

less than 0.04. This does not prohibit an employer with authority independent of this rule from taking any action otherwise consistent with law.

§ 120.223 Alcohol misuse information, training, and substance abuse professionals.

(a) *Employer obligation to promulgate a policy on the misuse of alcohol.* (1) *General requirements.* Each employer shall provide educational materials that explain these alcohol testing requirements and the employer's policies and procedures with respect to meeting those requirements.

(i) The employer shall ensure that a copy of these materials is distributed to each covered employee prior to the start of alcohol testing under the employer's FAA-mandated alcohol testing program and to each individual subsequently hired for or transferred to a covered position.

(ii) Each employer shall provide written notice to representatives of employee organizations of the availability of this information.

(2) *Required content.* The materials to be made available to employees shall include detailed discussion of at least the following:

(i) The identity of the individual designated by the employer to answer employee questions about the materials.

(ii) The categories of employees who are subject to the provisions of these alcohol testing requirements.

(iii) Sufficient information about the safety-sensitive functions performed by those employees to make clear what period of the work day the covered employee is required to be in compliance with these alcohol testing requirements.

(iv) Specific information concerning employee conduct that is prohibited by this chapter.

(v) The circumstances under which a covered employee will be tested for alcohol under this subpart.

(vi) The procedures that will be used to test for the presence of alcohol, protect the employee and the integrity of the breath testing process, safeguard the validity of the test results, and ensure that those results are attributed to the correct employee.

(vii) The requirement that a covered employee submit to alcohol tests administered in accordance with this subpart.

(viii) An explanation of what constitutes a refusal to submit to an alcohol test and the attendant consequences.

(ix) The consequences for covered employees found to have violated the prohibitions in this chapter, including the requirement that the employee be removed immediately from performing safety-sensitive functions, and the process in 49 CFR part 40, subpart O.

(x) The consequences for covered employees found to have an alcohol concentration of 0.02 or greater but less than 0.04.

(xi) Information concerning the effects of alcohol misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem; available methods of evaluating and resolving problems associated with the misuse of alcohol; and intervening when an alcohol problem is suspected, including confrontation, referral to any available employee assistance program, and/or referral to management.

(xii) Optional provisions. The materials supplied to covered employees may also include information on additional employer policies with respect to the use or possession of alcohol, including any consequences for an employee found to have a specified alcohol level, that are based on the employer's authority independent of this subpart. Any such additional policies or consequences must be clearly and obviously described as being based on independent authority.

(b) *Training for supervisors.* Each employer shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under § 120.217(d) of this subpart receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

(c) *Substance abuse professional (SAP) duties.* The SAP must perform the functions set forth in 49 CFR part 40, subpart O, and this subpart.