit a final inspection work plan to his/her Center Manager and Team Coordinator no later than the Wednesday of the week prior to inspections. The work plan must contain all employers to be inspected, along with their POCs, telephone numbers, and associated service agents (e.g., MRO and/or C/TPA). Service agent information must include the associated employer's name unless the service agent is a C/TPA. For on-site inspections, the work plan must include the hotel and transportation information (if applicable). The current work

plan tool is available electronically on AAM-800's SharePoint.

7. Preparation for the Inspection. The inspection lead is responsible for planning his/her assigned inspections for accomplishing the goals of the inspection. The inspection leads ensures that his/her team accomplishes all critical aspects of an inspection, including planning and reporting, according to established procedures (see on-site inspection guide in Figure 2-1, or the virtual inspection guide in Figure 2-2).

a. The inspection lead must examine CETS and the drug and alcohol history of each employer to find past noncompliance issues and any cases of known or suspected problems. This includes previous inspections, open or closed voluntary disclosures, legal enforcement actions, and other special issues (including noncompliance transmittal reports as defined in Chapter 3 of this Order). This information will help the inspection team identify repeated noncompliance. The inspection lead must review the employer's drug and alcohol paragraph (A449), Letter of Authorization (A049) or registration to ensure accuracy of required information.

b. Each inspection must include a review of the mandatory testing records, which includes the following:

- (1) Hiring records (including the pre-employment results and records checks);
- (2) Random testing records;
- (3) Reasonable cause/suspicion, post-accident, return-to-duty, and follow-up test results;
- (4) Any positive drug test results, alcohol violations, and refusal determinations;
- (5) Verification by the MRO; and
- (6) Latest Management Information System (MIS) report.

The inspection lead determines whether additional areas require evaluation, based on the progress of the inspection, or an employer's compliance history (e.g., previous inspections, investigations, voluntary disclosures, compliance actions, administrative actions, legal enforcement actions, etc.).

c. Each team member must bring the following inspection tools to, or have them available during, all inspection activities:

- (1) Copy of the regulations (14 CFR part 120 and 49 CFR Part 40);
- (2) Copy of this Order (including Appendices A and C);
- (3) Forms (e.g., meeting attendance list, employee interview guide, witness statement form, record of interview, Small Business Information and Best Evidence Checklist⁵);
- (4) Laptop; and

⁵ The Small Business Information Sheet and Best Evidence Checklist are located on AAM-800's SharePoint.

(5) Office supplies (e.g., pens, note pads, paper clips, stapler, etc.).

d. The inspection lead must notify his/her Center Manager if additional personnel are needed or if a change in scope (e.g., comprehensive or expanded focus) is necessary.

e. Inspectors must ensure voluntary disclosure issues are addressed in accordance with Chapter 4 of this Order.

8. Pre-Inspection Team Meetings. The inspection lead must hold a meeting before the inspection to ensure a smooth, professional and quality inspection. These meetings must occur prior to arriving at the inspection site or before the virtual inspection begins. During the pre-inspection team meeting, the inspection lead must:

a. Provide the employer's compliance history to the inspection team members;

b. Assign one or more of the following inspection areas to each inspection team member: Administrative and Quality Assurance; Collection Site Review; MRO Review; SAP Review; and specific areas for Record Review.

c. Establish each inspection team member's responsibility for the inbriefing, outbriefing, and CETS entry; and

d. Confirm each inspection team member's responsibility to inform the inspection lead immediately of any findings of noncompliance and supporting evidence or areas of concern.

9. Inspection Procedures. It is critical, and mandatory under ISO procedures, to ensure that each inspection is conducted according to the Drug Abatement Division's inspection protocol. During each inspection, inspectors must adhere to the following requirements:

a. **Conduct.** All AAM-800 personnel will conduct themselves professionally and must:

(1) Maintain decorum in speech, dress, and behavior;

(2) Treat team members and employer representatives with respect;

(3) Avoid socializing with any individual associated with an employer's inspection, including service agents, to ensure there is no appearance of loss of impartiality in the performance of your official duties in accordance with the Ethics Regulations (5 CFR part 2635);

(4) Avoid discussing internal DOT or FAA activities (e.g., anticipated changes in policy, procedures, or rulemaking) with employers;

(5) Avoid discussing pending enforcement matters pertaining to current or previous inspections and investigations;

(6) Avoid conversations regarding other operators; and

(7) Bring inspection issues to the attention of the inspection lead.

b. Inbriefing. The inspection lead must start the inspection by conducting an inbriefing with the employer and inspection team members (if applicable). The inbriefing/outbriefing guide is available in Figure 2-3 (for on-site inspections) and Figure 2-4 (for virtual inspections).

(1) The inspection lead must make introductions, and circulate a sign-in sheet for on-site inspections or document the attendees for a virtual inspection using the meeting attendance list in Figure 2-5. If the employer is a small business, the inspector must provide the employer with the Small Business Information. If the inspection is virtual, the inspector must email the Small Business Information. The Small Business Information sheet is located on AAM-800's SharePoint.

(2) At the conclusion of the inbriefing, the inspection lead must announce that the next step in the process (the Administrative and Quality Assurance Interview) specifically includes the program manager and/or DER. The inspection lead may request others in attendance to leave, if their presence is not necessary.

c. Administrative and Quality Assurance Interview. The inspection lead begins the interview phase with the employer's representative (e.g., program manager and/or DER) regarding the drug and alcohol testing program. To conduct the interview, each inspector must use the inspection guide found in Appendix A, Part 1 of this Order. During the subsequent record review and evidence collection phase of the inspection, inspectors must verify all information provided during the interview.

d. Drug and Alcohol Testing Records Review. Records are the most common form of evidence used to verify the statements of the employer's representative. As an example, an employer may provide an inspector with a spreadsheet that includes dates of hire, transfer, and pre-employment testing. Inspectors must verify the spreadsheet information by assembling the source documents (e.g., personnel action forms, custody and control forms (CCF), etc.) that pertain to each item on the spreadsheet. Inspectors must not request the employer to generate a spreadsheet for the purpose of the inspection. Inspectors must collect all documents provided by the employer to support the inspection. All collected records must be maintained as part of the inspection record and in accordance with Appendix F of this Order.

(1) Inspection leads and team members will take part in record review activities and enter their findings in the inspection results section of CETS. Inspectors must review and address every known apparent violation of or noncompliance with FAA statutes and regulations. Worksheets are available to assist inspectors during the record review and interview phases of the inspection (see New Hire/Transfer Guide in Figure 2-6, Inspection Noncompliance Issue Guide in Figure 2-7, Employee Interview Guide in Figure 2-9, Witness Statement Guide in Figure 2-10, and Record of Interview Guide in Figure 2-11).

(2) Inspectors are responsible for reviewing, copying, and certifying the authenticity of documents, as assigned by the inspection lead. The inspection lead must ensure each assigned portion of the review process is completed. Each inspector must initial the records review guide in the area of their assignments (see Part 2 of the Inspection Guide in Appendix A of this Order) to demonstrate completion. The inspection lead will enter this information into the official inspection record in CETS, and will add the documents to the inspection record (in accordance with Appendix F of this Order).

(3) To support the elements of a statutory or regulatory violation in a legal enforcement

action, the inspection lead must provide a statement indicating the evidence collected is a true and authentic copy of the original. To certify the authenticity of the evidence collected, the inspection lead must provide a single inspector statement as an Item of Proof in the legal enforcement action case file (see Figure 2-8 for a Sample Statement of Authenticity). If the inspection lead did not collect and/or compare the document or evidence with the original version, the inspection lead cannot certify it is true and accurate. The inspection lead must obtain a second statement from the individual who can testify that the document or evidence is a true and authentic copy of the original. A statement is not required for some documents, (e.g., FAA-generated records, manuals in the FAA's possession, emails and/or letters to inspectors that indicate the sender and date of transmission). For more information, refer to Order 2150.3, as amended, Chapter 4.

(4) The inspection team must review all mandatory testing records for the time period established by his/her Center Manager and inspection lead prior to the inspection. Depending on the circumstances, the time periods may include the past 24-months, 18-months, or 12-months, or since the employer's last inspection.

(5) Inspectors must make all attempts to interview any safety-sensitive employee whose records need to be clarified.

(6) Records to review and document, if applicable, include the following categories:

(a) *Positive Drug Tests, Refusals, and Alcohol Violation Records.*⁶ Inspectors must review all verified positive drug test results, refusals to submit to drug or alcohol testing, and misuse of alcohol, except those that have already been investigated by or reported to AAM-830. Inspectors must review the records for each employee who failed or refused a DOT drug and/or alcohol test to verify that:

- (1) The employee was not hired or was removed from safety-sensitive duties after the violation.
- (2) The employer provided the employee with a listing of DOT-qualified SAPs readily available to the employee.
- (3) The employer sent the report to the Federal Air Surgeon (or Drug Abatement Division) within 2 days if the employee tested positive for drugs and/or 0.04 or greater on an alcohol test or refused a drug or alcohol test and holds a part 67 medical certificate, or holds a part 61, 63, or 65 certificate and refused a drug or alcohol test. See paragraph (b) below for more instructions if you find any noncompliance related to reporting.
- (4) The employer properly performed the return-to-duty process following an employee's drug or alcohol misuse violation. Inspectors must review the employee's return-to-duty records, which include the SAP reports and follow-up testing plan; SAP credentials; return-to-duty test result(s); records that

⁶ A violation includes: a verified positive drug test result; refusal to submit to a drug test as defined under 49 CFR § 40.191 (including adulterated and substituted tests); a confirmed alcohol test with a breath alcohol concentration of 0.04 or greater; a refusal to submit to an alcohol test as defined under 49 CFR § 40.261; on-duty drug or alcohol use; pre-duty alcohol use; and alcohol use following an accident.

document the employee's return to a safety-sensitive function; and all follow-up test results. See paragraphs (c) and (d) below for a more detailed list of records to review.

An inspector must document an employer's violation of failing to ensure that an employee completed the return-to-duty process prior to allowing the employee to perform safety-sensitive functions. The inspector must insist that the employer immediately remove the employee from duty and take the steps to correct the unacceptable risk associated with the violation.

Due to Privacy Act implications and stringent restrictions for certificate holders subject to the Pilot's Bill of Rights (PBR), inspectors are prohibited from discussing an employee's violation with the individual or his/her employer. If an inspector learns of an employer using an employee who is performing safety-sensitive work for one or more employers and did not complete the return-to-duty procedures, it must be reported to his/her Center Manager immediately. Refer to the next section for instructions about reporting safety-related issues for investigation by AAM-830. Inspectors, Team Coordinators, and Center Managers are prohibited from sharing information about an individual with another employer in accordance with our Privacy Act System of Records published in the Federal Register on November 9, 2010.

(b) *Reporting Violations by Certificated Airmen to AAM-830.* Inspectors who discover that an employer failed to report a part 61, 63, 65, or 67 certificate holder's violation to the Federal Air Surgeon must report the information immediately to their Center Manager and AAM830@faa.gov. The inspector's report must include a statement of the details regarding the noncompliance and any evidence available. Inspectors must not investigate, comment, or discuss the certificate holder's violations with the employer or employee.

Inspectors must advise the employer to immediately report the information to the Federal Air Surgeon via the Drug Abatement Division at drugabatement@faa.gov and document the noncompliance for failure to report a violation to the Federal Air Surgeon. The AAM-830 Manager will notify the inspection lead and Center Manager when and how to address any noncompliance regarding the employer's failure to report the information to the FAA in accordance with the regulation.

(c) *Return-to-Duty Testing Records.* An employer may allow an applicant or employee to return to performing safety-sensitive duties after the SAP determines that the employee successfully completed the education and/or treatment. To do so, the employer must conduct a return-to-duty drug and/or alcohol test and have a negative result prior to allowing an employee to return to performing safety-sensitive functions to ensure the employee is drug-free and is not violating alcohol misuse provisions in 14 CFR part 120. During the records review, inspectors must complete the procedures below:

- (1) Inspectors must ensure the employer obtained the information from the SAP, including the reports and follow-up testing plan, and conducted the necessary return-to-duty testing.
- (2) Inspectors must verify the employer notified the collection site prior to the test that the test was for return-to-duty and confirmed that it was collected using direct-observation procedures.

- (3) Inspectors must verify that all return-to-duty test results are verified negative by the MRO or resulted in a breath alcohol concentration of below 0.02.
- (4) Inspectors must conduct a thorough review of all return-to-duty records, including:
 - (a) Documentation of the triggering violations;
 - (b) SAP reports (initial and follow-up evaluations, including the follow-up testing plans) and qualifications;
 - (c) Return-to-duty CCFs/breath alcohol testing forms (ATFs) and verified drug test results/confirmed alcohol test results;
 - (d) Evidence that new airmen medical certificates have been issued, when applicable; and
 - (e) Documentation that the employees were returned to safety-sensitive functions and placed into the random drug and alcohol testing pools.
- (5) If an inspector discovers an employee's return-to-duty testing or collection of records are not acceptable, he/she must insist the employer take immediate actions to correct the safety risk.

(d) *Follow-up Testing Records.* After an employee returns to work following a violation, the employer must conduct the follow-up testing as directed by the SAP. The objective of the follow-up testing is to ensure the employee has stopped using controlled substances or misusing alcohol. During the records review, inspectors must complete the following procedures:

- (1) Inspectors must verify that for each follow-up drug test, the employer notified the collection site prior to the test that it was a follow-up test and confirmed that it was collected using direct-observation procedures.
- (2) Inspectors must verify that all follow-up test results are verified negative by the MRO or resulted in a breath alcohol concentration of below 0.02.
- (3) Inspectors must conduct a thorough review of all follow-up testing records to ensure the employer followed the SAP's directions.
- (4) If there is a lapse in employment or breaks in service, e.g., a furlough, leave of absence, or new employment, the timeline for testing stops in accordance with 49 CFR § 40.307(e). The inspector must ensure the follow-up testing properly restarted if it was stopped.
- (5) If an inspector discovers the employer did not conduct any follow-up testing or they failed to follow the SAP's directions, the inspector must insist the employer take immediate action to correct the safety risk. The inspector must contact his/her Center Manager immediately for further instructions.

(e) *Pre-employment Testing Records.* An employer must conduct a pre-employment drug test and receive a verified negative result prior to hiring any individual or transferring an employee to perform safety-sensitive functions. The pre-employment drug test is directly tied to aviation safety, in that it is a gateway to safety-sensitive positions. Failing a pre-employment drug test is a direct barrier to an individual's entry into a safety-sensitive position. It is considered particularly critical because it is the source of the largest number of positive drug test results in the aviation industry. Therefore, an inspector must be diligent in reviewing the pre-employment test results to verify the employee was tested prior to hire or transfer into a safety-sensitive position.

Pre-employment alcohol testing is optional, and an employer must conduct it prior to the first time a safety-sensitive employee performs, but after making a contingent offer of employment or transfer. An employer must treat all individuals seeking to perform safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., they must not test some employees and not others). An employer must not allow an 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 alcohol test result indicates an alcohol concentration of 0.02 or greater but less than 0.04, the employer must follow the provisions of 14 CFR § 120.221(f). Failing a pre-employment alcohol test is also a direct barrier to an individual's entry into a safety-sensitive position. Therefore, an inspector must verify the employer tested all new hires or transfers if its policy requires pre-employment alcohol testing.

During the records review, inspectors must complete the following procedures:

- (1) Inspectors must verify the hire or transfer records, pre-employment testing results, and performance records to determine there are no deviations or unacceptable risks to aviation safety;
- (2) Inspectors must conduct a thorough review of an employer's pre-employment testing records, including:
 - (a) Test results (either using a CCF, ATF, or written result);
 - (b) Hire/transfer records to include payroll, personnel action forms, internal employer hiring or transfer reports, training records;
 - (c) Safety-sensitive position records (e.g., personnel position descriptions);
 - (d) Work records, such as pilots logs, maintenance logs, timesheets, etc.; and
 - (e) Witness statements from employer officials or actual safety-sensitive employees.
- (3) If an employer failed to conduct a pre-employment test prior to hiring or transferring an employee, inspectors must collect all evidence to support the finding. The work records become critical to determine if there is an unacceptable risk to aviation safety that would indicate the need to support a legal enforcement action.

(f) *Random Testing Records.* An employer must conduct random testing as part of its

FAA-mandated drug and alcohol testing program, and it is imperative that the employer ensures the random pool is accurate and up-to-date. Random testing has three purposes:

- (1) To detect illegal drug use and alcohol misuse;
- (2) To deter employees from using illegal drugs and misusing alcohol; and
- (3) To remove employees engaged in such use from the performance of safety-sensitive functions.

Random testing is considered critical because failure to conduct testing and/or include all safety-sensitive employees in a DOT random testing pool could potentially create a significant risk to safety by allowing employees to perform safety-sensitive work who use prohibited drugs or misuse alcohol without risk of detection. Therefore, it is essential for inspectors to have thorough knowledge of what comprises a random testing program. Appendix C of this Order further explores random testing regulations, including minimum annual random testing rate, selection methodology, updating the random pool, notification procedures, excusal policies and over-selection, frequency of selection and testing, and inspecting a random program. During the records review, the inspector must be diligent in reviewing the employer's random program and must complete the following procedures:

- (1) The inspector must verify that the employer uses a scientifically valid random selection methodology, such as a random number table or a computer-based random number generator;
- (2) The inspector must verify that all safety-sensitive employees are included in the employer's DOT random pool;
- (3) The inspector must verify that the employer added new hires or transfers into safety-sensitive positions to the random testing pool in a timely manner and prior to the next random selection;
- (4) The inspector must verify that the employer removed all employees who are no longer in a safety-sensitive position (for reasons such as termination, resignation, transfer to a non safety-sensitive position, or assigned solely outside the territory of the U.S.) from the pool prior to the next random selection;
- (5) If the employer opted to remove employees from the random pool when employees were unavailable to perform safety-sensitive duties for the length of the selection period, the inspector must verify that the employee was removed from the random testing pool prior to the next random selection;
- (6) If the employer removed employees from the pool for any reason, the inspector must ensure that the employer placed the employees back into the random pool before they started performing safety-sensitive duties again and prior to the next random selection; and
- (7) The inspector must verify that all safety-sensitive employees selected for random testing were tested as indicated on the selection list.

Records that could be of use when inspecting an employer's random testing program include:

- (1) Random drug and alcohol selection lists;
- (2) Random selection methodology, if documented;
- (3) A listing of who was, or is, in the random pool during the covered period;
- (4) Documentation that employees in the pool perform safety-sensitive functions (such as maintenance logs, flight logs, or other performance documentation);
- (5) Dates employees were added or deleted;
- (6) Notification procedures, including notifications to out-lying locations;
- (7) Documentation of whether employees proceeded immediately to the collection site after notification of selection;
- (8) CCFs;
- (9) Verified drug test results;
- (10) Breath ATFs with the alcohol test results; and
- (11) Verification that the employer is satisfying the minimum testing rate that is published in the Federal Register.

(g) *Reasonable Cause/Reasonable Suspicion Testing Records.* Reasonable cause/suspicion testing is critical in the detection of employees reporting for or performing duties while having a prohibited drug in his or her system or misusing alcohol. Employers are required to test their employees when there is a reasonable and articulable belief that the employee is using a prohibited drug or has violated the alcohol misuse prohibitions. A decision to drug test based on reasonable cause is based on the employer's observation of the specific contemporaneous physical, behavioral, or performance indicators of probable drug use. A decision to conduct reasonable suspicion alcohol testing is based on the employer's specific, contemporaneous, articulable observations concerning the employee's appearance, behavior, speech or body odors. Employers must ensure that supervisors are trained to make a testing determination. Inspectors must review all reasonable cause/suspicion testing records, including:

- (1) Documentation of the event that led to testing (if available) or to the decision not to test;
- (2) Documentation that the tested employee reported for or performed safety-sensitive duties (such as maintenance logs, flight logs, or other performance documentation);
- (3) Documentation of supervisory training and the material covered;

- (4) CCFs;
- (5) Verified drug test results; and
- (6) ATFs with the alcohol test results.

(h) *Post-Accident Testing Records.* Post-accident drug and alcohol testing occurs when an employee's performance may have contributed to an aviation accident or cannot be completely discounted as a contributing factor to the accident. A decision to not administer post-accident drug and alcohol testing 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. Such testing can only occur when the accident meets the definition under 14 CFR § 120.7(a). While testing must occur as soon as possible following an accident, employees must be tested for drugs not later than 32 hours after the accident, and for alcohol not longer than 8 hours after the accident. If an alcohol test is not administered within 2 hours of the accident, the employer must prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test 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. Inspectors must thoroughly review all post-accident testing records, including:

- (1) Documentation of the accident;
- (2) Documentation of the determination whether to test the employee, including whether the accident meets the definition in 14 CFR § 120.7(a);
- (3) CCFs;
- (4) Verified drug test results;
- (5) ATFs with the alcohol test results;
- (6) Documentation on why alcohol testing was not conducted within 2 hours and/or 8 hours of the accident; and
- (7) Documentation on why drug testing was not conducted within 32 hours of the accident.

(i) *Drug and Alcohol Records Check.* Employers must conduct the drug and alcohol records check on all employees seeking to begin performing safety-sensitive duties, who previously worked for a DOT-regulated employer (as defined in 49 CFR § 40.3), to ensure employees with prior testing violations have complied with all return-to-duty and follow-up testing requirements. In accordance with 49 CFR § 40.25(b), employers must request the following information from DOT-regulated employers who employed the employee at any time 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) For 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), the employer must seek to obtain this information from the employee.

When reviewing an employer's requests for drug and alcohol records, inspectors must determine whether the employer complied with 49 CFR § 40.25(d). Section 40.25(d) provides that, if feasible, an employer must obtain and review the information required under 49 CFR § 40.25(b) before the employee first performs safety-sensitive functions. If this is not feasible, the employer must obtain and review the information as soon as possible. However, the employer must not permit the employee to perform safety-sensitive functions after 30 days from the date on which the employee first performed safety-sensitive functions, unless the employer had obtained or made and documented a good faith effort to obtain this information. Sending the request to a previous employer and not making a good faith effort to obtain the information is unacceptable. A good faith effort consists of one documented attempt to obtain drug and alcohol testing records from a former employer (e.g., certified mail receipt, fax confirmation, time-stamped email). Information indicating that the former employer did not receive the attempt (e.g., mail returned "undeliverable as addressed," fax did not transmit, email returned as undeliverable) may require an additional attempt. Sending a request to a former employer and not making an additional attempt when circumstances call for it is not a good faith effort. Allowing an employee to continue to perform safety-sensitive duties after 30 days from the date they first performed without conducting the records check is a violation of 49 CFR § 40.25(d).

Inspectors must examine all records relating to the drug and alcohol records check under 49 CFR § 40.25 and (for certain employers hiring pilots) the Pilot Records Improvement Act of 1996 (PRIA). The Pilot Records Database (PRD) is gradually replacing the paper-based PRIA process, but during the transition employers must continue to comply with PRIA (and must in any case comply with § 40.25).⁷ Inspectors must review individual resumes and/or job applications of personnel working in safety-sensitive functions to identify the employee's previous employers and determine whether the employer conducted the required records checks.

Not every employer that must comply with 49 CFR § 40.25 must also comply with the PRIA. To meet the requirements under 49 CFR § 40.25, employers that operate under 14 CFR part 121 or 135 or § 91.147 and are hiring a pilot must conduct a PRIA record check. Unlike § 40.25, a PRIA record check goes back five years from the date of the PRIA request and requires previous employers to provide all negative and non-negative results, cancelled drug test results, and confirmed alcohol test

⁷ The FAA published the regulations implementing the PRD on June 10, 2021, which are codified at 14 CFR part 111. Under part 111, subpart C, previous and current employers must begin entering pilot drug and alcohol data (including verified positive drug test results, confirmed alcohol results of 0.04 or greater, refusals, pre- and on-duty use, use following an accident, and return-to-duty and follow-up testing results) on June 10, 2022. Employers required to make PRD record checks must begin doing so for previous employers' records on June 10, 2022 per 14 CFR § 111.100(b).

results of less than 0.039. PRIA and § 40.25 have similar provisions (49 U.S.C. § 44703(h)(14)(B) and 49 CFR § 40.25(d) & (i), respectively) allowing an employer to start using an individual in a safety-sensitive position if the employer has made a documented good faith effort to obtain the required records. The FAA's PRD and PRIA Advisory Circular (AC 120-68) states that, for drug and alcohol testing records, three documented attempts to obtain the records within a 30-day period would be considered reasonable.

In accordance with 49 CFR § 40.25(h), a previous employer responding to a written § 40.25 request must review the former employee's specific, written consent and immediately release the requested information to the employer making the inquiry. PRIA requires a previous employer to obtain a copy of the pilot's written consent before responding to a PRIA request and furnish the requested records no later than 30 calendar-days after receiving the request. In either case, inspectors must verify that the previous employer provided a timely response and included all appropriate records (e.g., negative and non-negative results, cancelled drug test results, and confirmed alcohol test results with an alcohol concentration of less than 0.039 for pilots in response to a PRIA request).

In accordance with 49 CFR § 40.25(j), inspectors must also ensure that the employer asked each employee whether they tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which they applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug and alcohol testing rules during the past two years. Inspectors must examine documentation of this question, if the employer documents it. If the employer does not document the employee's response to this question, inspectors must document the employer's policy for asking the question verbally.

(j) *Management Information Systems (MIS)*. The inspector must verify that the drug and alcohol testing data on the annual MIS reports are accurate and the reports are complete and certified. If errors are discovered, the inspector must report this as a finding and notify his/her Center Manager and the AAM-810 Manager.

(k) *Safety Management Systems (SMS) Records*. The Flight Standards Service is responsible for regulatory oversight of part 121 employers' safety management systems (SMS). The part 121 SMS rule (14 CFR part 5) made no changes to the drug and alcohol testing regulations, so SMS records have no bearing on a part 121 carrier's drug and alcohol testing program. However, if the employer cites its SMS as a reason or factor in an out-of-compliance item, or if the inspector believes SMS records may be relevant to a particular out-of-compliance item, they may be reviewed. In this situation, the inspector must notify his/her Center Manager for guidance before taking further action.

e. Other Elements of an Inspection. In addition to the previous elements, the inspection is divided into the following remaining sections when inspectors review a service agent as part of the employer inspection:

(1) *Collection site and personnel*. Before inspecting a collection site as part of an employer inspection, the inspection team must first check CETS to see if the site has already had a comprehensive inspection within the previous 90 days. If so, the inspection team need only confirm that the collection site conducts DOT drug and alcohol collections for that employer. If not, or if an issue is discovered during record review at the employer, the team must proceed to do a collection site inspection according to Appendix A, Part 3 of this Order. The inspector must document the collection site interview in CETS.

(2) *MRO*. Before inspecting an MRO as part of an employer inspection, the inspection team must first check CETS to see if the employer's MRO has already had a comprehensive inspection within the previous 2 years. If the MRO has been inspected within this period, the inspector must check whether the MRO's certification expired since the last interview. If the MRO was interviewed and his/her qualifications are current, the inspection team need only confirm that the MRO works with that employer. If not, or if an issue is discovered during record review at the employer, the team must proceed to do an MRO inspection according to Appendix A, Part 4 of this Order. The inspector must document the verification of the MRO's work for his/her inspection in CETS and, if applicable, the MRO interview in CETS.

(3) *SAP*. If the employer has records of return-to-duty and follow-up testing, the inspection team must contact the SAP to conduct an inspection according to Appendix A, Part 5 of this Order. The inspector must document the SAP interview in CETS.

f. Service Agent Issues Discovered. If any collector, laboratory, MRO, or SAP issues/discrepancies are discovered, regardless of the employer, the inspector must collect all the evidence and report it to his/her Center Manager. If the issue indicates a serious noncompliance, for example a consortium owner verifying drug test results on behalf of the MRO and using the MRO's stamp, the inspector must report it to his/her Center Manager. The Center Manager will consult with the AAM-800 Director, Deputy Director, and other AAM-800 managers to determine if the matter is a national issue that warrants an inspection or investigation. Based on the determination, the Center Manager must enter a Non-compliance Transmittal report in CETS under the Service Agent's profile. A determination of whether to initiate an inspection or investigation of the service agent is determined by the Center Manager in coordination with the AAM-800 Director. If an inspection/investigation activity is initiated, the Center Manager and AAM-810 Manager must coordinate with the assigned inspector to schedule the inspection/investigation of the Service Agent. Refer to Appendix B of this Order for service agent inspections.

10. Evidence Collection. Evidence collection is the most critical element of the inspection to support a statutory or regulatory violation. To prove or disprove compliance by the employer, and to support the type of action and sanction, sufficient documentation must be reviewed and gathered. Inspectors must review all evidence relevant to an alleged finding of noncompliance whether it proves or disproves the suspected noncompliance by the employer. Inspectors must gather all available evidence to support the finding of noncompliance. When there are multiple findings of the same regulatory citation (e.g., failure to perform drug and alcohol record checks on several covered employees), inspectors must collect evidence relevant to each finding. This evidence must answer the questions about what happened, who was involved, and where, when, and why it occurred. The Best Evidence Checklist tool (available on AAM-800's SharePoint) provides guidance to inspectors when collecting evidence. When using this tool, inspectors must consider the type of employer and gather the evidence necessary to establish the finding of noncompliance for that type of employer. For more information concerning types of evidence typically most applicable in Drug Abatement investigations, see Order 2150.3, as amended.

The following describes different types of evidence and how each type must be handled according to Order 2150.3, as amended.

a. Physical evidence. Physical evidence consists of tangible objects, such as specimen collection materials or computer software programs relating to random testing. Inspectors must exercise care in

handling physical evidence so that damage, loss, or alteration does not occur. (For more information concerning physical evidence, see Order 2150.3, as amended.)

b. Witness interviews and statements. Inspectors may use witness interviews to prove noncompliance and identify other people who have direct knowledge or documentation of the issue.

- (1) When possible, interview all witnesses who may be aware of a noncompliance issue.
- (2) Witness accounts must be written and signed by the author, who may be the witness or the inspector. Witnesses must be informed that they are not under oath.
- (3) Inspectors must conduct the interview in a professional manner with consideration for the following (see Employee Interview Guide in Figure 2-9 and Witness Statement Form in Figure 2-10):
 - (a) Plan the interview and questions in advance;
 - (b) Be attentive and take notes;
 - (c) Maintain control of the interview;
 - (d) Ask direct, relevant, and open-ended questions; and
 - (e) Request a signed and dated statement from the witness.

(4) Inspectors will prepare a record of interview when outlining the interview/conversation conducted with witnesses or alleged violators. It must only state what the witness provided and it must not include the inspector's personal views and/or opinions. A record of interview is necessary if a witness declines to provide a statement. Inspectors are encouraged to try to obtain witness statements that are written, signed, and dated by the interviewee. If the interviewee is unwilling to write his/her own statement, the inspector must write the interviewee's statement and then ask the interviewee to review it for accuracy and sign and date it. If the interviewee is unwilling to do any of the above, the inspector must write the interviewee's statement as an inspector statement and ask the interviewee to review the statement to ensure its accuracy. In the last circumstance, the inspector must document that the interviewee either affirmed the accuracy of the statement or declined to do so and that the interviewee refused to sign the statement. (For more information concerning witness interviews and statements, see Order 2150.3, as amended.)

(5) Inspector statements (see Record of Interview in Figure 2-11) are used to document findings that are not available in witness statements, technical publications, logbooks, and manuals, etc. They are also used to document a finding of noncompliance that is observed by the inspector or to capture an interview when a witness is unwilling to sign a record of interview. Inspector statements must include the date, time, location, and contact information of those present. They must be personally signed and dated by the inspector and must not include his/her personal views or opinions.

c. Other General Categories of Proof (i.e., Electronic Evidence, Photographs, Video, etc.). For a discussion of other common forms of evidence and how to prepare that evidence as an IOP (when necessary for an on-site inspection), see Order 2150.3, as amended.

11. Documentation of Inspection Results. In preparation for the outbriefing, each inspection lead will, as soon as possible but not later than the timelines indicated under Section 13 of this Order, enter his/her documentation of the inspection results into CETS. The following documentation must be entered into CETS in full detail and according to current guidance in the System Rules for CETS Data Entry:

a. Update of Employer Profile. Any new information concerning the employer, such as additional locations, employer representatives, email addresses, service agents, etc., must be added to the appropriate tab of the employer's CETS profile. It is critical that the information you enter is accurate, specifically the employer representatives' information and the number of safety-sensitive employees for each job category.

b. Outcome of Areas Reviewed and Discovered Issues. Inspectors must conduct inspections that support Aviation Safety's core values and critical safety work. Each inspector must conduct a quality review of the employer's program to verify compliance with the regulations. Inspectors must collect the evidence to report the results of the inspection, whether there are findings of noncompliance or not. Inspectors must follow the expectations described in this Order when reporting inspection results:

(1) Inspectors must document all findings of noncompliance when it is established that an employer or its service agent deviated from the regulations. It is not sufficient to document only a few findings of noncompliance to show a pattern or leave out noncompliance that exceed the time limit defined in Order 2150.3, as amended.⁸ For example, if one regulatory item was out of compliance on multiple occasions, then each occasion must be documented. When documenting the findings of noncompliance, inspectors must include a full description of what happened, who was involved, where and when it occurred, the root cause of the event (e.g., why it occurred), and whether any of the noncompliance are stale.

(2) Inspectors must document concerns when there are issues discovered that are not deviations from the regulation, but that may lead to noncompliance if the employer or its service agent fails to resolve the issue. For example, if a collector has never dealt with a shy bladder situation, he/she may be asked to explain the shy bladder procedures as described in 49 CFR § 40.193. If the collector is unfamiliar with these procedures, this will be noted as an area of concern. It is important that the inspection lead educate the collector as to the proper shy bladder procedures.

(3) Inspectors must document open items when the issue cannot be resolved without clarification from their Team Coordinator and/or Center Manager, or the team cannot agree on a specific finding during the inspection. The inspection lead must contact his/her Team Coordinator or Center Manager prior to the inspection outbriefing, if possible, to explain the details and/or provide documentation. If contact is not possible, the matter is left open and the inspection lead continues to coordinate with his/her Team Coordinator or Center Manager. Once the determination is made about how to handle the issue, either as a finding of noncompliance or not, the inspection lead outbriefs it.

⁸ According to Order 2150.3, as amended, certain statutes and regulations provide time limits after the date of a violation within which FAA may bring legal enforcement action. For matters involving compliance action or administrative action, FAA personnel must ensure that applicable time limits do not adversely affect the FAA's ability to take legal enforcement action in the event the corrective action is not complete or sufficient. Civil penalty actions associated with alleged violations have a time limit of two or five years from the date of the violation, depending on the size of the civil penalty amount or size of the business. Refer to Order 2150.3, as amended, Chapter 4, paragraph 5 for specific exceptions and other information.

If the inspection is over, the inspector and Team Coordinator must conduct a telephonic out-briefing with the employer to describe whether the matter is closed or considered a finding of noncompliance and requires corrective action. If it is a finding of noncompliance, the inspector must include the issue as part of the Outbriefing Report (OBR) and Report of Inspection (ROI).

(4) Inspectors must document and gather sufficient documentation or evidence to support compliance when an inspection does not result in a finding of noncompliance. After reviewing an employer's drug and alcohol testing records during the focus or full inspection and determining the employer is compliant, inspectors must ensure the inspection file contains the following records:

- (a) Pre-employment records that include:
 - (1) A new hire list, including the dates of hire, for the last 24 months or since the last inspection; and
 - (2) Copies of verified MRO reports and performance records (e.g., copies of aircraft/engine/propeller logbook, invoices/work orders/repair orders and/or flight/pilot logbook) for 1% of the new hire employees or covered employees listed.
 - (3) If no new hires for the last 24 months or since the last inspection, you must gather performance records (e.g., copies of aircraft/engine/propeller logbook, invoices/work orders/repair orders and/or flight/pilot logbook) for two safety-sensitive employees in the current random testing pool.
- (b) Random testing records that include the eligibility and selection lists for the last four quarters.
- (c) Medical Review Officer's qualification and training documentation.
- (d) If the last MIS report indicates a verified positive drug test result and/or alcohol result with a breath alcohol concentration of 0.04 or greater, you must include a copy of one verified positive drug test result and/or confirmed alcohol test result.
- (e) If the MIS report indicates testing for follow-up drug and/or alcohol test, reasonable cause and/or suspicion test, or post-accident drug and/or alcohol test, you must include a copy of one verified drug test result and/or confirmed alcohol test result for each type of test conducted.

12. Inspection Conclusion. The inspection team must ensure that all applicable items on the inspection guide were covered and appropriate documentation was gathered, in accordance with this chapter. Inspectors must gather sufficient documentation to either demonstrate compliance or support any findings of noncompliance.

The inspection lead must review the inspection results (including any findings of noncompliance, areas of concern, or open items) with their team member, if applicable, to obtain his/her agreement. If there is disagreement between the team on a particular item(s), the inspection lead must inform the employer at the outbriefing that the item(s) will be left open and addressed later. The inspection lead

may document the inspection results in CETS prior to the outbriefing, if time permits.

a. Outbriefing. The inspection lead must end the on-site or virtual inspection by conducting an outbriefing with the employer. The inbriefing/outbriefing guide is available in Figure 2-3 (for on-site inspections) and Figure 2-4 (for virtual inspections). All inspectors who participated in the inspection must attend.

(1) The inspection lead circulates the meeting attendance sheet for those individuals who were not part of the inbriefing or documents the names of anyone participating using the Meeting Attendance List in Figure 2-5.

(2) If the inspection resulted in no findings of noncompliance or areas of concern, the inspection lead must advise the employer that no further documentation will be provided by the FAA Drug Abatement Division.

(3) When an inspection results in findings of noncompliance and/or areas of concern, the inspection lead must clearly and briefly identify the issues. Inspectors should not linger on the issues, but must explain them and obtain the employer's agreement to initiate immediate corrective action. If there are issues related to serious risk, e.g., failing to conduct return-to-duty or follow-up testing, the inspector must insist that the employer take immediate action and other corrective actions to ensure the same issues do not happen in the future. The inspector must advise the employer that a report of inspection (ROI) letter will be sent by email to the employer's President/CEO and DER documenting the results of the inspection and requesting written corrective action for each finding of noncompliance. The inspector must advise the employer that they must confirm receipt of the ROI by replying to the email or calling the inspector. The inspection lead must verify the email address for the President/CEO and the DER/ADPM.

(4) If there are items that need to be resolved with the employer that were not clarified during the actual inspection, the inspection lead must do this during the outbriefing. Similarly, the inspection lead must use this opportunity to clarify any misunderstandings about the regulations and help to educate the employer. While we are responsible for training and educating the employer representative, that does not remove the finding of noncompliance. Remember not to linger on the topic, but be clear and concise.

(5) Inspectors must not display any disagreement on the issues or discuss how the findings of noncompliance will be addressed (e.g., with compliance or enforcement action) in front of the employer.

(6) The inspection team must not tell the employer representative how to respond to the findings of noncompliance. An inspector may describe best practices for corrective action, for example, recommend the employer use a checklist for hiring or training. The inspection lead may refer the employer to our web site or the DOT's web site for sample checklists, policies, service agent audit tools, etc. It is up to the employer to decide on how to take corrective action; however, it is important to make it clear that correction action is required to address all findings of noncompliance.

b. Post-outbriefing. At the conclusion of the outbriefing, inspectors must gather all records and materials and leave the employer premises or disconnect from the virtual inspection call or video meeting. Do not leave anything behind, including papers, folders, extraneous copies of documents. If the employer created reports or documents to support your inspection, take them with you to include

in the inspection file.

Inspectors are prohibited from socializing with employer representatives or service agents, as this might give the appearance of a conflict of interest.

13. Post-Inspection Activities.

a. Post-inspection team meeting for an inspection team. Inspectors must conduct a post-inspection meeting to discuss lessons learned and to ensure that all appropriate documentation has been collected and authenticated as appropriate. If the outbriefing report has already been entered into CETS, the inspection lead must have each inspector approve the outbriefing report in CETS.

b. CETS. No later than twenty-four (24) calendar days after the inspection, or within the deadline assigned by the Team Coordinator and/or Center Manager, the inspectors must ensure that the information is entered into CETS thoroughly and accurately, following the guidance described in the System Rules for CETS Data Entry. Specifically, inspectors must:

- (1) Enter a brief description of the type of operation in the employer's profile tab (e.g., the employer is a part 135 and conducts charter flights along the west coast; the employer is a staffing employer that provides pilots to charter employers operating under part 135). Include information regarding any affiliated employers, e.g., the part 135 is part of an XYZ corporation with another part 135 operating under certificate number XXX;
- (2) Update the employer's information (i.e., contacts, email address, locations, etc.) in the contact tab;
- (3) Enter the activity narrative information in the inspection profile;
- (4) Document the employer's safety-sensitive and operation data in the inspection profile (i.e., total number of employees, number of aircraft, and number of safety-sensitive employees by function);
- (5) Add the random drug and alcohol protocol information to the inspection programs tab;
- (6) Update the date and time of the inspection, name of each inspector who participated in the inspection on the inspection resources tab;
- (7) Document all inspection findings of noncompliance, areas of concern, and undecided or open items in the inspection regulations tab. Inspectors must include the following details for each inspection finding:
 - (a) Description of each finding of noncompliance item (what happened, who was involved, where it happened, and when it happened);
 - (b) Analysis of the root cause of each finding of noncompliance (what did you determine was the cause or why it happened); and
 - (c) Identify the evidence collected to support the finding of noncompliance.

- (8) Document inspection findings of special issues that triggered the inspection, if applicable, under the inspection regulations tab – special issues report;
- (9) Complete the records reviewed guide and/or close-out summary in the inspection regulations tab;
- (10) Enter any communications information regarding the inspection, incoming and outgoing, in the inspection correspondence tab;
- (11) Document all interviews, including the name of the witness and a synopsis of their statement, in the inspection interview tab;
- (12) If there are additional details you think are important for anyone reviewing the inspection or about the employer, enter the information in the inspection additional notes tab; and
- (13) When an inspection results in no findings of noncompliance, it should be noted in the closeout summary under the inspection regulations tab in CETS.

c. Inspection reporting and correspondence. The inspector prepares the inspection reports and correspondence using CETS (see Inspection Correspondence Flowchart in Figure 2-12).

(1) *Outbriefing Report (OBR).* Once the inspection results are entered in CETS, the inspector must generate the OBR. If necessary, inspectors must obtain concurrence from their inspection team on the final OBR. If the inspection results in no findings, the inspector must notify his/her Team Coordinator to review the OBR closeout in CETS. The inspector must provide their completed inspection file in accordance with Appendix F of this Order within twenty-four (24) calendar days of the inspection, or within the deadline assigned by the Team Coordinator and/or Center Manager.

If an inspection finding indicates a potential for legal enforcement action, it is important for the Team Coordinator to notify his/her Center Manager as soon as possible. The Center Manager is required to alert the POI/PMI or AAM-810 via email that a legal enforcement action is pending to ensure any attempt to surrender the certificate or registration to avoid legal enforcement action is averted in accordance with Order 2150.3, as amended, Chapter 7, paragraph 7.a. If the risk analysis later determines legal enforcement action is no longer applicable, the Center Manager must update the POI/PMI or AAM-810 via email.

(2) *Report of Inspection (ROI) Letter.* For inspections that result in findings of noncompliance, inspectors must generate the ROI in CETS using the template on AAM-800's SharePoint. The ROI must include all findings of noncompliance, and it must be addressed to the employer's President/CEO, with a copy sent to the DER/ADPM. Once the ROI is prepared, inspectors, Team Coordinators and/or Managers must follow the procedures below:

- (a) Inspectors must provide the OBR, all records collected from the inspection, and the draft ROI letter to his/her Team Coordinator and/or Center Manager within twenty-four (24) calendar days of the inspection, or within the deadline assigned by the Team Coordinator and/or Center Manager;
- (b) Inspectors must enter the date they 'approved' their OBR/ROI in CETS prior to

notifying the Team Coordinator and/or Center Manager in writing (via email) the OBR/ROI is ready for review and the inspection records are available on the shared network;

- (c) The Team Coordinator and/or Center Manager must approve the OBR and ROI letter or return them to the inspector for changes. If returned for changes, the Team Coordinator and/or Center Manager must document the review in the milestones in the inspection correspondence tab in CETS;
- (d) After the Team Coordinator and/or Center Manager approves the OBR/ROI, the inspector must document and enter the date the ROI is sent to the employer in CETS, in accordance with the Team Coordinator/Center Manager standards;
- (e) Inspectors must send the ROI letter to the employer's President/CEO and DER via electronic mail, copying the Team Coordinator and Center Manager; and
- (f) Inspectors must request a delivery receipt of the letter and confirm receipt if they are not notified by the employer. If the inspector is unable to confirm receipt by the employer, they must contact their Team Coordinator or Center Manager for further instructions.

d. Risk Analysis. To conduct a risk analysis, inspectors must select the checklist reference number and answer the data points for each finding of noncompliance under the Automated Risk Calculation (ARC) tab in the inspection profile in CETS. The ARC system uses an employer's compliance history, the inspection finding, evidence of noncompliance gathered during the inspection, the employer's response to immediate corrective action, system-wide data, and other relevant information. These factors calculate the risk level using the safety risk management (SRM) principles identified in Order 8040.4, as amended. For matters that are not determined to be an unacceptable risk to safety, the ARC incorporates guidelines, principles, and factors identified in the SCMP, Order 2150.3, as amended, and FAA Compliance Program Order 8000.373, as amended. The following are examples of factors used in the risk analysis:

- (1) Corrective action and likelihood of the consequences reoccurring;
- (2) Type of behavior that resulted in noncompliance (e.g., intentional or reckless);
- (3) Compliance history (is it a repeat finding of noncompliance); and
- (4) Potential severity of the consequence of noncompliance.

Upon receiving the response to the ROI, inspectors must evaluate the corrective actions to determine if they address the root cause, bring the employer into compliance, and ensures the noncompliance does not reoccur. If the employer does not respond to the ROI letter within 10 calendar days, the inspector must contact the employer and encourage a response to provide corrective action. If the employer continues not to respond or provide corrective action, the circumstances might indicate an uncooperative attitude toward compliance or an unwillingness/inability to take appropriate corrective action. A failure to respond to the ROI letter is one factor that must be taken into account as part of the risk analysis.

Taking these and other factors relevant to risk analysis into consideration, the system provides the recommended action (compliance, administrative, or legal enforcement action) for each finding of noncompliance. If the inspection evidence will not support compliance, administrative, or legal enforcement action, the inspection lead must recommend that no action be taken.

Inspectors must discuss the recommended action with his/her Team Coordinator or Center Manager. If an inspector proposes deviating from the action recommended by the final ARC analysis due to mitigating factors, aggravating factors, better risk controls (e.g., the employer did not have authority to operate), or other information, he/she must discuss the proposed deviation with his/her Team Coordinator or Center Manager. Inspectors must provide their justification and evidence to support a deviation, especially when they deviate from legal enforcement action to compliance action. The justification and evidence must support an acceptable (low) or controllable (medium) risk of the violation at the time it occurred, which makes it no longer an unacceptable (high) risk to aviation safety. A Center Manager may approve or disapprove a deviation; however, the inspector may elevate the request to the AAM-800 Director if he/she does not agree with the Center Manager's decision. The AAM-800 Director will make the final decision to accept or deny the deviation. Through all steps, each person who reviews the file (i.e., Inspection Lead, Team Coordinator or Center Manager) must sign and date the final ARC analysis.

e. Types of Recommended Action. According to Order 2150.3, as amended, a finding of noncompliance must be addressed using one or more of the following types of actions.

(1) *Compliance Action.* Compliance action is appropriate when the inspector determines that future compliance can reasonably be ensured through compliance action alone, the employer displays a willingness and ability to comply, and the ARC analysis confirms that the noncompliance does not represent a high safety risk. Compliance action is not appropriate if the conduct that caused the noncompliance disclosed a lack of, or reasonable basis to question, the employer's qualifications. Compliance action is not appropriate if the criteria for enforcement action in Order 2150.3, as amended, Chapter 5, are met, or may not always be appropriate when the employer's record shows past or repeated noncompliance, especially when such noncompliance is similar or related to the current noncompliance. Compliance action is not appropriate if the employer has failed to respond to the ROI letter and/or did not return to full compliance and provide acceptable corrective action.

Inspectors must determine whether compliance action may be appropriate by reviewing the facts and circumstances of the noncompliance, evaluating the corrective action to determine if it is sufficient, and completing the final ARC analysis. When the final ARC analysis supports compliance action for one or more findings of noncompliance, the inspector must determine whether the employer's corrective actions during the inspection or provided in response to the ROI letter are acceptable to resolve the issue and ensure the noncompliance does not reoccur. When reviewing the employer's corrective actions, inspectors must conduct a methodical, in-depth root cause analysis focused on the cause of the noncompliance. This analysis must include what went wrong and why, as well as the identification of any contributing factors. Once the inspection lead understands the problem and the system/environment in which the noncompliance occurred, he/she must collect and analyze the data and look at causes and effects, focusing on whether proposed solutions effectively eliminate the problem and mitigate future risk. Inspectors must document a detailed description of the regulated person's corrective actions to come into full compliance and avoid recurrence. This documentation must include any action taken, whether the corrective actions have been fully implemented, and whether such actions have returned the person to full compliance. Compliance

actions closed out using an Action Letter (AL) are described below. Compliance actions are not assigned an Enforcement Investigative Report (EIR) file number or entered into the Enforcement Information System (EIS); however, they are maintained in CETS.

If the response to the ROI and evidence indicates there is no longer a finding of noncompliance or administrative or legal enforcement action is required for one or more issues, inspectors must note this in the AL. For actions that are no longer a finding of noncompliance, it is noted in the AL and closed.

(2) *Administrative Enforcement Action.* Administrative enforcement action is appropriate when the criteria for legal enforcement action in Order 2150.3, as amended, Chapter 5, are not met, and an inspector reasonably and in good faith determines that compliance action will not remediate the noncompliance and ensure future compliance. Inspectors make this determination by reviewing the facts and circumstances of the noncompliance and completing the final ARC analysis. When the administrative action criteria and/or ARC analysis support administrative action as the appropriate action for an apparent violation, inspectors must consult with the Team Coordinator and/or Center Manager before preparing the administrative action report and letter of correction or warning notice. When administrative action is decided, CETS will assign an EIR File Number and the action is entered into EIS. The EIR File Number should be referenced in the AL if compliance actions are associated with the same inspection.

(3) *Legal Enforcement Action.* Legal enforcement action for an employer violation is appropriate when the criteria in Order 2150.3, as amended, Chapter 5, paragraph 5.a. are met. The criteria that would apply to legal action for an employer includes the following:

- (a) **Intentional Conduct:** A deliberate act (or failure to act) while knowing that such conduct is contrary to a regulation or statute, or is otherwise prohibited;
- (b) **Reckless Conduct:** An act (or failure to act) demonstrating a gross disregard for or deliberate indifference to safety or a safety standard;
- (c) **Failure to Complete Corrective Action:** Failure to complete corrective action on terms satisfactory to the FAA; and
- (d) **Conduct Creating or Threatening to Create an Unacceptable Risk to Safety:** Conduct that creates or threatens to create a high level in the likelihood and/or severity of significant risk to safety, when the director of the program office determines that alternative means to address the noncompliance and to effectuate immediate and future compliance would not be sufficient.

The AAM-800 Director determines specific types of violations that represent an unacceptable risk to safety based on analysis of system-wide enforcement data. Inspectors must make a legal enforcement action determination by reviewing the facts and circumstances of the noncompliance and completing the final ARC analysis. When the legal action criteria and/or ARC analysis support legal enforcement action for an apparent violation, inspectors must consult with his/her Team Coordinator and/or Center Manager before preparing an EIR. When legal action is decided, CETS will assign an EIR File Number and the action is entered into EIS. According to Order 2150.3, as amended, the Office of Chief Counsel makes the final determination whether to proceed with legal enforcement

action. The EIR File Number should be referenced in the AL if compliance actions are associated with the same inspection.

f. Inspection Outcome Procedures. Once an inspector determines the inspection result(s) after considering the employer's response to the ROI letter, completing the ARC analysis, and assessment of the corrective action, the inspector must generate the appropriate outcome in CETS. For compliance actions, inspectors must generate an AL. Order 2150.3, as amended, remains the source for reporting and processing of administrative and legal enforcement actions which require an EIR. Legal enforcement action EIRs are referred to FAA legal counsel for further action. Refer to the templates for all inspection outcome options in CETS or AAM-800's SharePoint for reference.

The procedures below will explain how and when to generate the outcome, and the coordination steps to follow:

(1) *Action Letter (AL).* The AL is used to notify the employer of how the findings of noncompliance were resolved, and which findings of noncompliance will be handled with administrative or legal enforcement action, or closed with no further action (if applicable). Once the AL is prepared, inspectors, Team Coordinators, and/or Managers must follow the procedures below:

- (a) Inspectors must provide the draft AL to his/her Team Coordinator and/or Center Manager and update the milestone in the inspection correspondence tab in CETS;
- (b) Team Coordinator and/or Center Manager must approve the AL or return it to the inspector for changes. If returned for changes, the Team Coordinator and/or Center Manager must document the review in the milestone in the inspection correspondence tab in CETS;
- (c) Inspectors must begin the milestone process again for the review in the inspection correspondence tab in CETS;
- (d) After the Team Coordinator and/or Center Manager approves the AL, the inspector must document and enter the date the AL is sent to the employer in CETS, in accordance with the Team Coordinator/Center Manager standards;
- (e) Inspectors must send the approved AL to the employer within 120 calendar days from the date of the inspection or within the deadline assigned by the Team Coordinator and/or Center Manager;
- (f) Inspectors must send the AL to the employer's President and DER via electronic mail, copying the Team Coordinator and Center Manager; and
- (g) Inspectors must request a delivery receipt of the letter and confirm receipt if they are not notified by the employer. If the inspector is unable to confirm receipt by the employer, he/she must contact his/her Team Coordinator or Center Manager for further instructions.

(2) *Administrative Action.* To address noncompliance issues with administrative action for an inspection, inspectors may send a letter of correction (LOC) or warning notice (WN). While an LOC serves the same purpose as a WN, it also memorializes a specific agreement with the employer

as to the particular corrective action taken or to be taken within a specified time to effectuate compliance. In addition to the letter, inspectors must complete an EIR that includes Section B (Summary of Case) and Section C (Items of Proof) using the template contained in CETS or AAM-800's SharePoint. Once the LOC/WN is prepared, inspectors, Team Coordinators, and/or Managers must follow the procedures below:

- (a) Inspectors must submit the draft LOC/WN and Section B to his/her Team Coordinator and/or Center Manager within 75 calendar days from the date of the inspection or within the deadline assigned by the Team Coordinator or Center Manager, and update the milestone in the inspection correspondence tab in CETS;
- (b) The Team Coordinator and/or Center Manager must approve the LOC/WN and/or EIR or return it to the inspector for changes. If returned for changes, the Team Coordinator and/or Center Manager must document the review in the milestone in the inspection correspondence tab in CETS;
- (c) The milestone process starts again for the review in the inspection correspondence tab in CETS;
- (d) After the Team Coordinator and/or Center Manager approves the LOC/WN and EIR, the Team Coordinator and/or Center Manager signs and submits the 2150-5 to EIS;
- (e) The inspector must enter the date the LOC/WN is sent to the employer in CETS;
- (f) Inspectors must send the approved LOC/WN to the employer within 120 calendar days from the date of inspection or within the deadline assigned by the Team Coordinator or Center Manager;
- (g) Inspectors must send the LOC/WN to the employer's President and DER via electronic mail, copying the Team Coordinator and Center Manager;
- (h) Inspectors must request a delivery receipt of the letter and confirm receipt if they are not notified by the employer. If the inspector is unable to confirm receipt by the employer, they must contact their Team Coordinator or Center Manager for further instructions; and
- (i) Inspectors prepare the final assembled inspection files, including Section B, for archiving.

(3) *Legal Enforcement Action.* For violations that meet the legal enforcement action criteria in Order 2150.3, as amended, Chapter 5, inspectors must generate a legal EIR using the template in CETS or AAM-800's SharePoint. All legal enforcement action EIR files must follow the requirements of "Protecting Sensitive Unclassified Information," Order 1600.75, involving "For Official Use Only" (FOUO) designations (see Figure 2-13). The FOUO cover sheet template is available on AAM-800's SharePoint and must be included in the legal enforcement action EIR before the Section A tab and after the last item of proof. The inspection lead must ensure the EIR is factual, well-reasoned, and contains sufficient proof to substantiate the action. Once the EIR is

prepared, inspectors, Team Coordinators, and/or Managers must follow the procedures below:

- (a) Inspectors must provide the legal enforcement action electronic EIR (eEIR) to his/her Team Coordinator and/or Center Manager within 75 calendar days from the date of inspection or within the deadline assigned by the Team Coordinator or Center Manager;
- (b) Inspectors must update the milestone in the inspection correspondence tab in CETS;
- (c) The Team Coordinator and Center Manager must approve the legal enforcement action eEIR or return it to the inspector for changes;
- (d) If returned for changes, the Team Coordinator and/or Center Manager documents the review under the Milestones Section in CETS and the process begins again;
- (e) After the Team Coordinator and/or Center Manager approve the eEIR, the Team Coordinator and/or Center Manager must enter the final sign-off into CETS;
- (f) The Team Coordinator or Center Manager sends the 2150-5 form to EIS through CETS and includes a copy of the signed 2150-5 form in the eEIR;
- (g) The Center Manager or Team Coordinator prepares the transmittal memorandum describing the type of legal enforcement action recommended for each eEIR;
- (h) Once the eEIR is approved, the Team Coordinator or Center Manager electronically transfers the transmittal memorandum and eEIR to the Office of the Chief Counsel and enters into CETS the date it was sent to the Office of Chief Counsel; and
- (i) The investigating office must retain a complete copy of the electronic inspection file, including a copy of the eEIR transmitted to the Office of the Chief Counsel for legal enforcement actions, and make it available to enforcement counsel upon request.

The Office of the Chief Counsel may return the case for further investigation, closure, or downgrade to an appropriate action (see Order 2150.3, as amended). If the case is returned and needs further action, the Branch Manager, Center Manager, or Team Coordinator will provide further instructions.

g. Inspection Follow-Up Documentation. Inspectors must ensure that all follow-up activities, information, documentation of additional corrective action by the employer, and incoming and outgoing communication are documented in CETS.

h. Inspection File Documentation. The final step in the inspection process is for the inspection lead to compile the electronic inspection file documentation according to Appendix F of this Order. Before submitting the electronic inspection folder for review to the Team Coordinator or Center Manager, the lead inspector must ensure that all paper (e.g., mail or fax) and electronic records are included in the electronic inspection folder. The lead inspector is responsible for scanning any physical records received into PDF format for inclusion in the electronic inspection file.

Figure 2-1. On-Site Inspection Process Guide

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

<p style="text-align: center;"><u>Pre-Inspection</u></p> <ul style="list-style-type: none"> ___ Confirm date of inspection and logistical arrangements with employer. ___ Ensure documentation is received from employer. ___ Research enforcement and program history, i.e., CETS, A449s, LOAs and registrations. ___ Provide history to team. ___ Notify Center Manager (CM) if additional resources are needed. ___ Provide travel and lodging information to team. ___ Ensure that appropriate management representatives will be available to discuss: <ul style="list-style-type: none"> ___ Employer Administrative and Quality Assurance Activities ___ Drug Testing and Alcohol Information, Training, and Referral ___ Recordkeeping and Reporting ___ Specimen Collection ___ Breath Alcohol Testing Procedures ___ Medical Review Officer Activities ___ Substance Abuse Professional Activities ___ Ensure relevant documents will be available. ___ Complete inspection plan and assign areas of responsibility to team members. ___ Submit completed work plan to CM and Team Coordinator (TC). <p style="text-align: center;"><u>Inspection</u></p> <ul style="list-style-type: none"> ___ Conduct initial team meeting. ___ Coordinate inspection team members' activities during the inspection. 	<ul style="list-style-type: none"> ___ Conduct inspection using the Inspection Lead Guide. ___ Conduct review meetings with team members during inspection and prior to outbriefing. ___ Contact CM if team is undecided about issues during the review process. ___ Interview safety-sensitive employees, if possible. ___ Ensure that all evidence is gathered, verified, & certified during the on-site inspection. ___ Document findings in CETS (if possible). ___ Conduct final team meeting to discuss good points, problem areas, and lessons learned. <p style="text-align: center;"><u>Post-Inspection</u></p> <ul style="list-style-type: none"> ___ Enter inspection activity and follow-up actions in CETS (including email address). ___ Team members concur. ___ Forward documentation to CM/TC for final review and approval. ___ Send correspondence to employer as appropriate and track corrective actions. ___ Update CETS as activities occur. ___ Complete ARC analysis. ___ Prepare and process compliance and/or enforcement (administrative or legal) action. ___ Close out or complete CETS record. ___ Prepare inspection file.
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Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-2. Virtual Inspection Process Guide

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

<p style="text-align: center;"><u>Pre-Inspection</u></p> <ul style="list-style-type: none"> ___ Contact employer to confirm date of inspection, verify the representative's email and explain the logistical arrangements. Document this in CETS. ___ Ensure that employer representative(s) will be available to discuss: <ul style="list-style-type: none"> ___ Employer Administrative and Quality Assurance Activities ___ Mandatory Testing Procedures and Records ___ Service Agent Information ___ Ensure you received the POC form and documentation from employer. ___ Conduct initial review of all records provided by the operator. ___ Contact Team Coordinator (TC) or Center Manager (CM) if undecided about issues during the initial review process. ___ Research prior inspection and enforcement history, i.e., CETS, A449s, LOAs, and registrations. ___ Submit completed work plan to CM and TCs. <p style="text-align: center;"><u>Virtual Inspection</u></p> <ul style="list-style-type: none"> ___ Conduct the inbriefing using the Inbriefing/Outbriefing Guide for Virtual Inspections. ___ Conduct the Administrative & Quality Assurance Review using the Guide in Order 9120.1E, Appendix A. ___ Interview other employer personnel/ safety-sensitive employees, as needed. ___ Ensure that all additional evidence is requested/gathered. ___ Notify CM/TC if problems encountered, or need guidance. 	<ul style="list-style-type: none"> ___ Document all findings of noncompliance and the root cause of the noncompliance in CETS. ___ Conduct outbriefing using the Inbriefing/Outbriefing Guide for Virtual Inspections. <p style="text-align: center;"><u>Post-Inspection</u></p> <ul style="list-style-type: none"> ___ Complete all inspection activity and follow-up actions in CETS. ___ Generate the outbriefing report and Report of Inspection (ROI). ___ Forward documentation to TC and/or CM for final review and approval. ___ Send ROI to the employer via email using the virtual inspection template and update CETS. ___ Contact the employer within 2 calendar days to verbally verify receipt if they fail to acknowledge receipt of ROI. ___ Track and document discussions with the operator and all corrective actions. ___ Update CETS as needed. ___ Initiate the ARC analysis. ___ Generate the Action Letter (AL) and/or associated enforcement action(s). ___ Forward documentation to TC and/or CM for final review and approval. ___ Send AL and/or Administrative Action Letter to the employer via email using the virtual inspection template and update CETS. ___ Close out or complete CETS record. ___ Prepare inspection file.
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Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-3. Inbriefing/Outbriefing Guide for On-Site Inspection

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

Inbriefing

- _____ Introduce team members to employer representatives and circulate or document the meeting attendance list.
- _____ Explain the purpose and scope of the inspection.
- _____ Review the inspection schedule.
- _____ Confirm employer POCs, email addresses, C/TPAs and document/record locations.
- _____ Inquire about availability of restroom location, copier use and meeting room.
- _____ Describe the outbriefing that is to be held at the end of the inspection.
- _____ Distribute Small Business Notice, if applicable.
- _____ Advise end of inbriefing and allow opportunity for non-participants to leave.

Outbriefing

- _____ Thank employer for cooperation and assistance, as applicable, and circulate or document the meeting attendance list.
- _____ Inspection lead may request that employer hold questions and comments until end of briefing.
- _____ If there are no findings of noncompliance, advise employer that this concludes the inspection and there will be no further correspondence.
- _____ Review scope of inspection and activities conducted and state that there will be a written Report of Inspection provided via email after completing the review process. Describe review process, but do not discuss possible actions that may be taken.
- _____ Describe the findings of noncompliance with the regulations and require immediate corrective action.
- _____ Use this opportunity to provide training and education on the drug and alcohol testing regulations and the resources available at www.faa.gov/go/drugabatement and www.transportation.gov/odapc. For questions, refer them to the Program Policy Branch at drugabatement@faa.gov or 202-267-8442.
- _____ Review any open items or areas of concern, if applicable.

**Close inspection and depart facility immediately.
Do not leave any written inspection materials or evidence behind.**

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-4. Inbriefing/Outbriefing Guide for Virtual Inspection

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

Inbriefing

- _____ Introduce team members to employer representatives and allow all employer representatives on the call to introduce themselves. Document the meeting attendance list. If the employer requests a copy, email it after the outbriefing.
- _____ Explain the purpose and scope of the inspection, and the process schedule. You should explain that you assessed the records provided and this call is to conduct the Administrative and Quality Assurance review of the mandatory testing. If you need to request additional records, explain that you will need time to review the records and you will schedule the outbriefing for a later time/date, if necessary.
- _____ Confirm employer POCs, email addresses, C/TPAs and document/record locations.
- _____ Distribute Small Business Information via email after the call, if applicable.
- _____ End the inbriefing and allow the opportunity for non-participants to leave. Start the Administrative and Quality Assurance interview using the Inspection Guide in Order 9120.1E.

Outbriefing

- _____ Thank employer for cooperation and assistance, as applicable. Document the meeting attendance list. If the employer requests a copy, email it after the outbriefing.
- _____ Inspection lead may request that employer hold questions and comments until end of briefing.
- _____ If there are no findings of noncompliance, advise employer that this concludes the inspection and there will be no further correspondence.
- _____ Review scope of inspection and state there will be a written Report of Inspection provided via email after completing the review process. Describe review process, but do not discuss possible actions that may be taken.
- _____ Describe the findings of noncompliance and explain the importance of taking immediate corrective action.
- _____ Use this opportunity to provide training and education on the drug and alcohol testing regulations and the resources available at www.faa.gov/go/drugabatement and www.transportation.gov/odapc. For questions, refer them to the Program Policy Branch at drugabatement@faa.gov or 202-267-8442.
- _____ Review any open items or areas of concern, if applicable.

Close the inspection and end the video chat or call.

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-5. Meeting Attendance List

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

MEETING ATTENDANCE LIST

Employer: _____ Date: _____

Inspection Type: ☐ On-Site ☐ Virtual

Name	Title/Organization	Telephone Number	Email Address	Attendance
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing
				<input type="checkbox"/> In briefing <input type="checkbox"/> Out briefing

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-6. New Hire/Transfer Guide

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

The following guide may be used as a tool during the pre-employment record review portion of the inspection. This document is only to help organize your results of the inspection and is not meant to be evidence to support a violation.

At the conclusion of the inspection, the inspection lead must ensure that all inspection results are captured in CETS. At that time, this document must be destroyed and not maintained as part of the record. The CETS record is the official documentation of the inspection.

[illegible]

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-7. Inspection Finding of Noncompliance Issue Guide

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

The following guide may be used during the inspection to help document findings of noncompliance issues discovered during your review of the records or following an interview with a witness.

At the conclusion of the inspection, the inspection lead must ensure that all inspection results are captured in CETS. At that time, these documents must be destroyed and not maintained as part of the record. The CETS record is the official documentation of the inspection.

Regulation Citation(s): _____

CETS Reference Checklist Item Number(s): _____

Brief Statement of Finding of Noncompliance: _____

Root Cause of the Noncompliance: _____

Evidence Collected: _____

Figure 2-8. Sample Inspector's Statement of Authenticity

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

To certify the authenticity of evidence as a true and authentic copy of the original, inspectors must use the following single statement as an Item of Proof (IOP) to cover the entire case.

I certify that the documents and records collected and included with Items of Proof (IOP 1-XX) as part of this [legal or administrative enforcement or compliance] Action, [insert EIR File Number, if applicable], are true and accurate copies of the original documents and records held by and/or provided by [Insert the Source's Name, Title, and Name of the Employer/Service Agent/Individual]. These records were collected as part of our inspection at [Name of Employer/Service Agent/Individual] inspection (or investigation) on [DATE of Inspection/Investigation/Collection].

Signature:

[Inspector's Name, Number and Email]

Figure 2-9. Employee Interview Guide

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

Employer_____

Date and Time_____

Interviewer Name_____

Employee Name_____

Employee Job Title_____

Length of Service with Employer_____

Total Experience_____

This interview is voluntary. Its purpose is to help evaluate the drug and alcohol testing program mandated by the FAA.

What type of work do you do and when were you hired? Explain your duties/assignments.

Are you a supervisor?

When did you first perform safety-sensitive duties?

Have you submitted to any drug tests? When?

If a pre-employment test is not mentioned, ask:

Did you have a pre-employment drug test? When?

If the employee cannot recall when he/she received a pre-employment test, ask:

Was this before or after you first performed safety-sensitive functions?

Do you know how your name was selected for a drug test or tests after you were hired?

After you were notified of your selection, when did you have to appear for your test?

Have you submitted to any alcohol tests? When?

After you were notified of your selection, when did you have to appear for your test?

Have you received training regarding the drug and alcohol testing program of your employer?

What are some of the effects and consequences of drug use on personal health, safety, and the work environment?

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-9. Employee Interview Guide (cont'd)

Can you name some of the behavioral indicators that may indicate drug use?

What are some of the effects and consequences of abusing alcohol on personal health, safety, and the work environment?

Can you name some of the behavioral indicators that may indicate alcohol abuse?

Have you received any informational materials on the drug and alcohol testing program? If so, what types of materials have you received?

Have you received a community service hotline telephone number for employee assistance? If so, when and where did you receive the number?

Have you received a copy of your employer's policy regarding drug use in the workplace?

(When interviewing Supervisors Only)

Have you received training concerning reasonable cause and reasonable suspicion testing? Describe the training you received.

When did you receive this training? How often have you received training?

When was the last time you received this training?

Did the training include specific contemporary physical, behavioral, and performance indicators of drug and alcohol use?

How long was the training?

(If necessary, ask:) Was the training at least 60 minutes in length for both the alcohol and drug portions?

Have you ever made a determination to conduct reasonable cause/suspicion testing? If so, explain.

Do you have any general comments, concerns, or complaints regarding the drug and alcohol testing program?

Figure 2-10. Witness Statement Form

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

Inspection Witness Statement Form (PRINT)	
Name of Employer or C/TPA: _____	
Witness Name: _____	Date: _____
Mailing Address: _____	Time: _____
Telephone: (Home) _____ (Work) _____ Place: _____	
Inspector's/Investigator's Name: _____	
Others Present: _____	
Narrative:	
Witness Signature: _____ Date: _____	
Signature(s) of others present _____, _____, _____	
Inspector/Investigator Signature: _____	Page ____ of ____

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-10. Witness Statement Form (cont'd)

[illegible]

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-11. Record of Interview

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

Record of Interview

FAA
Aviation Safety

INTERVIEW SUBJECT

Name:	_____	Telephone:	_____
Position:	_____	Address:	_____
Date and Time of Interview:	_____		

INTERVIEW NARRATIVE

FOR OFFICIAL USE ONLY

Public availability to be determined under 5 USC 552

Please do not change this document without approval. All recommendations for improvement must be sent to your Center Manager.

Figure 2-12. Inspection Correspondence Flowchart

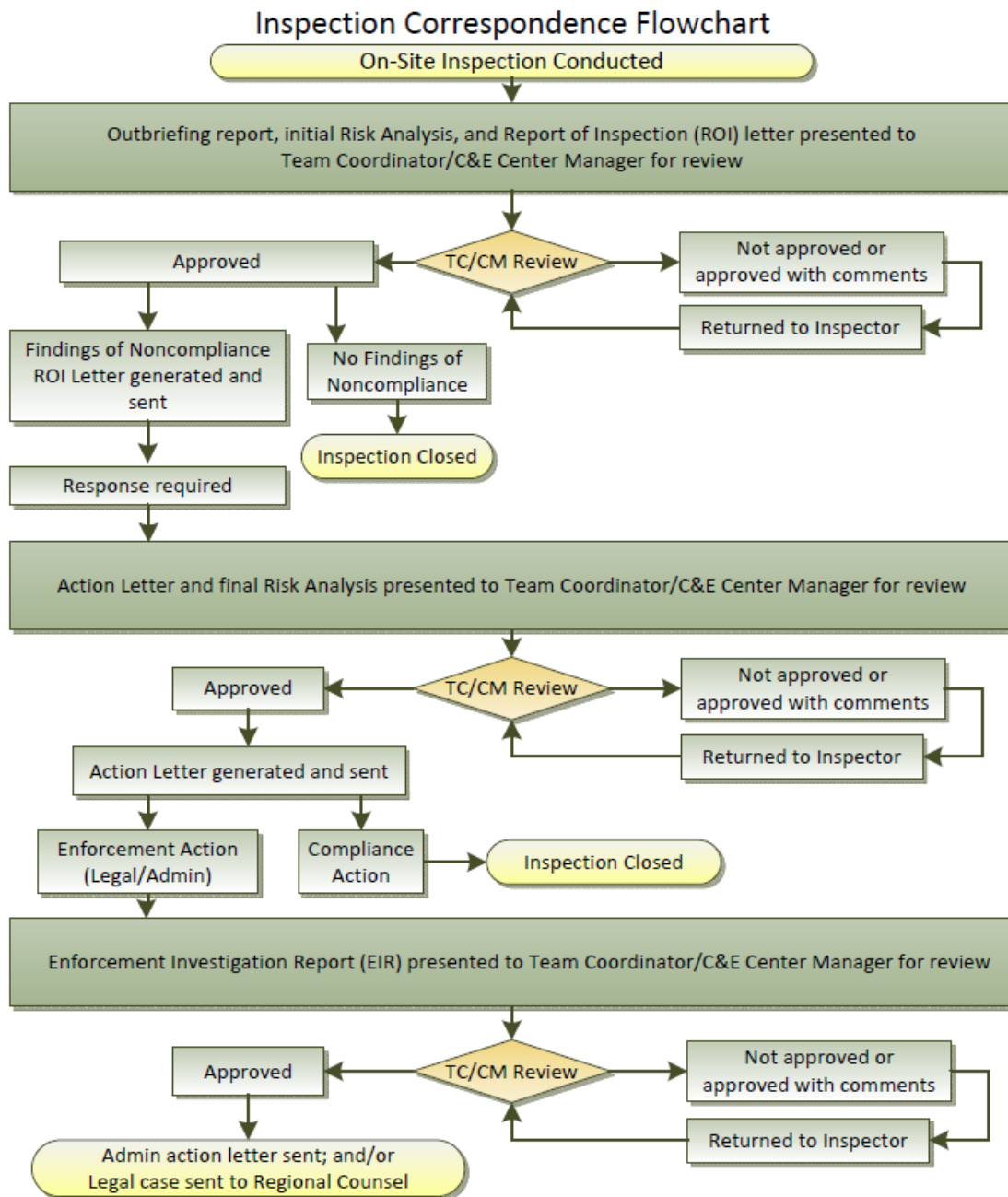


Figure 2-13. Sample FOUO Coversheet

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

The image shows a sample FOUO (For Official Use Only) coversheet. It features a dark green background with a large white diamond in the center. Inside the diamond, the text "FOR OFFICIAL USE ONLY" is written in large, bold, green capital letters. Below this, in smaller green capital letters, is "MATERIAL ATTACHED". Above the diamond, the words "COVER SHEET" are written in white capital letters. In the top left corner, a green box contains white text: "Use to safeguard Unclassified Information which requires protection under FAA Order 1600.75". In the bottom right corner, another green box contains white text: "When separated from material this cover sheet requires no protection".

Use to safeguard
Unclassified Information
which requires protection
under FAA Order 1600.75

COVER SHEET

**FOR
OFFICIAL
USE
ONLY**

MATERIAL ATTACHED

When separated
from material this
cover sheet requires
no protection

Chapter 3. Investigations

1. Purpose. This chapter discusses the sources of allegations that may result in an investigation. It also discusses categories of investigation and the Branch or Compliance and Enforcement Center (C&E Center) responsible for the investigation.

2. General. All Drug Abatement Division activities involve elements of an investigation in which the facts of an issue are examined. The majority of these investigations pertain to alleged deviations of the drug and alcohol testing regulations by employers (including a service agent) or individuals who perform safety-sensitive functions. The purpose of these investigations is to determine whether a finding of noncompliance exists and warrants the need for compliance action, administrative action (i.e., WN or LOC), legal enforcement action (i.e., civil penalty or certificate action) to prevent reoccurrence of noncompliance with the drug and alcohol testing regulations.

a. All AAM-800 personnel are responsible for reporting any issue that indicates an alleged noncompliance of the drug and alcohol testing regulations to his/her manager. Based on the source and subject of the issue, an investigation will be conducted by an inspector or Team Coordinator in the C&E Center or an investigator in the Special Investigations Branch (AAM-830).

b. Investigations are assigned based on the apparent violator, either an employer or a safety-sensitive employee or individual. Investigations of an employer are assigned to the C&E Center, and investigations of a safety-sensitive employee or individual are assigned to AAM-830. An investigation may be conducted virtually or on-site, which is determined by the Center Manager or AAM-830 Branch Manager.

3. Sources of Allegations. An allegation may come from any of the following sources: FAA Hotline, internal noncompliance transmittals (NCT), Congressional inquiries, refusal reports, part 67 reports, and complaints. The source of the allegations are documented in an employer's profile in CETS, under the Special Issues tab. The NCT may initiate an investigation or inspection activity, or the Center Manager or AAM-830 Branch Manager may close it with no further follow-up. If an investigation is necessary, it will be initiated under the employer's activity record. Depending on the alleged issue, the Center Manager or AAM-830 Branch Manager responsible for the investigation will determine the level of risk associated with the investigation and establish the priority in accordance with the SCMP.

a. FAA Hotline. If an allegation is made through the FAA's Hotline office and directed to AAM-800 for action, it is referred for investigation based on whether it involves an employer or safety-sensitive employee or individual.

b. NCT. An NCT is an internal process that allows anyone in AAM-800 to document issues that emerge during an inspection, an investigation, or through the course of normal duties. These issues typically involve alleged noncompliance by an employer, service agent, or safety-sensitive employee or individual. When personnel report alleged noncompliance using an NCT, they must discuss the NCT with their own Manager before selecting the recommended activity. The reporting Manager will coordinate with the Center Manager or AAM-830 Branch Manager to determine the risk associated with the NCT. The majority of NCTs entered against an employer and referred for investigation are typically addressed by the C&E Center, unless circumstances require action by AAM-830.

c. Congressional Inquiries. Congressional inquiries are correspondence requesting information regarding constituents. Congressional inquiries are referred to the Program Policy Branch (AAM-820) for action, but may be coordinated with the other Branches and the C&E Centers where

necessary. If a Congressional indicates alleged noncompliance or violations by an employer or safety-sensitive employee or individual, AAM-820 will enter it as a source and refer it for investigation. AAM-820 Manager will coordinate with the Center Manager or AAM-830 Branch Manager to determine the risk associated with the alleged issue.

d. Refusal Reports. An employer is required to report to the FAA all refusals to submit to drug or alcohol testing by an individual who holds an airman certificate under 14 CFR parts 61, 63, or 65. If an individual holds a part 67 medical certificate and refused a drug test, the MRO must notify the employer and report the refusal to the Federal Air Surgeon. If the individual holding a part 67 medical certificate refused an alcohol test, the employer must report the refusal to the Federal Air Surgeon. An employer may report all other refusals to submit to a drug or alcohol test to AAM-800. All reports of this type are investigated by AAM-830.

e. Verified Positive Drug Test Result/Alcohol Misuse Violation Reports. An employer is required to report to the Federal Air Surgeon all confirmed alcohol misuse violations by any individual who holds a part 67 medical certificate. For a verified positive drug test, the MRO must report a medical certificate holder's result to the Federal Air Surgeon. An employer may report all verified positive drug test results and confirmed alcohol misuse violations by any employee to AAM-800. All reports of this type are investigated by AAM-830.

f. Complaints. Complaints are the result of an individual, employer, or other FAA source (e.g., Flight Standards Safety Inspector) contacting AAM-800 to report a possible hazard or request an investigation of an event. These allegations may be against an employer or safety-sensitive employee or individual, which will determine whether the investigation is the responsibility of the C&E Center or AAM-830.

4. Initiating an Investigation of an Employer. Investigations of an employer are initiated with a Letter of Investigation (LOI) that includes a File Number. The LOI is meant to notify the employer of our investigation and provide them an opportunity to respond to the alleged noncompliance. Similar to an inspection, the inspector evaluates the response to the LOI to determine the validity of the alleged noncompliance and root cause of the issue, evaluate the corrective action, and conduct a risk analysis. An investigation may be addressed with compliance and/or enforcement action depending on the ARC analysis.

a. Employer LOI. An inspector must prepare the LOI using the letter template on AAM-800's SharePoint. The LOI must describe the alleged finding of noncompliance and the assigned inspector must provide the draft LOI and background information regarding the alleged noncompliance to his/her Team Coordinator and/or Center Manager within twenty-four (24) calendar days of the assigned investigation or within the deadline assigned by the Team Coordinator and/or Center Manager. The Team Coordinator and/or Center Manager either returns the letter to the inspector for changes or approves it. If the correspondence is returned to the inspector for changes, the review is documented under the Milestones Section in CETS and the process begins again. After the Team Coordinator and/or Center Manager approves the LOI, he/she must enter the final sign-off into CETS. The inspector must send the LOI to the employer's President/CEO and DER through United States Postal Service (USPS) mail, certified and return receipt requested. Electronic mail is not authorized.

b. Investigation Outcome Procedures. Similar to an inspection, the inspector must follow the steps in Chapter 2 of this Order as it relates to documenting the response and root cause, generating the ARC, and preparing the correspondence (e.g., action letter or enforcement action). If the investigation is addressed with compliance action and closed with an action letter, the file number

assigned to the LOI must be cancelled in the Enforcement Information System (EIS). The inspector must notify his or her Team Coordinator and/or Center Manager to cancel the file number when submitting the action letter for review and approval.

5. Initiating an Investigation of a Safety-Sensitive Employee. Investigations involving employees are critical and require an immediate investigation by AAM-830. The investigation is initiated when the investigator sends the LOI, which must include a File Number. It must be sent to the employee through the USPS mail, certified and return receipt requested (or registered mail for persons outside the U.S.), or Federal Express. Investigations of an employee may only result in legal enforcement action or no action.

To support the elements of a statutory or regulatory violation in a legal enforcement action, investigators must provide a statement indicating that the evidence collected is a true and authentic copy of the original. To certify the authenticity of evidence, the investigator must provide a statement as an Item of Proof (see Figure 3-1 for a Sample Investigator's Statement of Authenticity). A statement is not required for some documents e.g., FAA-generated records, manuals in the FAA's possession, emails and/or letters to investigators that indicate the sender and date of transmission. For more information, refer to Order 2150.3, as amended, Chapter 4.

6. Individual Violations Discovered During Inspection. If during the normal course of an inspection, it is discovered that an individual's refusal or other violation was not reported to the Federal Air Surgeon, the inspector must notify his/her Center Manager immediately. The Center Manager must immediately notify AAM-830 (via AAM830@faa.gov) and copy the AAM-830 Manager. The inspector must leave the matter open, and the AAM-830 Manager will provide further directions/actions to the Center Manager.

7. Pilot's Bill of Rights. The Pilot's Bill of Rights (PBR) establishes the restrictions that apply to inspectors and investigators when an individual holds an FAA-issued airman certificate (e.g., pilot, mechanic, or dispatcher). These restrictions are specific to what an inspector or investigator can and cannot do or say if he/she discovers evidence of an individual's violations during an inspection or investigation, when AAM-830 has not officially provided written notification to the airman. Refer to the guidance in the January 8, 2015, Enforcement Guidance Memorandum: "Requirements for Timely, Written Notification for All Investigations of Airman Certificate Holders." This document is available electronically on AAM-800's SharePoint. All inspectors must follow AAM-800's restrictions considering the PBR when they find evidence of an individual's violations during an inspection, including:

- a. Do not discuss the individual's violation with the individual or his/her employer;
- b. Do not engage the individual in any discussions about the apparent violations or the employer's apparent violations;
- c. Address the employer's violation only (for example, its failure to ensure that its employee had completed the return-to-duty process before allowing the individual to perform a safety-sensitive function; or its failure to report a refusal to submit to testing);
- d. Make a copy of any evidence showing the violation and refer the individual's violation to AAM-830. Send a written statement to AAM830@faa.gov as soon as possible, including a copy of any documents you found; and
- e. Do not advise the employer or the individual that this evidence will be reported to AAM-830

or that an investigator will contact them.

Figure 3-1. Sample Investigator's Statement of Authenticity

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

I certify that the documents and records collected and included with the Items of Proof as part of this Legal Enforcement Action, [insert EIR File Number], are true and accurate copies of the original documents and records held by and/or provided by [Insert the Source's Name, Title, and Name of the Employer/Service Agent/Individual].

These records were collected as part of our investigation of [Insert name of Employee/Individual].

INVESTIGATOR SIGNATURE / DATE

[Investigator's Name, Number and Email]

Chapter 4. Voluntary Disclosures

1. Purpose. This chapter provides the AAM-810 Manager and AAM-810 staff, C&E Center inspectors, Team Coordinators, and Managers with policies and procedures for assessing the program-related reports under the Voluntary Disclosure Reporting Program (VDRP) in accordance with the Advisory Circular (AC) 120-117.

2. General. FAA's Compliance Program Order 8000.373, as amended, recognizes that aviation safety depends primarily on voluntary adherence to the regulations. The FAA developed the Voluntary Disclosure Reporting Program (VDRP) to encourage an employer to examine its own compliance efforts. The AAM-800 VDRP is described in AC 120-117 and allows any employer with an active FAA-mandated drug and alcohol testing program to participate by reporting apparent violations to the FAA along with a description of their corrective action and comprehensive fix for preventing future violations. Records submitted to the FAA under the VDRP if accepted are protected from release to the public.

- a. The AAM-810 Manager is responsible for the AAM-800 VDRP and may assign a voluntary disclosure case to an AAM-800 employee. The AAM-810 Manager must ensure the report is processed in accordance with this chapter and AC 120-117.
- b. An AAM-800 employee assigned to process a voluntary disclosure report must do so in accordance with this chapter, AC 120-117, and within 75 calendar days of the initial notification, or within the timeline defined by the AAM-810 Manager.
- c. Any AAM-800 employee who learns of an employer's intent to submit a voluntary disclosure of an apparent violation of the drug and alcohol testing regulations must report the information immediately to the AAM-810 Manager at: AAM-810-Voluntary-Disclosures@faa.gov. Because an employer must disclose an apparent violation within a short time of discovery, ordinarily 24 hours, time is critical and depends on the outcome of whether the disclosure is accepted or rejected.
- d. Inspectors must verify the status of a voluntary disclosure prior to or during (if necessary) an inspection of the employer. If the disclosure is still pending, the inspector must gather evidence of the violation, immediate corrective actions, and comprehensive fix and provide it to the AAM-800 employee assigned to the voluntary disclosure. If the disclosure is resolved prior to or during the inspection, the inspector must verify the comprehensive fix has been implemented. Inspectors must document any follow-up activities in CETS.

3. Procedures. In accordance with AC 120-117, an employer must meet general standards when submitting a voluntary disclosure report. The following procedures will explain the process for AAM-800 employees to follow when receiving a disclosure report directly or through regular surveillance activities:

- a. An employer may submit its initial notification to disclose an apparent violation in writing to the AAM-810 Manager. Ordinarily, the FAA does not accept a voluntary disclosure if the violation is discovered during, or in anticipation of, an FAA investigation/inspection or in association with an accident or incident. However, an employer may verbally notify an inspector during an inspection of its intent to disclose an apparent violation. If an employer notifies an inspector of an apparent

violation in person during an inspection or investigation, the inspector must take the information, complete the inspection and review of the disclosed noncompliance, and inform the employer to submit the information to the AAM-810 Manager as outlined in AC 120-117. As soon as possible, the inspector must prepare a detailed statement of the disclosure, including the date and time of the notification, as well as the name and title of the person who provided it, and transmit everything to his/her Center Manager and AAM-810-Voluntary-Disclosures@faa.gov. The inspector should wait to close the inspection until AAM-810 has determined whether the voluntary disclosure will be accepted or rejected.

b. After receipt of the disclosure, the AAM-810 Manager assigns it to an AAM-800 employee who analyzes whether the submission meets the criteria described in paragraph 6 of AC 120-117. Additional information may be provided by the employer as a result of the Letter of Authorization (LOA). Once the AAM-800 employee reviews the information, he/she may determine the issue is not a violation of the regulations. If so, the AAM-800 employee must notify the employer in writing that its disclosure is not valid and the matter is closed. The AAM-800 employee must use the 'Not Valid' letter template contained in AAM-800's SharePoint.

c. If the disclosure meets the conditions under the VDRP, the assigned AAM-800 employee must prepare a LOA for the AAM-810 Manager's signature using the letter template contained in AAM-800's SharePoint. The assigned AAM-800 employee must send the LOA to the employer representative who submitted the disclosure via electronic mail. The assigned AAM-800 employee must request and confirm delivery of receipt. If the AAM-800 employee is unable to confirm receipt by the employer, he/she must contact the AAM-810 Manager for further instructions. The LOA acknowledges receipt of the initial notification, and identifies the information that the employer must provide in writing in accordance with AC 120-117 for consideration under the VDRP. The employer must provide the requested information within 10 working days from the date of the LOA. If the employer already provided the required information in its initial request, the LOA will merely acknowledge receipt of the initial notification.

d. Once the employer responds to the LOA by submitting a written report of the apparent violation and comprehensive fix, the assigned AAM-800 employee must conduct an analysis of the violation and the information to identify the root cause of the violation, review the evidence demonstrating the violation was corrected, and make a recommendation of whether the comprehensive fix is acceptable. The determination to reject or accept a voluntary disclosure is based on specific factors of the violation and the employer's actions. When making this determination, it is important for the assigned AAM-800 employee and AAM-810 Manager to follow the criteria established under AC 120-117. Additionally, it is imperative to coordinate with the AAM-800 Director and Chief Counsel's Office for disclosures that are complex or require legal guidance.

(1) If the AAM-800 employee recommends the FAA accept the voluntary disclosure, he/she must prepare the appropriate written correspondence for the AAM-810 Manager's signature using the letter template contained in CETS. The written correspondence is addressed to the employer representative who submitted the disclosure, copying the President/CEO or the management official, and sent via electronic mail. The AAM-800 employee must request and confirm a delivery of receipt. If the AAM-800 employee is unable to confirm receipt by the employer, he/she must contact the AAM-810 Manager for further instructions. At the conclusion of the disclosure process, the assigned AAM-800 employee may refer the employer for inspection so an inspector or Team Coordinator can evaluate the comprehensive fix during the next scheduled inspection.

(2) If the AAM-800 employee recommends that the FAA reject the voluntary disclosure, he/she must prepare the written correspondence for the AAM-810 Manager's signature using the letter template contained in AAM-800's SharePoint. On occasion, the denial letter may also be used as the LOA. The written correspondence is addressed to the employer representative who submitted the disclosure, copying the President/CEO or the management official, and sent via electronic mail. The AAM-800 employee must request a delivery of receipt. If the AAM-800 employee is unable to confirm receipt by the employer, he/she must contact the AAM-810 Manager for further instructions. The AAM-800 employee may refer the employer for inspection or investigation in CETS. At the next inspection, the inspector must gather evidence of the violation and address the violation as part of the normal inspection procedures. When closing the inspection, the inspector must add his/her notes to the special issues report section under the regulations tab. The inspector must report the findings and action taken, and provide his/her initials and the date the information is entered.

e. Once the disclosure is complete, the AAM-800 employee must ensure the information is included in the employer's voluntary disclosure under the Activity Tab in its CETS profile. In addition to the correspondence and evidence, the AAM-800 employee must include the following:

(1) *Analysis*. The analysis must include the following information (refer to the sample analysis in Figure 4-1):

- (a) Summary of the voluntary disclosure to include a description and circumstances of the violation, including the root cause for the violation;
- (b) Description of the employer's comprehensive fix;
- (c) List of documentation provided by the employer;
- (d) Recommendation to reject or accept the voluntary disclosure; and
- (e) Documentation of the final action.

Figure 4-1. Sample Voluntary Disclosure Analysis**VOLUNTARY DISCLOSURE ANALYSIS ONE TWENTY ONE AIRWAYS, INC.****SUMMARY:**

On January 2, 2021, One Twenty One Airways, Inc.'s Drug and Alcohol Program Manager (ADPM), Brian Smith, performed an internal audit of its drug and alcohol testing program. During the audit he discovered that on November 15, 2020, One Twenty One Airways, Inc. transferred a maintenance employee, David Baker, from a non-covered position to a safety-sensitive position, but did not perform a pre-employment drug test on Mr. Baker prior to that transfer. Upon discovering this item of noncompliance, Mr. Baker was immediately removed from performing safety-sensitive functions and was sent for a pre-employment drug test. The verified negative test result was received on January 4, 2021. On January 3, 2021, Mr. Smith notified the FAA, via written correspondence, and voluntarily disclosed the apparent violation of the drug testing regulations.

Root cause of the violation was due to lack of communication and training. The local Human Resource (HR) representative had acted as the notification method of any changes to facility employees including new hires, transfers and terminations. When the local HR representative left the employer in October 2020, a corporate resource was assigned temporarily. The transfer was handled properly from the perspective of HR, however the Designated Employer Representative (DER) was not notified of the change. The responsible General Manager (GM) was unaware of the requirement to notify the DER of proposed/actual changes with regard to safety-sensitive personnel.

COMPREHENSIVE FIX:

- One Twenty One Airways, Inc. developed a Standard Operating Procedure (SOP) for the proper handling of transferring an employee from non-covered functions to safety-sensitive functions.
- One Twenty One Airways, Inc. implemented the use of a New Hire/Transfer Checklist.
- One Twenty One Airways, Inc.'s ADPM will conduct periodic audits to ensure the fixes put in place are being followed and that they continue to work.
- The person responsible for monitoring the implementation of the comprehensive fix is Mr. Smith, ADPM.

DOCUMENTATION:

- HR document indicating Mr. Baker's transfer date as November 15, 2020
- Copy of Mr. Baker's verified negative drug test result
- Copy of new checklist implemented by the employer
- Documentation of training for new GM

ANALYSIS AND RECOMMENDATION:

After reviewing all available facts, documents and comprehensive fix, it appears the violation was inadvertent and not deliberate. One Twenty One Airways, Inc. has taken corrective actions to ensure the violation does not recur in the future. This is not a repeat out-of-compliance and the employer has not been notified of an inspection. I recommend we accept this disclosure.

FINAL ACTION:

A letter of correction was issued to One Twenty One Airways, Inc. on January 30, 2021.

Analysis Completed by: John Smith, January 29, 2021

Chapter 5. Administrative Information

- 1. Authority to Change this Order.** Practices, procedures, and documents contained in this Order cannot be changed without the consent of the AAM-800 Director. Supplements to this Order are prohibited unless authorized by the AAM-800 Director.
- 2. Background.** In response to fatal aviation accidents related to substance abuse, the FAA adopted regulations in 1988 (codified as 14 CFR part 121, appendix I), which required aviation employers to implement a drug testing program for those personnel who perform safety-sensitive functions. In 1994, the mandate for alcohol testing was added to 14 CFR part 121, appendix J, as a result of the investigatory findings that the Exxon Valdez oil spill of 1989 was alcohol-related and that pilots of a major U.S. air carrier had flown while intoxicated in 1990. In 2009, both appendices I and J were joined to create 14 CFR part 120, Drug and Alcohol Testing Program. Starting in 1990, AAM-800 implemented a comprehensive surveillance program. This Order is designed to serve as a multipurpose document that will guide AAM-800 personnel in the effective implementation of AAM-800's surveillance activities, as well as provide them with supplemental information regarding the FAA-mandated drug and alcohol testing program.
- 3. References.** The following are references that AAM-800 employees must use to perform their surveillance activities:
 - a. Code of Federal Regulations (CFR).** The CFR contains the regulations implemented by each Federal agency to implement statutes passed by the United States Congress. The drug and alcohol testing regulations are located in 14 CFR part 120 and 49 CFR part 40. The CFR can be accessed online through the Government Publishing Office web site at: <https://www.govinfo.gov>.
 - b. Federal Register.** The Federal Register is the official daily publication for Executive Orders, proposed rulemaking, final rules, and notices of Federal agencies and organizations. The Federal Register is published by the Office of the Federal Register, National Archives and Records Administration (NARA), and can be accessed through the Government Publishing Office web site at: <https://www.govinfo.gov>.
 - c. United States Code (USC).** The USC consists of Federal statutes passed by the United States Congress. The drug and alcohol testing regulations are promulgated under the statutory authority of the Omnibus Transportation Employee Testing Act of 1991 (49 USC §§ 45101- 45107) and the FAA's general safety authority outlined in 49 USC §§ 106(g) and 44701. The USC can be accessed online through the Government Publishing Office web site at: <https://www.govinfo.gov>.
 - d. Drug Abatement Division (AAM-800) QMS Web Site.** This site is a part of the FAA's Aviation Safety Quality Management System (AVS QMS) web site. It contains AAM-800's ISO approved processes and procedures. This web site can be accessed at: https://my.faa.gov/org/linebusiness/avs/programs/qms/qms_homepages/aam/qms_divisions.html.
 - e. FAA's Industry Drug and Alcohol Testing Program Web Site.** Our public web site is a comprehensive source of information for employers and employees to learn more about the FAA's industry drug and alcohol testing requirements and find resources to help with compliance. To access the web site, go to: www.faa.gov/go/drugabatement.

f. FAA Orders/Notices/Advisory Circulars (AC). FAA orders, such as Order 2150.3, as amended, Order 8000.373, as amended, and Order 8040.4, as amended, are directives for FAA personnel and designees on how to carry out mission-related responsibilities. ACs, such as AC 120-117, are issued to provide guidance and information to an employer in a designated subject area or to show a method acceptable to the Administrator for complying with a Federal Aviation Regulation. For the most current copies of any FAA order or AC, go to: https://www.faa.gov/regulations_policies/.

g. Compliance Enforcement Tracking Subsystem (CETS). CETS provides AAM-800 with automated capabilities for tracking, scheduling, and managing its surveillance activities (i.e., inspections, investigations, and voluntary disclosures). It also maintains a database of cases, future schedules, employers, service agents, and surveillance related correspondence templates. Guidance on using CETS has been published by AAM-800 in the CETS user manual and the most current System Rules for CETS Data Entry. Inspection, investigation and voluntary disclosure correspondence must adhere to the templates included in CETS or approved and available on AAM-800's SharePoint. Alterations are only permitted at the direction of the AAM-800 Director.

h. DOT Office of Drug and Alcohol Policy and Compliance (ODAPC) Web Site. The ODAPC web site is a comprehensive source of information as it pertains to the implementation and interpretation of the DOT's procedural drug and alcohol testing regulation, 49 CFR part 40. The web site includes helpful information and resources for transportation employers, employees, and service agents. The ODAPC web site is available at: <http://www.transportation.gov/odapc>.

i. AAM-800's SharePoint. This site catalogues the Drug Abatement Division's policies and guidance documents, office contacts, records, forms and all program-related information. The site is available at: <https://avssp.faa.gov/avs/aam/HQ/AAM800/SitePages/Home.aspx>.

j. Safety Performance Analysis System (SPAS). SPAS is a Web-based application that tracks the performance of a certificate holder, including air operators, airmen⁹, or air agencies such as schools—and equipment such as aircraft. SPAS collects data over time to show trends and to help FAA inspectors spot anomalies. The data in SPAS comes from multiple external FAA and other government databases. SPAS can relate informational data such as Airworthiness Directives and Service Difficulty Reports.

k. Web-Based Operations Safety System (WebOPSS). WebOPSS is used by the Flight Standards Service (AFS) to collect data on operator activities, disseminate FAA policy to air operators and agencies, and generate and manage Authorizing Documents on behalf of the operator. The system is also a repository containing some of the most up-to-date data on the airline industry.

⁹ Title 49 of the United States Code, Section 40102 defines an airmen as: (1) pilots, (2) flight instructors, (3) flight engineers, (4) aircraft dispatchers, (5) mechanics, (6) mechanics with inspection authorizations, (7) repairmen, (8) parachute riggers, and (9) control tower operators.

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

Appendix A. Inspection Guide

The following Inspection Guide assists inspectors in conducting an inspection of an employer's drug and alcohol testing program. This Guide works in conjunction with the CETS Reference List, the tool used for documenting findings of noncompliance, issues of concern, or undecided issues in CETS. Together, they help to ensure that every inspection is thorough and consistent.

Inspectors must use the Inspection Guide for conducting all inspections, and deviations from the Guide are strictly prohibited. A failure to follow the procedures in this Guide may result in a nonconformity and corrective action (NCA). Any changes to this guide must be referred to the Program Policy Branch Manager in AAM-820.

A comprehensive inspection consists of the following parts:

- Part 1 – Administrative and Quality Assurance Review Guide
- Part 2 – Records Review Guide
- Part 3 – Collection Site Review Guide
- Part 4 – Medical Review Officer (MRO) Review Guide
- Part 5 – Substance Abuse Professional (SAP) Review Guide

Not all inspections will include a review of each of the above parts. However, each inspection **MUST** include a review of part 1 and the required records in part 2. Once the inspection lead has entered the information from the inspection guide into the CETS record, the hard copy must be destroyed.

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

PART 1: ADMINISTRATIVE AND QUALITY ASSURANCE REVIEW GUIDE

Inspectors must use the following guide during each inspection to ensure they address all areas regarding the employer and its testing program. It is important that inspectors listen to the answers to verify the information during the records review.

NOTE: Inspectors may need to tailor these questions when the employer is a single-owner operator. For example, rather than asking the single-owner operator if he/she asked him/herself whether he/she ever tested positive on a pre-employment test for which he/she was not hired, it may be better to ask "Have you ever tested positive or refused a pre-employment drug test for which you were not hired in the previous two years?" Some of these tailored questions may present a good opportunity to educate the employer, so inspectors should take the time to help explain the steps and show it the resources on our website to include the new hire checklist.

Employer Name and Certificate or Registration Number: _____

Inspection Date(s): _____

Inspector(s) Name(s): _____

Employer President/CEO's Name, Phone Number and Email: _____

Number of Aircraft(s): _____

Please explain the type of business you conduct (e.g., air carrier, repair station or air tour). _____

Is your employer affiliated with any other operator(s) (e.g., air carrier, repair station or air tour)? If so, what is/are the affiliated name(s) and certificate(s) or registration number(s)? Who is/are the Designated Employer Representative(s)? _____

(If affiliated, obtain copies of A449, LOA and/or registration.)

Coverage

1. How many total employees do you have? _____
2. What kind of work do(es) your employee(s) perform that requires them to be subject to the

FAA drug and alcohol testing regulations? _____

3. How many safety-sensitive employees do you have? _____
- 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. _____
 - i. Operations control specialist duties. _____

4. Where are your employees located? _____

5. Do you contract out any safety-sensitive work? _____

6. How do you ensure employees hired by contract are subject to an FAA-mandated drug and alcohol testing program? (Alternative Question – If so, are they subject to testing under their own FAA-mandated drug and alcohol testing program?) _____

7. For contractors (under an A449 or registration), who are your aviation clients that send you safety-sensitive work or where do your employees perform safety-sensitive work? _____

8. Do you have an employer testing program (or non-DOT program)? If so, does it include testing for your safety-sensitive employees? _____

Service Agent

1. Do you use a Consortium/Third Party Administrator (C/TPA) to help with your program? If so, provide Name/Location. _____

2. Where do you conduct your drug and alcohol collections? _____

3. (If applicable) What collection site do you use for employees at other locations or during

non-regular business hours? _____

4. Have you ever received a safety concern letter or report with a negative result from your MRO? If yes, what actions (if any) did you take? _____

Mandatory Testing

Pre-employment Testing

1. Have you hired any new safety-sensitive employees in the last 12/18/24 months?¹⁰ What is your process for hiring an employee, and please identify any differences based on the type of job category (for example, is the process different for a pilot than a mechanic)? _____

2. Have you transferred any non-covered employees into safety-sensitive positions in the last 12/18/24 months? What is your process and how is this documented? _____

3. How and when do you advise individuals of the requirement for pre-employment testing and the five drugs? _____

4. Do you perform pre-employment alcohol testing? If so, are all applicants tested? _____

5. Have you requested any drug and alcohol record checks in the last 12/18/24 months? If so, explain your process for performing the drug and alcohol records check. _____

6. What time period do you request records for pilots (if applicable) and/or other safety-sensitive employees?¹¹ _____

7. (If applicable) Do you receive negative and non-negative results for pilots? If not, why? _____

8. Have you ever not received a response from a previous employer? If so, explain your

¹⁰ Inspector must circle the appropriate timeframe based on the LON.

¹¹ Inspectors must verify five years of records for pilots and two years of records for other safety-sensitive employees.

good faith efforts to obtain the information to include the number of documented attempts.¹²

9. What is your process for performing an additional attempt for reasons such as, mail returned, fax did not transmit, or email returned as undeliverable? _____

10. How long do you maintain the drug and alcohol record check information received from previous employers? _____

11. Have you ever received a drug and alcohol records check request for a previous employee? If so, how did you respond? _____

12. How do you ask employees if they failed a pre-employment drug or alcohol test when applying for employment with another DOT-regulated employer, but they were not hired? Do you document the questions and answer? What is your process if they admit to a previous pre-employment positive or refusal to test? _____

Random Drug and Alcohol Testing

1. Do you manage your own random testing program, or does your C/TPA administer the program for you? _____

2. Are you in your own pool or combined (if managed by a C/TPA)? _____

3. How do you (or your C/TPA) generate the random selection list and how often? _____

4. How do you receive the random selection list? _____

5. Explain your random testing process (at each location) once selections are done, starting from receiving the list, to notification, to ensuring the collection is completed? How and where do you maintain the random testing records? _____

¹² Per the FAA's Pilot Records Database and Pilot Records Improvement Act Advisory Circular (AC 120-68J), three documented attempts to obtain the records within a 30-day period is generally considered a reasonable good faith effort.

6. How are employees added or removed from the random testing pool? _____

7. Are you, as the program manager or DER, a safety-sensitive employee? If so, how are you notified of your own selection? _____

Note: Inspectors must refer to Appendix C of the Order for additional questions to ask when evaluating the employer's random testing program for compliance with 14 CFR §§ 120.109(b) and 120.217(c).

Post-accident Testing

1. Have you ever conducted any post-accident testing? If not, move on to Reasonable Cause/Suspicion Testing. _____

2. If so, ask to explain the accident. Verify documentation during the records review. _____

Reasonable Cause/Suspicion Testing

1. Have you ever conducted any reasonable cause or suspicion testing? If not, skip question 2 below. _____

2. If so, ask to explain the circumstances including information regarding the trained supervisor who made the determination. Verify information during the records review. _____

3. How many trained supervisors do you have? If you have multiple worksites/times, do you have a trained supervisor available (if applicable)? _____

4. Who conducts your supervisory training? How often? _____

5. What is covered during this training? _____

6. How do you document completion of training and where do you maintain the records? _____

Positive Drug Test Results/Alcohol Violations/Refusals (Inspectors must verify all information provided during this portion in the records review).

1. Have any of your employees had a verified positive drug test result, alcohol violation, or refused to submit to testing? If not, inspectors should use this as an opportunity to educate the employer on its requirement to remove an employee from his or her safety-sensitive function following a violation, to provide the SAP list to all drug and/or alcohol violators, to report applicable individuals to the Federal Air Surgeon, and to explain the steps to return an employee to a safety-sensitive position. Then move on to return-to-duty testing. _____

2. If so, describe your employer's response to the outcome of the test. _____

3. Do you provide the SAP information to every individual who tests positive or refuses to submit to testing? Verify SAP qualifications during record review and/or SAP interview (if applicable). _____

4. Have any of your employees who hold a part 67 airman medical certificate had a verified positive drug test result or alcohol violation? If so, how and when did you report the information to the Federal Air Surgeon? _____

5. Have any of your employees holding a part 61, 63, 65, or 67 certificate refused to test? If so, how and when did you report the information to the Federal Air Surgeon? _____

Note: Inspectors must verify with the MRO whether he or she is responsible for results for this employer.

Return-to-Duty Testing

1. What is your return-to-duty policy? If they have zero tolerance, move onto Follow-up Testing. _____

2. If so, please explain your process for returning employees to duty or hiring an applicant with a previous violation. _____

3. How do you receive the SAP evaluation reports and follow-up testing plan? _____

4. How do you ensure that all return-to-duty tests are conducted, and drug tests are collected under direct observation? _____

Follow-up Testing

1. Explain your follow-up testing process? If they have zero tolerance, move onto Program Responsibilities. _____

2. Who performs your follow-up testing notifications? _____

3. When do you perform your follow-up testing? _____

4. How do you ensure that all follow-up tests are conducted, and drug tests are collected under direct observation? _____

Program Responsibilities

1. How do you or your C/TPA advise your collector of the required information in § 40.14 (e.g., employee name, ID number, type of test, required direct observation, etc.)? _____

2. Have you received a result indicating insufficient specimen, dilute, or invalid? If not, move on to the next question. If so, what did you do with the result? _____

3. Have you received a result indicating cancelled? If not, move on to question number 5. If so, what did you do with the result? _____

4. If the cancelled result was for a pre-employment drug test that required recollection, did you complete the test? If not, why? _____

5. Have you received a MRO report that a recollection is required under direct observation? If not, move on to EAP/Training. If so, did you complete the test and how did you ensure the test was directly observed? _____

EAP/Training

1. Where do you display and how do you distribute your drug use/abuse materials? Is it documented and where is it maintained? _____

2. How do you make your alcohol information available to your employees? Is it documented and where is it maintained? _____

3. What information/training do you provide to your employees (including supervisors) about the drug and alcohol testing program? Is this documented and where is it maintained? _____

4. Who provides your training and how often? _____

Recordkeeping

1. Where do you maintain your drug and alcohol testing records, which include your drug and alcohol records check? _____

2. Who has access to these records? How are they secured? _____

Additional Notes:

This image shows a full page of blank white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for writing or drawing. There are no margins, text, or other markings on the paper.

This is the conclusion of PART 1, Administrative and Quality Assurance Review. Inspectors must move to PART 2, Record Review, and review documentation to verify the procedures described by the employer. If the employer inspections includes a review of the service agents (collection personnel, MRO, or SAP), inspectors must use PARTS 3, 4, or 5 of this guide accordingly.

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

PART 2: RECORDS REVIEW GUIDE

Each inspection must include a quality review of the program documents/records with an asterisk (*). For each area inspected, the responsible inspector must initial in the box on the right.

Documents/Records		Insp Initials	Time Period of Review (Start to End)	Comments
*1. Pre-employment Records, including:				
1a. Verified Drug Test Results and/or Federal Drug Testing Custody & Control Forms (CCFs) and Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
1b. DOT Alcohol Testing Forms (ATFs) with Result (if applicable)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
1c. Job Descriptions	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*2. Drug and Alcohol Records Check Records, including:				
2a. Written Release Forms and Responses	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
2b. Employment Applications and/or Resumes	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
2c. Documentation of Good Faith Effort (if applicable)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
2d. Confirmation of Compliance with § 40.25(j)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*3. Random Testing Records, including:				
3a. Listing of Random Pool Prior to Selection	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
3b. Random Coverage Prior to Selection	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
3c. Random Selections	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			

3d. Verified Drug Test Results and/or Federal CCFs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
3e. ATFs w/ Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*4. Work Records, including:				
4a. Maintenance Records/Logs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
4b. Pilot Flight Records/Logs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
4c. Other Work Records/logs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*5. Post-Accident Testing Records, including:				
5a. Documentation of the Accident and Determination to Test (Or Not Test)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
5b. Verified Drug Test Results and/or Federal CCFs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
5c. ATFs w/ Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
5d. Documentation of Reason Drug Test Not Completed Within 32 Hours (If Documented)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
5e. Documentation of Reason Alcohol Test Not Completed Within 2 Hours or 8 Hours	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*6. Reasonable Cause & Reasonable Suspicion Testing Records, including:				
6a. Documentation of the Event Leading to Testing	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
6b. Documentation of Performance or Reporting for Duty	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
6c. Supervisory Training Records	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
6d. Verified Drug Test Results and/or Federal CCFs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			

6e. ATFs w/ Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*7. Verified Positive Drug Test Records, including:				
7a. Verified Positive Drug Test Results and/or Federal Drug Testing CCFs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
7b. Documentation of Removal from Safety-Sensitive Functions, to include Work Records/Logs/Personnel Records	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
7c. Notifications to the Federal Air Surgeon (For Part 67 Medical Certificate Holders)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
7d. Documentation that the Substance Abuse Professional (SAP) List Provided for Drug Violations and SAP Qualifications	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*8. Alcohol Misuse Violation Records, including:				
8a. Records of Alcohol Misuse Test Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
8b. Documentation of Removal from Safety-Sensitive Functions, to include Work Records/Logs/Personnel Records	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
8c. Notifications to the Federal Air Surgeon (For Part 67 Medical Certificate Holders)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
8d. Documentation that the SAP List Provided for Alcohol Violations and SAP Qualifications	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*9. Refusal records (drug and/or alcohol), including:				
9a. Documentation of Refusal to Submit to Testing	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			

9b. Documentation of Removal from Safety-Sensitive Functions, to include Work Records/ Logs/ Personnel Records	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
9c. Notifications to the Federal Air Surgeon or FAA (For Parts 61, 63, 65, or 67 Certificate Holders)	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
9d. Documentation that SAP List Provided for Refusal Violations and SAP Qualifications	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*10. Return-to-duty and follow-up testing records, including:				
10a. Initial and Follow-up Reports from SAP	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
10b. Follow-up Testing Plan	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
10c. Return-to-duty Federal Drug Testing CCFs and/or ATFs and Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
10d. Documentation of Date the Employee was Returned to Safety-Sensitive Functions	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
10e. Follow-up Federal Drug Testing CCFs and/or ATFs and Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
10f. Documentation that SAP List Provided for Return-to-duty and/or Follow-up Testing Violations and SAP Qualifications	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*11. Documents Pertaining to Drug and/or Alcohol Testing Arbitration or Litigation	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
12. Drug and Alcohol Program Training Records, including:				
12a. Employee Records	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			

*12b. Initial and Recurrent Training Records for Individuals Making Reasonable Cause/Suspicion Determinations.	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
13. EAP and Alcohol Misuse Information, including:				
13a. Employer's Policy on Drug and Alcohol Testing	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
13b. Distribution Requirement	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
13c. Display Requirement	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*14. Records to Verify Contractor Compliance (e.g., A449s, Contractor Registrations, and Contractor's Random Pool Lists, if applicable).	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
15. Collection Site Records, including:				
15a. Collector/Breath Alcohol Technician Training Records	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
15b. Specimen Collection Logs	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
15c. Calibration Logs for EBT devices	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
16. MRO Records, including:				
*16a. MRO Qualification and Training Documentation	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
16b. Records of Notification & Determination/ Verification	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
16c. Evidence MRO Personally Reviews at Least 5% of all CCFs Reviewed by MRO Staff Quarterly	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
16d. MRO Process for Non-Negative Test Results	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			

*17. Laboratory Records, including:				
17a. Semi-annual Summaries	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
*18. Management Information Systems (MIS) Report Records, including:				
18a. Timely Reporting of MIS Data	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			
18b. Accuracy of Drug and Alcohol Testing Data.	<input type="checkbox"/> Reviewed <input type="checkbox"/> Not Reviewed			

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

PART 3: COLLECTION SITE REVIEW GUIDE

When an employer inspection includes a comprehensive review of the employer's collection sites, it must include a simulated collection with the specimen collector and/or screening test technician (STT) or breath alcohol technician (BAT) and a review of any areas of non-compliance or concerns noted in previous inspections.

Simulated Collection: A collection site review must include a simulated collection for both drug and alcohol collections. It is important that the inspection lead clearly explain to the collector and/or STT or BAT that the simulated collection should be treated as a real DOT collection; however, inspectors should not provide a real urine or breath sample. The inspector must not interrupt the process or provide feedback until the conclusion of the simulation.

Each inspector must use the following Guide.

Collection Site Facility Name: _____
Interviewee (site manager and/or collector): _____
Inspector: _____ **Date:** _____

Evaluation of Facility:

- ____ Privacy for testing.
- ____ Security of the testing site, results and specimens.
- ____ Toilet area for collection is compliant.
- ____ Evidential Breath Testing Device (EBT) or Alcohol Screening Device (ASD) are on conforming products listing.
- ____ If the dry gas method is used to calibrate the EBT, check the expiration date on the "Scotty Bottle".

Documents/areas that must be reviewed:

- ____ Collector, STT, and BAT qualification and proficiency records and training certificates.
- ____ Quality Assurance Plan for the EBT and ASD.
- ____ Review of Custody and Control Forms (CCFs) and Alcohol Testing Forms (ATFs) used for DOT testing.
- ____ Records of equipment checks and calibrations, including external calibration logs/documentation.
- ____ Facility manuals, to ensure they include the up-to-date regulations.
- ____ Verify the collection site and personnel do not use any DOT or DOT Agency branding.
- ____ Verify the collector/BAT/STT is subscribed to the DOT list-serve.

How does the employer or Consortium/Third Party Administrator (C/TPA) advise you of the following information (required under 49 CFR § 40.14)?

- (a) Full name of the employee being tested.
- (b) Employee SSN or ID number.
- (c) Laboratory name and address (if not pre-printed on the form).
- (d) Employer name, address, phone number, and/or fax number (if not preprinted on the form).
- (e) Designated Employer Representative's (DER's) name and telephone number (as required

- by 49 CFR § 40.35).
- (f) Medical Review Officer (MRO) name, address, phone number and fax number (if not preprinted on the form).
 - (g) DOT Agency which regulates the employee's safety-sensitive duties (if not pre-checked on the form).
 - (h) Test reason, as appropriate: Pre-employment, random, reasonable suspicion/reasonable cause, post-accident, return-to-duty, and follow-up.
 - (i) Whether the test is to be observed or not.
 - (j) (Optional) C/TPA's name, address and fax number (if not preprinted on the form). If applicable, when the C/TPA's information is documented in Step 1A of the CCF, the employer's name and contact numbers must be included in Step 1A according to 49 CFR § 40.45(c)(2).

During the simulated urine collection, ensure that the following steps are demonstrated:

Name of Collector: _____
Inspector: _____ **Date:** _____

- ☐ Identify the donor by picture identification.
- ☐ Explain the collection process, including showing the instructions posted on the SAMHSA or ODAPC websites.
- ☐ Complete Step 1 of the CCF.
- ☐ Instruct the donor to remove any unnecessary outer garments, empty pockets, etc. (allow the items to be locked and provide a key?)
- ☐ Instruct the donor not to list any medications on the CCF.
- ☐ Instruct the donor to wash and dry their hands. Instruct the donor not to wash their hands again until after delivering the specimen.
- ☐ Allow the donor to, or in their presence, select an individually wrapped or sealed collection cup.
- ☐ In the donor's presence, open the collection cup from a sealed bag/package.
- ☐ Prepare the collection area – blue dye in the toilet, tape/shut off faucets and/or soap dispensers, and remove/secure disinfectants, cleaning agents or other possible adulterants.
- ☐ Inspect the collection area for foreign or unauthorized substances.
- ☐ Advise the donor to provide 45ml in the cup and not to flush.
- ☐ Upon receipt of the specimen, and in the presence of the donor, does the collector:
 - ☐ Read the temperature and note the CCF?
 - ☐ Evaluate specimen for signs of being tampered?
 - ☐ Open the two specimen bottles and pour 30ml into the first and 15ml in the second?
 - ☐ Firmly cap both bottles, place seal A over the 30ml and seal B over the 15ml bottles? Date both seals?
 - ☐ Have the donor initial each seal?
- ☐ Complete and sign Step 4 of the CCF.
- ☐ Instruct the donor to read and sign the certification and complete Step 5 of the CCF.
- ☐ Provide the donor with copy 5; place the sealed bottles and copy 1 of the CCF into the shipping container. Seal the container.
- ☐ Initial and date the shipping container seal.
- ☐ Advise the donor that the collection process is complete and that he/she may leave.
- ☐ Transmit (via fax, mail, etc.) copy 2 to the MRO and copy 4 to the employer within 24 hours or the next business day. Keep copy 3 (collector copy) for at least 30 days.

Further questions you may ask:

1. Has the collector ever had a shy bladder situation? If so, explain the steps they followed.

2. Has the collector ever had a specimen outside of temperature or that showed signs of tampering for the inspection entity? If so, explain the steps they followed. _____

3. Has the collector ever had a refusal, where an individual refused to cooperate or provide a specimen? If so, explain the steps they followed. _____

4. Has the collector ever conducted a direct observation collection? If so, explain the steps they followed. _____

During the simulated alcohol collection, ensure that the following steps are demonstrated:

Name of STT or BAT (if different from collector): _____

Inspector: _____ **Date:** _____

- ☐ Identify the donor by picture identification.
- ☐ Explain the testing process, including showing the instructions on the back of the ATF.
- ☐ Complete Step 1 of the ATF.
- ☐ Instruct the donor to complete Step 2 of the ATF and sign the certification.
- ☐ Conduct EBT, saliva or breath tube testing:
 - ☐ For EBT testing, open a sealed mouthpiece in view of the donor and attach it to the device, instruct the donor to blow forcefully into the mouthpiece until adequate breath is provided, and show the donor the result displayed on the device.
 - ☐ For saliva testing, open a sealed device in view of the donor, offer the donor the opportunity to use the device or insert the device into the donor's mouth and gather saliva, ensure the device activated, read the displayed results within 15 minutes of the test, and show the donor the result displayed on the device.
 - ☐ For breath tube testing, remove the device from the package, secure an inflation bag onto the appropriate end of the device per the manufacturer's instructions, break the tube's ampoule in view of the donor, offer the donor the opportunity to use the device or the STT/BAT must hold the device, instruct the donor to blow forcefully and steadily into the blowing end of the device until the inflation bag fills with air (approximately 12 seconds), take the device from the donor or remove it from the donor's mouth, remove the inflation bag, prepare the device to be read by the analyzer according to the manufacturer's instructions, read the results from the analyzer no earlier than the required incubation time of the device and no later than

15 minutes after the test, and show the donor the analyzer result.

- ☐ Record the displayed result, test number, testing device name, the serial number of the device or lot number and expiration date, activation time and/or reading time, and result in Step 3 of the ATF or;
- ☐ Attach the printed result to the ATF in the proper place with tamper-evident tape.
- ☐ Advise the donor that the alcohol testing process is complete and that he/she may leave.
- ☐ Transmit (via fax, mail, etc.) the result to the DER in a confidential manner.

Further questions you may ask:

1. Has the BAT ever had a result that was above 0.02? If so, do they perform the following steps:
 - ☐ Explain the confirmation procedure as follows:
 - ☐ Instruct the donor not to eat, drink or put any object or substance in their mouth, and to the extent possible, not belch during the waiting period before the confirmation test.
 - ☐ Wait 15 to 30 minutes after the completion of the initial test.
 - ☐ At the completion of the waiting period, conduct the confirmation test.
 - ☐ In the presence of the donor, conduct an air blank and show the reading to the donor.
 - ☐ Open a sealed mouthpiece in view of the donor and attach it to the device.
 - ☐ Instruct the donor to blow forcefully into the mouth piece until adequate breath is provided.
 - ☐ Show the donor the result displayed on the EBT.
 - ☐ Record the displayed result, test number, device name, the serial number of the device, time and result in Step 3 of the ATF or; attach the printed result to the ATF in the proper place with tamper-evident tape.
 - ☐ Date and sign the ATF certification in step 3.
 - ☐ Instruct the donor to sign the ATF certification in Step 4.
 - ☐ Immediately transmit (via person, telephone or electronic means) the results using Copy 1 to the DER in a confidential manner, ensuring it was received.
2. At what point does the BAT or STT perform the EBT calibrations? _____

3. Has the BAT or STT ever had a situation with a shy lung? If so, explain the steps they followed. _____

4. Has the BAT or STT ever had a refusal, where an individual refused to cooperate or provide a specimen? If so, explain the steps they followed. _____

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

PART 4: MEDICAL REVIEW OFFICER (MRO) REVIEW GUIDE

If the employer's MRO has had a comprehensive inspection within the last 2 years, inspectors are only required to verify the MRO works for the employer. If not, each inspector must include the MRO in the inspection, using the following interview and document review guide.

NOTE: This is not an exhaustive listing of questions for the MRO. If you have information regarding a specific incident, you may require more specific questions.

MRO's Name: _____
Address: _____
Phone Number: _____
Inspector: _____ **Date:** _____

Interview Questions:

1. How long have you been a Medical Review Officer? _____

2. What type of initial and qualification training have you completed? _____

3. Are you the MRO for _____ (an aviation employer) or its Service Agent
(_____)? _____

4. Explain your verification process for negatives and non-negatives. _____

5. Are your staff involved in your verifications? If so, please explain. _____

6. How do you receive the laboratory confirmed results? _____

7. Have you ever downgraded a confirmed positive? If so, please explain your process, including
how and when you send a safety concern letter to the employer. _____

8. How do you handle the following?

Invalid Results _____

Dilute Positives or Dilute Negatives _____

Shy Bladder Situations _____

9. Where do you maintain your MRO records and who has access? _____

10. How do you report verified results (negative and non-negative) to the employer? _____

11. What is your procedure for fatal flaws or correctible flaws? _____

Documents/areas that must be reviewed:

1. Qualification Training and Certification Records.
2. Requalification Training.
3. Verify that the MRO is conducting the required 5% quality check of negative drug test results.
4. Downgrades and safety concern letters (if applicable).
5. Non-negative tests and verification notes
 - Efforts to contact employee documented?
 - Split offered?
 - Part 67 holder?
6. If the MRO is co-located with the C/TPA, ensure physical and operational separation.
7. Check one or more of the following organizations to ensure the MRO is licensed, trained or certified:
 - American Association of Medical Review Officer (AAMRO) at www.aamro.com,
 - Medical Review Officer Certification Council (MROCC) at www.mrocc.org,
 - American College of Occupational and Environmental Medicine (ACOEM) at www.acoem.org,
 - American Society of Addiction Medicine (ASAM) at www.asam.org,
 - American Medical Association (AMA) at www.ama-assn.org, or
 - American Board of Medical Specialties (ABMS) at www.abms.org.
8. Verify the MRO does not use any DOT or DOT Agency branding.
9. Verify the MRO is subscribed to the DOT list-serve.

Additional Notes:

This image shows a full page of blank, lined paper. It features approximately 28 horizontal blue or grey lines spaced evenly apart, typical of notebook paper. The lines extend across the entire width of the page, leaving small margins at the top and bottom. There are no vertical lines, text, or other markings on the page.

This document is available electronically on the Drug Abatement Division's (AAM-800) SharePoint.

PART 5: SUBSTANCE ABUSE PROFESSIONAL (SAP) REVIEW GUIDE

When an employer has return-to-duty and follow-up testing records, inspectors must include a review of the SAP involved in each process. Inspectors must use the following guide.

NOTE: This is not an exhaustive listing of questions for the SAP. If you have information regarding a specific evaluation or return-to-duty process, you may require more specific questions.

SAP's Name: _____

Address: _____

Phone Number: _____

Inspector: _____ **Date:** _____

Interview Questions:

1. How long have you been a Substance Abuse Professional? _____

2. What license(s) or certification(s) do you hold to perform as a SAP? _____

3. Have you received qualification training? _____

4. Explain your role in the evaluation, referral and treatment process of employees who have violated DOT drug and alcohol testing regulations. _____

5. What type of follow-up testing do you recommend? _____

6. How do you determine the number and frequency of follow-up tests? _____

7. How do you report your initial and follow-up evaluation assessment to the employer? _____

8. Where do you keep the SAP reports and for how long? _____

Documents/areas that must be reviewed:

1. Qualification Training and Certification Records.
2. Continuing Education.
3. A check of one or more of the organizations referenced on the ODAPC Web site link for SAPs (<http://www.dot.gov/odapc/sap>).
4. Initial and final return-to-duty evaluations, including follow-up testing recommendations.
5. Verify the SAP does not use any DOT or DOT Agency branding.
6. Verify the SAP is subscribed to the DOT list-serve.

Additional Notes:

[illegible]

Appendix B. Service Agent Inspection Guide

PURPOSE: This appendix provides the Compliance and Enforcement Drug and Alcohol Inspectors, Team Coordinators, and Center Managers with the policies and procedures for inspecting a service agent. As referenced in Chapter 1 of this Order, a service agent is defined in 49 CFR part 40 as any person or entity, other than an employee of the employer, who provides services to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, a Consortium/Third-Party Administrator (C/TPA); collection site personnel (including urine collectors, screening tech technicians (STT) or breath alcohol technicians (BAT); a medical review officer (MRO); and a substance abuse professional (SAP). Although service agents are not persons or entities who have implemented a drug and alcohol testing program under 14 CFR part 120, they must meet the qualifications and requirements set forth in the DOT and DOT Agency regulations.

This Guide applies to inspections or investigation of a service agent, independent from an employer inspection. However, some of the information or questions included in this Guide may help an inspector in evaluating a service agent as part of an employer inspection.

This Guide is divided into the following four sections:

- Section I describes the pre-planning aspects of the inspection.
- Section II discusses relationships and why it is important to ask questions to ensure the C/TPA and laboratory, SAP, and/or MRO are separate and confidentiality is maintained.
- Section III outlines the inspection activities, addressing the inspector's responsibilities once the inspection team arrives at the service agent location or commences the virtual inspection.
- Section IV describes the follow-up activities associated with a service agent inspection.

The guidance in this appendix outlines the basic concepts of a service agent inspection and is not intended to be an exhaustive listing. Inspectors should always ask follow-up questions.

Section I: Pre-Inspection Activity

After AAM-810 assigns a team to inspect/investigate a service agent, the inspector must accomplish the following tasks prior to arriving at the location or commencing the virtual inspection:

- Review any relevant documents, including past inspections and noncompliance transmittals (NCTs). Coordinate with other inspectors that have had issues with the service agent. Some of this information may be helpful in planning your inspection.
- Access the employer's web site to see what services it "advertises." During your review, ensure the employer does not use any DOT or DOT Agency branding on its web site and the material it provides is accurate and up-to-date. If you find use of the DOT or DOT agency title or emblem on the employer's web site, this must be documented as a finding of noncompliance in your inspection and require corrective action. If you find it outside the scope of a service agent's inspection, report it to your Center Manager.
- Determine priorities/objectives you hope to achieve during your inspection.
- Determine whether information for your assigned service agent is in CETS. If it is not, contact your Team Coordinator or Center Manager.
- For an announced inspection, AAM-810 generates and sends a LON announcing the inspection using the same template and process described in Chapter 2 of this Order. The attachments to the LON are different for a service agent. For an unannounced inspection, a letter is not necessary. The LON templates for on-site and virtual inspections of a service agent are available on AAM-800's SharePoint.
- Discuss the planned inspection with your team (if applicable), ensuring that you set the priorities, objectives, and what is expected of each of team member. You must follow the same steps described in Chapter 2 of this Order in planning your inspection.

Section II: Relationships

It is important that you understand the relationships between the different service agents and employers. Relationships between the service agents, specifically the laboratories, MROs, and SAPs, must foster independence and confidentiality. If the C/TPA, collection site, MRO, and SAP are all from the same entity, how do they separate their respective functions? How do they maintain confidentiality?

Inspectors must ask the following questions to ensure all associations between service agents are objective and impartial:

A. C/TPA and the Laboratory

- What is the relationship between the C/TPA and the laboratory?
- Does the C/TPA set up the employer's information with the laboratory?
 - How are the CCFs set up for the employer?

- Does the C/TPA or employer send the employer's information to the laboratory?
- Does the C/TPA have a financial interest in the laboratory?
- Does the relationship foster independence and confidentiality?
- How are testing records secured?

B. C/TPA and the MRO

- Where is the MRO's place of business?
- Does the MRO have several offices?
 - If yes, which office is his/her primary place of business?
 - Does he/she physically visit the office where the results are received and/or verified?
 - If no, how does he/she oversee the verification process, and who conducts the reviews and verifications?
- Does the MRO have an office or work at another location other than the C/TPA's?
- If the MRO receives test results from the laboratory at the same address as the C/TPA, does the MRO have a confidential fax? How does the MRO maintain confidentiality?
- Does the MRO work out of the C/TPA's place of business?
 - If the C/TPA and MRO are co-located, is there a firewall between the two?
 - Are the files kept separately?
 - Does the C/TPA receive the results from the laboratory on a shared fax, or does the MRO have its own secure fax to maintain confidentiality?
 - Who has access to the results?
 - Where are the MRO records maintained?
 - How are they maintained?
 - If the same employees work for the C/TPA and the MRO, when do they work for the MRO versus the C/TPA? (Duties must remain separate and distinct.)
 - Are the employees' schedules consistent or do the times vary (example of consistent schedule: works for MRO from 8:00 a.m. until noon and the C/TPA from noon until 4:00 p.m.)?
 - Who has direct supervision over the employees (who hires, fires, pays, disciplines)?
 - Is the owner and operator of the C/TPA also the MRO's staff?
 - If so, how does that relationship work? If the C/TPA hired the MRO and the

C/TPA is the MRO's staff, how do they keep the functions separate and distinct?

C. C/TPA and the SAP

- What is the relationship between the C/TPA and SAP?
- Are there any financial ties?

D. MRO and the Laboratory

- Review and discuss the MRO's relationship with the laboratory.
- Are there any financial ties between the MRO and the laboratory?

Section III: Inspection Activity

This section outlines inspectors' responsibilities once they arrive at the service agent location or commence the virtual inspection. Inspectors must:

- Conduct an inbriefing, similar to an employer inspection, with the service agent regarding the scope of your inspection.
- Discuss the types of services the service agent provides to its clients and the procedures/guidance it follows when carrying out each type of service.
- Verify the service agent is providing services to aviation entities by reviewing the service agent's client list or accounts list.
- Conduct interviews with various service agent's employees to verify they follow the same process for each service provided.
- Review the service agent's material and/or documentation to ensure they do not use DOT or DOT agency emblems or titles.

Specific Areas to Review

A. C/TPA.

- What other modes of transportation does the C/TPA service (i.e., motor carrier, railroads, etc.)?
- If the C/TPA sets up new collection sites, laboratories, or MROs, review the process used.
 - Is a checklist used? If yes, obtain a copy of it.
- Review and discuss the procedure used when setting up a new client.
 - Is a checklist used?
 - What information is received from your client, e.g., a copy of their A449, A049, or

registration?

- What information is provided to the client?
- Are employer policies and other informational materials provided to clients?
 - Who is responsible for updating the information and how is this communicated with the client?
- Does the C/TPA provide written documentation on its operational set-up to its clients?
- Does the C/TPA provide up-to-date information to assist the client in implementing its drug and alcohol program?
- Does the C/TPA provide information on how and when to test?
- Does the C/TPA provide information to each of its clients on changes to FAA/DOT regulations? If so, how?
- What type of services does the C/TPA provide regarding the different types of testing?
- Review procedures the C/TPA uses for (aviation) employers and the various types of testing. If the C/TPA manages the random testing, refer to section B below.
- Does the C/TPA maintain records for its clients?
 - If yes, what records does it maintain? How are the records maintained?
 - If it maintains records for employers, how are those records provided to the client and how long does it take the client to receive copies, if requested?
- Review documents the C/TPA provides to aviation employers.
- If provided to aviation employers, review education and training documents.

B. Random Testing. During a C/TPA inspection, inspectors must conduct a thorough review of the random testing procedures and records to determine the following:

- Does the C/TPA's selection process meet the regulatory requirements?
 - Does the selection process ensure that each covered employee has an equal chance of being tested each time selections are made?
 - Are various types of safety-sensitive employees being random tested at roughly the same rates? (For example, do pilots and mechanics have an equal chance of being tested each time selections are made for a random test?)
- Did the C/TPA meet the random testing rate each year (25% for drugs and 10% for alcohol, or higher if required) if utilizing a combined pool?
- How does the C/TPA determine if it met its annualized random testing rate for drugs and alcohol?

- Does the C/TPA combine the random testing pool of an FAA-regulated employer with that of other FAA-regulated employers?
- How and when are the random testing pools updated?
- How and when are random selections made (i.e., computer number generators)?
- How are random selections conducted for each FAA random pool?
- How are aviation employers notified of random selections (secure notifications)?
- Are random notifications documented?
 - Does the C/TPA document when and to whom they provide the random selection lists?
 - Does the C/TPA have its client annotate and report back to the C/TPA who was tested on the random selection list?
 - Does the C/TPA provide information to its client regarding random notifications?
- How are the random notifications conducted for aviation employers that have one individual/employee?
- How does the C/TPA notify a DER of his/her random selection?
- How does the C/TPA ensure that the individuals selected are tested?
- How many times were individuals selected, but not tested?
 - Is there any follow-up with the aviation employers when tests are not conducted? If so, how is the follow-up conducted?
 - What action does the C/TPA take, if any, against aviation employers who do not random test employees who are selected?
- How do the aviation employers or collection sites notify the C/TPA when random alcohol tests are completed?
 - How does the C/TPA ensure that the annual random alcohol rate is met for combined pools?
 - Does the C/TPA provide any follow-up, for aviation employers that have their own pools, regarding whether or not they will meet the annual alcohol testing rate?

C. Collection Site. During a collection site inspection, inspectors must determine the following:

- Is the collection site subscribed to the DOT's list-serve?
- How does the collection site setup the program with their aviation clients?
- Can all collection sites conduct both drug and alcohol collections, or are separate sites used for the different collections?

- Are the collection sites available to conduct collections during the employer's normal operating hours and after hours in the event of an emergency?
- Are there secondary collection sites set up for the times when the primary collection site is closed, no personnel are available, the evidentiary breath testing device is not working, or no evidentiary breath testing device is available to perform a confirmation alcohol test?
- If the C/TPA sets up collection sites, does the C/TPA provide information to the employer regarding the collection site? If yes, what type of information?
- Who follows up with collection sites if there are problems? How is the follow-up conducted and documented?
- If the C/TPA does follow up, how does the client know the corrective action has been taken?
- If the C/TPA sets up collection sites, does the C/TPA ensure that the collection site personnel meet the training and qualification requirements and that the collection site meets the regulatory requirements? Review the training documentation for all urine collectors, STTs, and BATs working at the collection site.
- Is the quality assurance plan (QAP) for each evidentiary testing device (EBT) being met?
 - Review the calibration and external calibration records (reviewing the actual print-out from the EBT, not just a handwritten log book).
 - Review the method used to conduct the external calibration checks.
 - Check the canister for an expiration date. If it is past the expiration date, that may not require cancellation of any of the tests. Inspectors must elevate this issue to their Center Manager for resolution.
- Check the value on the dry gas or wet bath solutions and the external calibration results from the EBT to verify results are within allowable limits, as stated in the QAP.

D. MRO. During a MRO inspection, inspectors must determine the following:

- Review the MRO's qualifications, including credentials, knowledge, and training.
- Verify information you received from the MRO by checking some of the following organizations to confirm the MRO is qualified:
 - American Association of Medical Review Officer (AAMRO) at www.aamro.com,
 - Medical Review Officer Certification Council (MROCC) at www.mrocc.org,
 - American College of Occupational and Environmental Medicine (ACOEM) at www.acoem.org,
 - American Society of Addiction Medicine (ASAM) at www.asam.org,
 - American Medical Association (AMA) at www.ama-assn.org, or
 - American Board of Medical Specialties (ABMS) at www.abms.org.

- Is the MRO subscribed to the DOT's list-serve?
- How does the MRO receive lab test results?
- How does the MRO receive Copy 2 of the CCF?
- What are the procedures used by the MRO or his/her staff in processing negative test results, including downgrades? If the MRO's staff is processing the negative test results, how is this documented on the CCF?
 - How and when does the MRO send a safety concern letter to the employer, if applicable?
- What are the procedures used by the MRO or his/her staff in processing positive test results?
 - Is there a checklist/standard protocol and is it consistently used?
 - Who contacts the donor and what is explained?
 - Who conducts the verification interview?
 - What does the MRO tell and ask the donor during the interview?
- What is the MRO's procedure when he/she (or a designee) is unable to contact the donor?
- If there is a stand-down waiver? If yes, how does the MRO comply with the waiver?
- Who follows up with the collection sites, employer, and/or C/TPA when Copy 2 of the CCF is not received?
 - Is this follow-up documented? If yes, how?
 - What occurs if the MRO does not receive the CCF after the follow-up?
- Who reviews the CCFs for quality control (to make sure the items that need correcting are identified and corrective action or appropriate action is taken)?
- Who completes and signs Copy 2 of the CCF?
- How are the CCFs annotated when completed by the MRO's staff?
- How soon after the test is verified does the MRO complete the verification process (sign and date Copy 2 and send a copy of Copy 2 or a written report, if used, to the employer)?
- Who signs the written report (if one is prepared and sent)?
- Does the same MRO who conducted the verification also sign the written report?
- Does the MRO provide the employer with a copy of Copy 2 and/or a written report?
 - How is this provided to the employer?
 - Does the employer confer with the MRO to ensure that the referral physician is acceptable to the MRO?

- Is the employer referred to a physician with expertise in the issue(s) of what could cause a shy bladder or the issue(s) the individual stated he/she was experiencing?
 - Does the MRO provide the referring physician with information in part 40?
 - Does the MRO ensure that the referring physician agrees to follow the requirements in 49 CFR § 40.193?
 - Does the MRO conduct appropriate follow-up with the referring physician if the information received does not comply with part 40?
- Who sends the test results to the employer, the MRO or C/TPA?
 - How are invalid results handled?
 - Does the MRO confer with the laboratory director or certifying scientist if there is a question about the test result?
 - How does the MRO handle shy bladder situations?
 - Does the MRO refer the individual to a physician with expertise in the issue(s) of what could cause a shy bladder or the issue(s) the individual stated he/she was experiencing?
 - Does the MRO provide the referring physician with information in part 40?
 - Does the MRO conduct the required quality control checks on negative test results?
 - If the MRO is part of an MRO service, how does the service comply, and how is it monitored?
 - Does the MRO personally review at least 5% of all CCFs reviewed by his/her staff?
 - How are the CCFs selected for the 5% review?

E. MRO's Staff. During a MRO inspection, inspectors must review the MRO's staff responsibilities to determine the following:

- Who supervises the MRO's staff (hires, fires, monitors performance)?
- What are the MRO's staff's responsibilities?
 - Does he/she review Copy 2 of the CCF to determine if there are any fatal flaws requiring cancellation of the test or correctable errors that require corrective action?
 - Does he/she review the negative laboratory documents to ensure they are consistent with the information on the CCF?
 - Does he/she request a copy of documentation from the laboratory or the collection site if the copy on hand appears unclear?
 - Does he/she prepare reports sent to the employer? Prior to sending the report to the employer, does he/she ensure the office has the following:
 - A legible copy of Copy 2 of the CCF or another CCF copy containing

- the employee's signature?
 - A legible copy of Copy 1 of the CCF that conveys the negative test result?
- When handling a confirmed positive, adulterated, substituted, or invalid test result, does he/she schedule a discussion between the MRO and employee?
- What information does the MRO's staff provide to the donor?
 - Does he/she explain the consequences to the employee of declining to speak with the MRO?
 - If the employee declines to speak with/schedule a discussion with the MRO, does he/she document this decision, including date and time?
- Does he/she advise an employee to have medical information ready to present at the discussion with the MRO?
- Does the MRO/MRO's staff make and document reasonable efforts, including dates and times, to contact the employee at the day and evening phone numbers listed on the CCF?
 - Does he/she make at least three attempts reasonably spaced over a 24-hour period?
- If the MRO/MRO's staff can't reach the employee, does he/she:
 - Contact the DER, documenting dates and times of attempts to reach him/her, and instruct the DER to contact the employee to tell him/her to contact the MRO?
 - How does the MRO know which time period to use when he/she contacted the donor for assistance?
 - Is the DER advised to contact the MRO after contacting the donor or after making the required reasonable attempts?
- Who informs the DER that the employee has a confirmed positive, adulterated, substituted, or invalid test?
- Are quality reviews conducted? If yes, by whom and when?
- Inspectors must verify the following when reviewing the MRO and MRO staff:
 - The MRO's staff does not cancel tests. This can only be done by the MRO.
 - The MRO's staff does not gather medical information or information containing possible explanations of the test results.
 - The MRO's staff does not participate by sitting or listening in on the MRO's interview with the donor.

F. SAP. During the SAP inspection, the inspector must determine the following:

- Does the SAP provide services for safety-sensitive aviation personnel?
- Is the SAP part of a referral agency or C/TPA?

- Is the SAP qualified under DOT regulations? This may require a check of one or more of the organizations referenced on the ODAPC web site link for SAPs to ensure the SAP is qualified (<http://www.dot.gov/odapc/sap>).
- How does an individual contact the SAP service?
- Does the SAP perform his/her duties in accordance with the regulations?
- Does the SAP prepare and send the evaluation reports to the employer (or does the referral agency perform this function)?
- Are the reports on the SAP's letterhead, not the referring agency or other organization?
- Is the SAP subscribed to the DOT's list-serve?

G. Reporting Requirements. Inspectors must ask the following questions when reviewing a service agent:

- Is the service agent knowledgeable of the types of tests that must be reported to the FAA and how?
- Does the service agent advise an employer that a test is reportable to the FAA? If so, how?

Section IV: Inspection Conclusion and Post-Inspection Activity

A. *Inspection Conclusion.* To conclude the inspection or investigation of a service agent, the inspector must verify any noncompliance and ensure documentation is collected. The process to conclude the inspection of a service agent is similar to that of an employer inspection, which is described in Chapter 2, section 12, of this Order and requires the inspection lead to conduct:

- A review of the inspection findings with the inspection team (if applicable);
- An outbriefing with the inspection team and service agent representative(s) to identify any noncompliance and explaining the importance of providing corrective action(s) to avoid initiation of a Public Interest Exclusion (PIE) in accordance with 49 CFR § 40.373; and
- A post-inspection meeting with the team (if applicable).

B. *Post-Inspection Activities.* The post-inspection activities for a service agent include documenting the inspection findings in CETS under the regulations tab and generating an outbriefing report. The inspector must prepare the initial correspondence giving the service agent an opportunity to correct any noncompliance in order to avoid being subject to a PIE. The service agent correspondence is different from an employer's correspondence, but follows the same general process. Refer to the correspondence flowchart in Figure B-1 of this appendix.

- (1) **Correction Notice Process.** Prior to initiating a PIE, the inspector must give the service agent an opportunity to correct any problems discovered during the inspection or

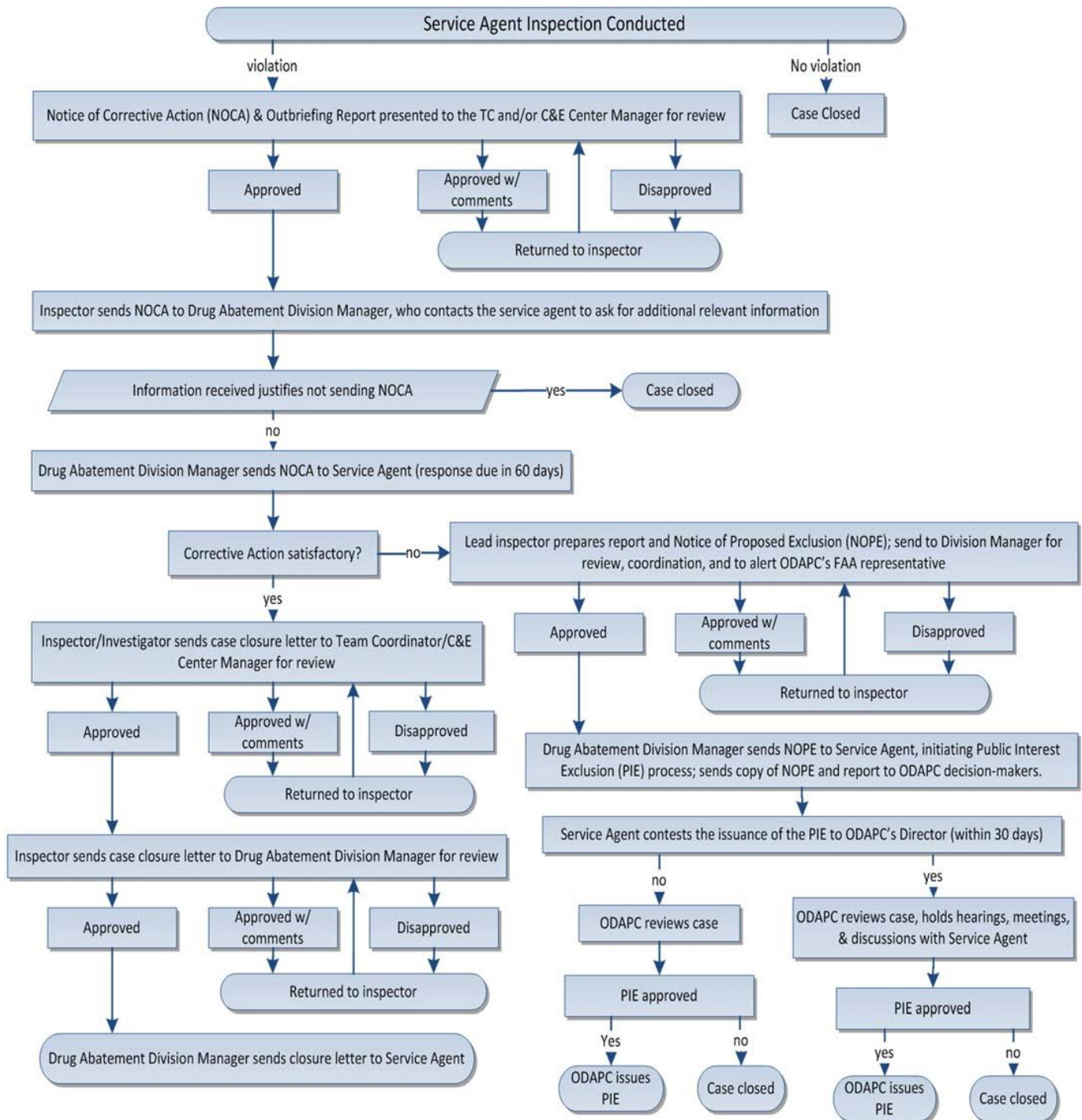
investigation. The following will briefly discuss the procedures used for documenting and addressing noncompliance discovered after a service agent inspection or investigation:

- (a) The inspector will initiate the correction notice process required under 49 CFR § 40.373 and document the findings of noncompliance in a Notice of Corrective Action (NOCA). The template for a NOCA is available in CETS and on AAM-800's SharePoint.
 - (b) The inspector must generate the NOCA and provide it to his/her Team Coordinator and/or Center Manager for review. Once approved, the Team Coordinator and/or Center Manager will send the NOCA to the AAM-800 Director.
 - (c) Prior to sending the NOCA to the service agent, the AAM-800 Director or his/her designee will contact the service agent to determine whether there is any further information that will have a bearing on the decision to send a NOCA. If the service agent does not provide additional information, the inspection lead must send the NOCA to the service agent via electronic mail, copying the Team Coordinator and Center Manager. The inspection lead must advise the service agent that they must confirm receipt of the NOCA by replying to the email or calling the inspector. If the inspection lead is unable to confirm receipt by the service agent, the inspector must contact his/her Team Coordinator or Center Manager for further instructions.
 - (d) The service agent has 60 days to respond to the NOCA and provide satisfactory corrective action.
 - (e) If the inspector is satisfied that the service agent corrected the findings of noncompliance described in the NOCA, the inspector must prepare a NOCA Closeout letter outlining the issues and the corrective action taken. The NOCA Closeout letter template is available on AAM-800's SharePoint. The inspector must send the NOCA Closeout letter to his/her Team Coordinator and/or Center Manager for review, who will refer the letter to the AAM-800 Director or his/her designee for review and signature. The inspection lead sends the NOCA Closeout letter via email to the service agent and the inspection is closed.
- (2) **Initiating a PIE.** If the service agent is unable or unwilling to correct the findings of noncompliance, the inspector must initiate a PIE using a Notice of Proposed Exclusion (NOPE). The template for a NOPE is available on AAM-800's SharePoint. This process is similar to the legal enforcement process and is reserved for the most serious noncompliance issues. The impact of a NOPE on a service agent may result in a 5-year suspension of services, or possibly jail. Consequently, it is critical that the inspector work closely with the Team Coordinator and Center Manager through the entire process.
- (a) The Team Coordinator or Center Manager will send the report and NOPE to the AAM-800 Director or his/her designee for review and signature.
 - (b) Prior to sending the NOPE to the service agent, the AAM-800 Director or his/her designee coordinates with a Senior Policy representative in the Department of Transportation's Office of Drug and Alcohol Policy and Compliance (ODAPC) and provides a copy of the NOPE and the report supporting the PIE.
 - (c) The AAM-800 Director or his/her designee must send the NOPE to the service

agent through USPS mail, certified and return receipt requested, or Federal Express. Electronic mail is not authorized.

- (d) The service agent has 30 days to contest the NOPE and proposed PIE by contacting the ODAPC Director and providing information in writing or in person. If the service agent does not contest the NOPE in 30 days, the ODAPC Director or designee will make the final decision based on the information in our report. If the service agent contests the NOPE, the ODAPC Director or designee will consider all information presented in person (informal meeting which will be transcribed) or in writing before making a final decision. The burden of proof is on the FAA.
- (3) The inspection lead updates the inspection file documentation according to Appendix F of this Order.

Figure B-1 Service Agent Correspondence Flowchart



Appendix C. Random Drug and Alcohol Testing Job Aid

Purpose

The purpose of this job aide is to help an inspector in understanding random testing to conduct a thorough evaluation of an employer or Consortium/Third Party Administrator's (C/TPA's) random program. For more information, we encourage inspectors to review the DOT's Best Practices for Random Testing and our Random Guidance Alert, and watch our random testing video. These tools will help you in your random program evaluations and inspections.

Applicability of Random Testing

Random testing is applicable to all persons who perform, are ready to perform, or are immediately available to perform, a safety-sensitive function either directly or by contract (at any tier) for a part 119 certificate holder with authority to operate under parts 121 and/or 135, an operator as defined in 14 CFR § 91.147, or an air traffic control facility not operated by the FAA or by or under contact to the U.S. military. A repair station or contractor that performs safety-sensitive duties for an employer may be covered under the employer's DOT drug and alcohol testing program. The FAA also permits repair stations and contractors to obtain and implement their own DOT drug and alcohol testing program.

Employees who **do not** perform safety-sensitive duties must not be included in the DOT drug and alcohol testing program.

Minimum Annual Random Testing Rate

The regulations require random drug and alcohol testing of safety-sensitive employees at a minimum annual percentage rate. The annual rates for random drug and alcohol testing for the coming year are published in the Federal Register each December. Since 1997, the rates have consistently remained at 25% for drugs and 10% for alcohol. However, the FAA Administrator may change these rates based on the reported positive rate for the entire industry.

Formula for Calculating an Employer's Annual Testing Rate

Use the following formula to calculate the average number of *safety-sensitive employees*:

$$\frac{\text{Total \# safety-sensitive employees during each testing period}}{\text{\# of testing periods}}$$

Use the following formula to calculate the Employer's *Annual Testing Rate*:

$$\frac{\text{\# random testing results}}{\text{Average \# safety-sensitive employees}}$$

Example:

Quarter	SS Employees	Number of Random Tests
1	50	2
2	60	3
3	70	4
4	90	4

$$\text{Average Number of Employees} = \frac{50 + 60 + 70 + 90}{4 \text{ quarters}} = 68 \text{ (Always round up)}$$

$$\text{Employer's Annual Testing Rate} = \frac{2 + 3 + 4 + 4}{68} = 19.1\%$$

Selection Methodology

Employers must use a scientifically valid method such as a random-number table or a computer-based random-number generator to select covered employees for testing. Each covered employee in the pool must have a unique identifier such as a Social Security Number, payroll number, or other comparable identifying number.

The employer must ensure that all covered employees have an equal chance of being tested each time the selections are made. Specific individuals or groups must not be targeted, including certain occupational groups or locations.

Updating the Random Pool

Before making random selections, the employer must ensure that the random pool is complete and up-to-date.

- *Only* those persons performing safety-sensitive functions can be placed in the pool.
- Once an individual is hired or transferred into a safety-sensitive position, the employer must add the covered employee to the random pool prior to the next random selection.
- The employer must remove any employee who is no longer in a safety-sensitive position (e.g., the employee was terminated, resigned, transferred to a non safety-sensitive position, or assigned solely outside the territory of the U.S.) from the pool prior to the next random selection.
- The employer may remove an employee from the pool if the employee is unavailable to perform safety-sensitive duties for the length of the selection period.

- Employees who have previously been removed from the pool for any reason must be placed back into the random pool before they start performing safety-sensitive duties again. He/she must be added to the random pool prior to the next random selection.

Notification Procedures

The employer, service agent, collector/BAT/STT, and employee have responsibilities for ensuring that random drug and alcohol test notifications and collections are conducted in accordance with the regulations. These responsibilities include the following:

- Employers and service agents are responsible for notifying the collection site as to when employees are expected to report to the collection site for testing. This will ensure that the collection site will be open and ready for testing (i.e., required equipment/supplies are available and working) when the employee arrives.
- Employers and service agents are responsible for notifying the selected employee as close to the test time as possible. This will minimize or eliminate the employee's attempt to avoid a positive drug test or alcohol violation.
- Employers and service agents are responsible for requiring the selected employee to immediately report for testing after he/she has been notified. (Reference: 14 CFR § 120.109 (b)(8) and 14 CFR § 120.217 (c)(8))
- Employers and service agents are responsible for ensuring that random alcohol tests take place just before, during, or immediately after the employee has performed a safety-sensitive function. (Reference: 14 CFR § 120.217 (c)(9))
- Collectors/BATs/STTs are responsible for being prepared to conduct drug and/or alcohol tests. This will minimize the number of cancelled tests.
- Collectors/BATs/STTs are responsible for notifying the employer if an employee fails to appear at the collection site for a test.
- To the greatest extent possible, collectors/BATs/STTs must first test an employee for alcohol if the employee is to be tested for both drugs and alcohol. (Reference: 49 CFR § 40.61(b)(1)). Since alcohol dissipates quickly in the body, this ensures that the test result represents the employee's current alcohol concentration.
- Once notified, the employee must proceed immediately to the collection site for testing. Failure to appear within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer may constitute a refusal to test as described in 49 CFR § 40.191(a)(1).
- The employee is responsible for complying with the collector's/BAT's/STT's instructions for providing a specimen. Failure to do so may constitute a refusal to test as described in 49 CFR §§ 40.191 and 40.261.

If an employee is notified and not tested for a reason beyond his/her control, another attempt to test cannot be made during that testing period. One example of “reasons beyond his/her control” is the collection site was closed when the donor arrived for testing. Another example is the facility only collected for drug testing when alcohol testing was also supposed to be conducted.

Policies for Excusing an Individual from Testing

Liberal excusal policies increase the opportunity for testing bias. Employers must not excuse employees from testing during a random selection unless a legitimate reason exists. Legitimate excuses must be implemented in the same way for all safety-sensitive employees. If an employee is excused, the random list must be annotated with the reason for the excusal.

One legitimate basis for excusing an employee occurs when an employee has been terminated from the employer before the employer notifies the employee of the testing requirement, but has not yet been removed from the pool. Likewise, an employee in the hospital who is not expected to return to the workplace before the next testing period could reasonably be excused. However, if an employee is on sick leave, vacation, or travel and will return to the workplace before the next random selection, the employee’s name must be held in confidence and the employee tested upon his/her return. In these situations, the employee must not be notified of his/her selection until immediately before the collection is to occur.

Over Selection and the Use of Alternates

Some employers will select more employees than necessary to prevent under-testing when employees are excused. While this practice is not against the regulations, it does create a potential problem. It can lead to a liberal excusal policy. For example, an employer finds it difficult to locate employee A, so he decides to skip employee A and move down the list. This practice can lead to testing bias. Generally, maintenance workers tend to be easy to find, while flight crew and flight attendants can be difficult to track down. *Best Practice:* An employer should recalculate the number of selections needed following each selection period to ensure the minimum rate is met.

Frequency of Selecting and Testing

Selections *must* be spaced reasonably throughout the year. This practice ensures a “clean pool”. *Best Practice:* Selections should be made a minimum of four times per year. Once a random selection has been made, the names and testing date(s) must remain unannounced until the employees are notified to report for testing.

The testing *must* be spaced reasonably throughout the year. Employers should conduct testing throughout the selection period so employees cannot predict when they might be tested. Collecting only at the beginning or end of a month, or collecting on the same date within test periods removes the element of surprise for testing.

Inspecting a Random Program

As previously stated in this Order, an inspector must adhere to the Inspection Guide for all inspection activities, including those that apply to a random program. In addition to using the Inspection Guide, each inspection of a random program must include the additional questions listed below.

- ▶ Is the employer meeting its minimum annual testing rates?
- ▶ Is the random pool updated in a timely fashion?
 - Are new employees added in time for the first selection following their date of hire?
 - Are employees who no longer perform safety-sensitive duties removed from the selection pool before the next selection period?
- ▶ Are all occupation groups treated equally?
 - Are excusal criteria consistent across occupational groups?
 - Do all employees have an equal chance of being tested regardless of occupation?
 - Does one occupational group have a much higher (or lower) rate of testing than other groups?
- ▶ Are all locations treated equally?
 - Do all employees have an equal chance of being tested regardless of location (or home base)?
 - Does one location have a much higher (or lower) rate of testing than other locations?
- ▶ Are employees tested immediately following notification?
- ▶ If an employee is excused in a testing period, is he/she still tested in that testing year?
- ▶ Are the excusal policies too lax?
 - Is the employer excusing employees for reasons other than leave that extends through the entire testing period?

Appendix D. Acronyms

Below is a list of acronyms used in this Order and by inspectors and investigators in the performance of their duties.

ADPM	Alcohol and Drug Program Manager
AAM	Office of Aerospace Medicine
AL	Action Letter
ARC	Automated Risk Calculation
ATF	Alcohol Testing Form
BAT	Breath Alcohol Technician
C&E	Compliance and Enforcement
CCF	Custody and Control Form
CETS	Compliance and Enforcement Tracking Subsystem
CFR	Code of Federal Regulations
C/TPA	Consortium/Third-Party Administrator
DER	Designated Employer Representative
DHHS	Department of Health and Human Services
DOT	Department of Transportation
EBT	Evidential Breath Testing
EAP	Employee Assistance Program
EIR	Enforcement Investigative Report
eEIR	Electronic Enforcement Investigative Report
EIS	Enforcement Information System
FAA	Federal Aviation Administration
FOIA	Freedom of Information Act
FOUO	For Official Use Only
FSDO	Flight Standards District Office
ISO QMS	ISO Quality Management System

LOA	Letter of Acknowledgement
LOC	Letter of Correction
LOI	Letter of Investigation
LON	Letter of Notification
MIS	Management Information System
MRO	Medical Review Officer
NATCA	National Air Traffic Controllers Association
NCA	Nonconformity and Corrective Action
NCT	Non-Compliance Transmittal
NIDA	National Institute on Drug Abuse
NOCA	Notice of Corrective Action
NOPE	Notice of Proposed Exclusion
NTSB	National Transportation Safety Board
ODAPC	DOT's Office of Drug and Alcohol Policy and Compliance
OPSPEC	Operations Specifications
OST	Office of the Secretary of Transportation
PBR	Pilot's Bill of Rights
PIE	Public Interest Exclusion
PMI	Principal Maintenance Inspector
POC	Point of Contact
POI	Principal Operations Inspector
ROI	Report of Inspection
SAMHSA	Substance Abuse and Mental Health Services Administration
SAP	Substance Abuse Professional
SCMP	Strategic Compliance Monitoring Plan
SPAS	Safety Performance Analysis System

STT	Screening Test Technician
USPS	United States Postal Service
WebOPSS	Web-Based Operations Safety System
WN	Warning Notice

Appendix E. Inspection Scheduling Procedures

PURPOSE: The purpose of this appendix is to provide AAM-810 personnel, inspectors, team coordinators, and Center Managers with the policies and procedures for developing and implementing the national inspection schedule.¹³ The national inspection schedule is developed in accordance with the Strategic Compliance Monitoring Plan¹⁴ (SCMP) and the Memorandum of Understanding¹⁵ (MOU) between the FAA and NATCA.

All AAM-800 personnel must follow the guidance described in this appendix unless specifically advised otherwise by the AAM-800 Director or AAM-810 Manager.

The scheduling process is divided into four stages:

- (1) Development of a preliminary schedule in the CETS Planner;
- (2) Bidding the schedule;
- (3) Notifying employers of planned inspections; and
- (4) Completing and distributing the Inspection Week Work Plan.

The following demonstrates the steps for each stage:

Stage 1: Development of the Preliminary Schedule

The process starts with AAM-810 developing the preliminary schedule using the CETS planner. Once the preliminary schedule is developed, it is provided to the AAM-810 Manager and designated program analyst for review. Once the preliminary schedule is approved, it is sent to the Union representatives for bidding.

The number of inspection teams completed per Center for each inspection week for the upcoming quarter depends on how many inspectors are currently assigned to each Center and whether any large employers are on the region's schedule for the inspection week. Each local on-site and TDY inspection team will include 7 employers and 1 collection site. Each virtual inspection team for single inspection leads will include a maximum of 4 employers per inspector, unless there is an odd number of inspectors available for inspections. In this case, an additional virtual inspection team with 2-3 employers may be created when developing the schedule, or a reserve slot will be placed on the schedule. If a large employer that requires additional team members is scheduled for the inspection week or if the distance between employers is far, fewer employers will be required for the affected Center. Prior to drafting the preliminary schedules in CETS, the AAM-810 designated program analyst must estimate the length of time needed for each inspection by accessing information listed in

¹³ This appendix primarily applies to scheduling an employer inspection; however, it would also apply if you are assigned to inspect a service agent. Adjustments to the details would apply in accordance with Appendix C.

¹⁴ The SCMP sets the goals to prioritize investigations and the selection of employers and service agencies to inspect; maximizes the number of inspections; and ensures the effectiveness of individual inspections. The SCMP is available on AAM-800's SharePoint and updates occur as needed.

¹⁵ The MOU, signed on May 9, 2017, explains the procedure for the bidding process between the FAA and the NATCA Bargaining Unit.

the employer's CETS profile. The estimate is based on employer size, employer type, previous inspection out-of-compliance issues, and any outstanding issues (i.e., voluntary disclosures, non-compliance transmittal forms, type of employer).

When drafting the preliminary schedule in CETS, the AAM-810 designated program analyst must make selections based on which employers are highest in priority according to the current SCMP.

After determining which employers are highest in priority and estimating the length of time needed for each inspection, the AAM-810 designated program analyst must use any Internet mapping tools (e.g., Yahoo or Google), to determine which additional employers nearest the location of the highest priority employers may be added to each team.

Note: The AAM-810 designated program analyst takes into consideration the time to travel between each location when placing employers on the schedule.

Stage 2: Bidding the Inspection Schedule

Once the preliminary schedule is prepared, the AAM-810 designated program analyst will review leave and availability information for each inspector to determine how many teams to use on the final schedule. This will become the bidding schedule. The AAM-810 designated program analyst will submit the bidding schedule for each center to the Center Manager, Union Representative, and the AAM-810 Manager by the deadline in the MOU. The AAM-810 designated program analyst will set a date and time to meet for each Center to conduct the bidding process and oversee bidding for each region in accordance with the existing MOU, including any addendums.

Regarding virtual inspections, AAM-810 will identify which teams will conduct virtual inspections prior to the bidding. Each virtual inspection team has a minimum of two inspector slots. For each inspection week, teams will be available for bidding as follows:

- When there are 1-4 teams, a minimum of one team must conduct virtual inspections.
- When there are 5-8 teams, a minimum of two teams must conduct virtual inspections.
- When there are 9-12 teams, a minimum of three teams must conduct virtual inspections.
- When there are 13 or more teams, a minimum of four teams must conduct virtual inspections.

After bidding is complete, the employer assignments will be divided between the inspectors on the virtual inspection team following the current procedures.

In the event an inspector becomes unavailable to conduct a virtual inspection, either the inspector on reserve may fill in to complete the inspection, or AAM-810 will follow the current procedures to fill the slot.

Stage 3: Employer Notification

Once the quarterly schedule is finalized, an inspector is assigned to notify the employer of its upcoming inspection. For the preliminary schedule, highest priority employers should normally be scheduled for Tuesday, Wednesday, and Thursday mornings (depending on travel for the team). To notify the employer, the inspector must do the following:

- Send the Notification of FAA Drug Abatement Inspection email (template located on AAM-800's SharePoint) to the employer's ADPM/DER and request a delivery receipt.
- Confirm the name, phone number and email address of the current ADPM/DER and President/CEO. Verify the employer's records location, address, phone number and fax number. Update the employer's Contacts and Locations Tabs in CETS.
- Gather the following information to include in the Activity Narrative of the employer's inspection profile in CETS:
 - Current number of total employees;
 - Current number of safety-sensitive employees;
 - Number of safety-sensitive new hires/transfers in the last 12, 18, or 24 months;
 - Number of positive drug and alcohol tests in the last five years;
 - Number of refusals to test in the last five years;
 - Does the employer have a rehabilitation program;
 - Who the employer uses as its consortium; and
 - Who is its MRO.
- For affiliated employers, verify whether the employer is managing a combined drug and alcohol program with other employers. If managing a combined program, review the affiliated employer's A449(s) and/or LOA (A049) in WebOPSS and/or CETS to verify the recording of the proper annotations. Update the comments area in CETS to document the verification.
- After notification of the inspection, add the email notification and phone call dates and times in the Activity Narrative of the employer's inspection profile in CETS to include identifying whom they spoke to and the date and time of the notification.
- Once the inspector finalizes the planned schedule, he/she must send an email to his/her Center Manager, Team Coordinator, and AAM-810-Scheduling@faa.gov indicating the employers have been notified of their inspections.

If the inspector has trouble contacting the employer, he or she must do the following:

- Review the employer's LOA registration, A449 in WebOPSS and/or contractor registration to obtain contact information for the employer. The inspector may also search the internet to obtain the employer's current contact information and address. Update the employer's Contacts Tab in CETS.
- If the employer does not respond to the Notification of FAA Drug Abatement Inspection email, attempt to contact the employer by phone at least three times on at least two separate days. Log all attempts to contact the employer in the Correspondence Tab of the inspection profile in CETS. Add any new or updated employer information (i.e., contacts, email addresses, addresses, etc.) to the Contacts Tab in CETS.
- If the employer does not respond, the inspection is not scheduled and the inspector must notify the AAM-810 Scheduling Team via email (AAM-810-Scheduling@faa.gov) and copy their

Center Manager and Team Coordinator. AAM-810 will verify if there are known or suspected problems that require the employer's inspection in accordance with the SCMP. Once AAM-810 makes a determination about the status of the employer's inspection, AAM-810 will update the schedule and notify the inspector within two business days by email that the employer was or was not removed, and if a new employer was added (if applicable). AAM-810 will copy the Center Manager and Team Coordinator in their communication with the inspector. If AAM-810 does not meet this deadline, an AAM-810 designated program analyst will contact the employer to notify it of the inspection time and date.

The "Company Schedule Form" (available on AAM-800's SharePoint) will be helpful in gathering and annotating the information discovered during the notification discussion.

Note: If the employer claims it is not available for the inspection, the inspector must contact the AAM-810 Scheduling Team via email (AAM-810-Scheduling@faa.gov) and copy their Center Manager and Team Coordinator to verify removal of the employer from the schedule.

Stage 4: Sending the LON and Completion and Distribution of the Inspection Week Work Plan

The final stage of the inspection schedule process is for the AAM-810 designated program analyst to send the LONs (in accordance with Chapter 2 of this Order) and complete the Inspection Week Work Plan (available on AAM-800's SharePoint) after the inspector finalizes the planned schedule and sends an email to the Center Manager and AAM-810 Scheduling Team indicating the schedule is set. The AAM-810 designated program analyst will annotate whether the inspector must conduct a comprehensive, or remain a focused inspection. The AAM-810 designated program analyst will determine team leads and review the work plan. If the team needs an employer added or removed, the AAM-810 designated program analyst will make the change and notify the inspectors of the changes. Once the AAM-810 designated program analyst has completed the work plan, he/she will send it to the inspector/inspection team within seven working days of receiving notice from the inspector/inspection team that the employers have been notified of their inspections, copying the Center Manager, Team Coordinators, Administrative Officer, Union Representative, and AAM-810 Manager.

If there is a need to cancel an inspection after the schedule is established, the inspector must notify their Center Manager. The Center Manager must notify the AAM-810 Manager to allow AAM-810 an opportunity to approve or deny the cancellation after verifying there are no known or suspected problems that required the inspection in accordance with the SCMP. AAM-810 must make a determination and notify the Center Manager to cancel the inspection and may assign a new employer for the inspector. The Center Manager must notify the inspector and provide further instructions. When a scheduled inspection is cancelled, the inspector must document the cancellation in CETS.

Appendix F. Electronic Inspection File Documentation

PURPOSE: This guidance establishes procedures and guidelines for the standardization of Drug Abatement Inspection files. It is the responsibility of every employee within the AAM-800 Drug Abatement Division to understand and comply with these requirements. This will ensure that our approach to inspection files is consistent. Before you submit your electronic inspection folder for review to your Team Coordinator or Center Manager, you must ensure that all paper (e.g., mail or fax) and electronic records are scanned and included.

You must save all legal enforcement action case files in a separate electronic file on your Center or Branch shared drive. These files may include:

- Telephone logs capturing discussions or contact with the Office of the Chief Counsel, Regional Counsel, or other parts of AAM-800;
- E-mail messages received or sent that are relevant to the questions or routing of the legal case; and
- An exact duplicate of the legal case, including copies of all items of proof.

Your inspection file documents must be presented in accordance with the listing below. Do not scan or include working copies, handwritten or typed notes, post-its, work plans, etc. in the final inspection record. You must dispose of these items.

ELECTRONIC INSPECTION FOLDER NAME CONVENTION

As you save each inspection file on your Center or Branch shared drive using Adobe pdf portfolio, you must use the following approved naming convention for an employer or service agent inspection folder:

Calendar Year of the Inspection	2020
Center	WE, CE, EA ¹⁶
Month/Date of the Inspection	MT/DY
Dash	-
Employer's Certificate or Registration Number	ABCD1234
Example:	2020WE0919-ABCD1234

If you are conducting a service agent inspection, use the service agent's name versus the employer's certificate or contractor registration number. For example: 2020WE0919-NATA Compliance Services.

The following is the inspection file outline for all inspection and voluntary disclosure program files:

¹⁶ Based on the location of the inspector.

ELECTRONIC INSPECTION FILE OUTLINE

Section 1:

- a. Point of Contact from employer.
- b. Letter of Notification (LON), if applicable.

Section 2:

- a. Completed Inbriefing/Outbriefing meeting attendance sheet.
- b. When an inspector prints the following documents to plan for the inspection, the documents must be maintained in this portion of the file. If an inspector does an online review of the documents listed below, it is not necessary to include them under this section:
 - Copies of SPAS/ OPSPEC/WEBOPSS Information.
 - Previous inspection summary or documents (Legal or Administrative Actions, Compliance Actions, Voluntary Disclosures, Investigations, Service Agent correspondence, etc.).

Section 3:

- a. Outbriefing Report w/ team member(s) approval (direct initials or email approvals). Inspections that result in no findings must include a copy of the outbriefing report, regardless of whether or not it contains “concerns”.
- b. Documents [Items of Proof (IOP)] obtained physically and electronically from the employer regarding the inspection, which may include:
 - Statements from witnesses, employer official, and/or inspector statements.
 - Testing or program documentation.
- c. Ensure that the documents are tabbed to reference the Report of Inspection (ROI) letter, macro item, and you include the statement indicating that the evidence collected is a true and authentic copy of the original in accordance with Order 2150.3, as amended.

Section 4:

- a. Response to ROI letter or NOCA (for a Service Agent), including supporting documentation.
- b. ROI letter or NOCA (for a Service Agent), including proof of delivery, review documents and guidance (if applicable).

Section 5:

- a. Action Letter and/or Administrative Action Letter with 2150-5 form and Summary of Case (Section B) (if applicable). Include the review documents and guidance (if applicable).
- b. For a service agent inspection, include a copy of the closeout letter or NOPE, and documents provided to support the PIE.

Section 6: Miscellaneous material not related to previous sections, e.g., other documents received from the employer.