Federal Aviation Administration, DOT

§ 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. An employee who violates §§120.19 or 120.37, or who engages in alcohol use that violates another alcohol misuse provision of §§120.19 or 120.37 and who had previously engaged in alcohol use that violated the provisions of §§120.19 or 120.37 after becoming subject to such prohibitions is permanently precluded from performing for an employer the safety-sensitive duties the employee performed before such violation.

(c) Notice to the Federal Air Surgeon. (1) An employer who determines that a covered employee who holds an airman medical certificate issued under part 67 of this chapter has engaged in alcohol use that violated the alcohol misuse provisions of §§120.19 or 120.37 shall notify the Federal Air Surgeon within 2 working days.

(2) Each such employer shall forward to the Federal Air Surgeon a copy of the report of any evaluation performed under the provisions of §120.223(c) within 2 working days of the employer’s receipt of the report.

(3) All documents must be sent to the Federal Air Surgeon, Federal Aviation Administration, Office of Aerospace Medicine, Attn: Drug Abatement Division (AAM–800), 800 Independence Avenue, SW., Washington, DC 20591.

(4) No covered employee who is required to hold an airman medical certificate in order to perform a safety-sensitive duty may perform that duty following a violation of this subpart until the covered employee obtains an airman medical certificate issued by the Federal Air Surgeon dated after the alcohol test result or refusal to test date. After the covered employee
§ 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