



121 North Henry Street
Alexandria, VA 22314-2903
T: 703 739 9543 F: 703 739 9488
arsa@arsa.org www.arsa.org

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Diane J. Wood
Manager
Drug Abatement Division—AAM 800
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591-0004

VIA E-Mail: diane.wood@faa.gov

RE: Registration of Anti-Drug and Alcohol Programs by Certificated Entities

Dear Ms. Wood:

The Aeronautical Repair Station Association (ARSA) is requesting an official affirmation from the Drug Abatement Division that a part 145 repair station can obtain registration of its Anti-Drug and Alcohol Misuse Prevention Program rather than an appropriate Operations Specifications. We are asking for an official validation of this option due to the language of the 2004 final rule contained at 69 FR 1857. The language indicates what a part 145 certificate holder “must do” to implement its own antidrug program.¹

Normally, when a rule uses language such as “must” or “shall”, the applicant is required to comply with the exact words following those directives. We understand that the Federal Aviation Administration (FAA) can reasonably interpret the method by which it will enforce its own regulations. With that understanding, we believe allowing a certificate holder the option of obtaining a registration of its Anti-Drug and Alcohol Misuse Prevention Program if it has multiple

¹ IX *Implementing an Antidrug Program*, paragraph C. 1. If you are an individual or company that intends to provide safety-sensitive services by contract to a part 121 or 135 certificate holder, a sightseeing operation as defined in § 135.1(c) of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military, use the chart in paragraph C.2 of this section to determine what you must do if you opt to have your own antidrug program.
2. The following chart explains what you must do if you opt to have your own antidrug program:

If you...	You <u>must</u> ...
a. Are a part 145 certificate holder	i. Have an Antidrug and Alcohol Misuse Prevention Program Operations Specification, ii. Implement an FAA Antidrug Program no later than the date you start performing safety-sensitive functions for a part 121 or 135 certificate holder or sightseeing operator as defined in § 135.1(c) of this chapter, and iii. Meet the requirements of this appendix as if you were an employer.
b. Are a contractor (e.g., a security company, a non-certificated repair station, a temporary employment service company or any other individual or company that provides safety-sensitive services).	i. Register with the FAA, Office of Aerospace Medicine, Drug Abatement Division (AAM-810), 800 Independence Avenue, SW, Washington, DC 20591, ii. Implement an FAA Antidrug Program no later than the date you start performing safety-sensitive functions for a part 121 or 135 certificate holder, a sightseeing operator as defined in § 135.1(c) of this chapter, or an air traffic control facility not operated by the FAA or by or under contract to the U.S. military, and iii. Meet the requirements of this appendix as if you were an employer.

(Emphasis added.) We also note that part 121 and 135 air carriers with multiple locations and functions subject to the same rule have also been allowed to obtain registration of their programs in lieu of the Operations Specifications requirements contained in the paragraph B 1 chart.

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locations, certificates or functions in lieu of an appropriate Operations Specifications is within the FAA's discretion.

Unfortunately, unless that option is provided in an official manner, the compliance of the repair stations (and other certificate holders) that have been provided the registration option is being questioned by parts 121 and 135 air carriers. The only place that we are able to show those operators that the FAA has allowed that option is in guidance to the aviation inspector work force in an AAM—800/AFS—300 Memorandum dated August 15, 2006 entitled "Guidance—Maintenance and Preventive Maintenance". Since that document is directed at the FAA's own workforce, not the public, it is difficult to belie the plain language of the regulation. This is particularly true since the chart in the rule specifically references "non-certificated repair stations" in the registration provision.

To ensure certificated entities are able to establish compliance with the anti-drug and alcohol requirements, we would appreciate a letter or other official announcement that a certificate holder (including repair stations and air carriers) may, in certain circumstances, obtain registration of its Anti-Drug and Alcohol Misuse Prevention Program in lieu of appropriate Operations Specifications. We would deeply appreciate your expedited response. If you have any questions regarding our request, please do not hesitate to contact us.

Sincerely,



Marshall S. Filler
Managing Director and General Counsel
Aeronautical Repair Station Association

cc: Vicky L. Dunne
vicky.dunne@faa.gov

David Cann
dave.cann@faa.gov

Rick Domingo
rick.domingo@faa.gov