

**FINAL RULE –ANTI-DRUG AND ALCOHOL MISUSE PREVENTION PROGRAMS FOR
PERSONNEL ENGAGED IN AVIATION MAINTENANCE**
(RAA TECH/OPS BULLETIN 06-02)

SUMMARY: The FAA has amended the regulations governing drug and alcohol testing to “clarify” that each person who performs a safety-sensitive function for a regulated employer by contract, **including by subcontract at any tier**, is subject to testing. When the drug and alcohol testing rules were first adopted, the FAA issued guidance material that stated that maintenance subcontractors would not be required to be tested unless they took “airworthiness responsibility for the work that they were performing”. This was generally interpreted to mean that for contracted employees, only the maintenance employees of certificated repair stations directly contracted with your airline were required to be tested. This amendment cancels all previous guidance material to further emphasize that a “safety sensitive” function is not based on the title of the position or the degree of supervision but on the actual work function performed.

FAA drug and alcohol testing regulations prohibit testing outside the United States and its territories. This rule does not add an extra territorial testing requirement. By reference this rule affects both Part 121 and Part 135 maintenance activities.

DATES: This amendment [Docket No.: FAA-2002-11301; Amendment No. 121-315] becomes effective April 10, 2006. Affected parties, however, do not have to comply with the information collection requirements in part 121, Appendix I, Section IX, and Appendix J, Section VII, until the FAA publishes in the Federal Register the control numbers assigned by the Office of Management and Budget (OMB) for these information collection requirements.

RAA Comments: This rule was intended to “clarify” the current D&A rules but in reality it simply puts everyone back to square one in trying to define “safety sensitive” functions. The preamble includes two examples, repairing an “entertainment system” and conducting “interior plating decoration on nonessential components”. The FAA notes that “repairing entertainment system components usually is not considered “maintenance”” so D&A “testing usually is not required for individuals who repair these components”; however, “removing the entertainment system component from the aircraft and reinstalling the repaired component on the aircraft is maintenance and subject to testing. Similarly, interior plating decoration to nonessential components is “preventive maintenance” under 14 CFR part 43, appendix A; consequently, drug and alcohol testing is required for individuals who perform this type of plating.” RAA suspects we will shortly see FAA release of “clarifying” guidance documentation to further explain this “clarifying” rule.

The attached final rule was downloaded from the <http://www.gpoaccess.gov/fr/index.html> Internet Site. It appeared in the Federal Register on January 10, 2006. Refer to the RAA.ORG Internet Site for a listing of current Tech/Ops Bulletins.