

§ 120.221

14 CFR Ch. I (1–1–19 Edition)

(E) Materials on alcohol misuse awareness, including a copy of the employer's policy on alcohol misuse.

(F) Documentation of compliance with the requirements of § 120.223(a).

(G) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.

(H) Certification that any training conducted under this subpart complies with the requirements for such training.

(b) *Annual reports.* (1) Annual reports of alcohol testing program results must be submitted to the FAA by March 15 of the succeeding calendar year for the prior calendar year (January 1 through December 31) in accordance with the provisions of paragraphs (b)(1)(i) through (iii) of this section.

(i) Each part 121 certificate holder shall submit an annual report each year.

(ii) Each entity conducting an alcohol testing program under this part, other than a part 121 certificate holder, that has 50 or more employees performing a safety-sensitive function on January 1 of any calendar year shall submit an annual report to the FAA for that calendar year.

(iii) The Administrator reserves the right to require that aviation employers not otherwise required to submit annual reports prepare and submit such reports to the FAA. Employers that will be required to submit annual reports under this provision will be notified in writing by the FAA.

(2) As an employer, you must use the Management Information System (MIS) form and instructions as required by 49 CFR part 40 (at 49 CFR 40.26 and appendix H to 49 CFR part 40). You may also use the electronic version of the MIS form provided by the DOT. The Administrator may designate means (e.g., electronic program transmitted via the Internet) other than hard-copy, for MIS form submission. For information on where to submit MIS forms and for the electronic version of the form, see: http://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/drug_alcohol/.

(3) A service agent may prepare the MIS report on behalf of an employer. However, a company official (e.g., Designated Employer Representative as defined in 49 CFR part 40) must certify the accuracy and completeness of the MIS report, no matter who prepares it.

(c) *Access to records and facilities.* (1) Except as required by law or expressly authorized or required in this subpart, no employer shall release covered employee information that is contained in records required to be maintained under this subpart.

(2) A covered employee is entitled, upon written request, to obtain copies of any records pertaining to the employee's use of alcohol, including any records pertaining to his or her alcohol tests in accordance with 49 CFR part 40. The employer shall promptly provide the records requested by the employee. Access to an employee's records shall not be contingent upon payment for records other than those specifically requested.

(3) Each employer shall permit access to all facilities utilized in complying with the requirements of this subpart to the Secretary of Transportation or any DOT agency with regulatory authority over the employer or any of its covered employees.

§ 120.221 Consequences for employees engaging in alcohol-related conduct.

(a) *Removal from safety-sensitive function.* (1) Except as provided in 49 CFR part 40, no covered employee shall perform safety-sensitive functions if the employee has engaged in conduct prohibited by §§ 120.19 or 120.37, or an alcohol misuse rule of another DOT agency.

(2) No employer shall permit any covered employee to perform safety-sensitive functions if the employer has determined that the employee has violated this section.

(b) *Permanent disqualification from service.* (1) An employee who violates §§ 120.19(c) or 120.37(c) is permanently precluded from performing for an employer the safety-sensitive duties the employee performed before such violation.

(2) An employee who engages in alcohol use that violates another alcohol misuse provision of §§ 120.19 or 120.37,