



06/19/17

Aviation Group Client Update

Shelley A. Ewalt, Partner | sewalt@mklawny.com | +1 703 399 6078

FAA AGREES WITH NATA THAT RECEIVING FUNCTIONS ARE NOT SUBJECT TO DRUG AND ALCOHOL TESTING REQUIREMENTS

On May 30th, 2017, the FAA issued a [legal interpretation](#) in response to a request made by the National Air Transportation Association (NATA) on the applicability of Part 120 drug and alcohol testing rules to individuals performing tasks associated with receiving articles for stock.

Background. NATA's requested legal interpretation, dated February 15, 2017, pointed out that receiving tasks are not safety-sensitive functions because they are not maintenance functions and FAA's auditors' interpretation as such results in misclassification of employees, and as such, should not be subject to Part 120 drug and alcohol testing rules.

The FAA contended that there are differing interpretations of whether accepting articles for stock constitutes maintenance or preventative maintenance under §§ 120.105(e) and 120.215(a)(5), and performed an analysis of both sections to provide a clear interpretation as to which employees must be tested. After its analysis, the FAA concluded that individuals performing receiving tasks do not engage in maintenance or preventative maintenance activities, as their work only involves ensuring that there is no visible damage to the packaging or the enclosed items, and that the articles were obtained from an approved or acceptable source by comparing part numbers, serial numbers, quantity, etc. with the purchase order.

The FAA agreed with NATA that the purpose of the receiving process is to simply verify the incoming parts are what they purport to be and that employees receiving items for stock are not safety-sensitive employees under part 120 and should not be included in the pool of employees subject to drug and alcohol testing.

If you have any questions or would like further information, please contact Shelley Ewalt.

* * * * *

McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.