

with appendix I to part 121 of this chapter. No employer may use any contractor to perform any air traffic control function unless that contractor tests each employee performing such a function for the employer in accordance with that appendix.

[Doc. No. 25148, 53 FR 47056, Nov. 21, 1988, as amended by Amdt. 65-38, 59 FR 42927, Aug. 19, 1994]

§ 65.46a Misuse of alcohol.

(a) This section applies to employees who perform air traffic control duties directly or by contract for an employer that is an air traffic control facility not operated by the FAA or the U.S. military (*covered employees*).

(b) *Alcohol concentration.* No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. No employer having actual knowledge that an employee has an alcohol concentration of 0.04 or greater shall permit the employee to perform or continue to perform safety-sensitive functions.

(c) *On-duty use.* No covered employee shall use alcohol while performing safety-sensitive functions. No employer having actual knowledge that a covered employee is using alcohol while performing safety-sensitive functions shall permit the employee to perform or continue to perform safety-sensitive functions.

(d) *Pre-duty use.* No covered employee shall perform air traffic control duties within 8 hours after using alcohol. No employer having actual knowledge that such an employee has used alcohol within 8 hours shall permit the employee to perform or continue to perform air traffic control duties.

(e) *Use following an accident.* No covered employee who has actual knowledge of an accident involving an aircraft for which he or she performed a safety-sensitive function at or near the time of the accident shall use alcohol for 8 hours following the accident, unless he or she has been given a post-accident test under appendix J to part 121 of this chapter, or the employer has determined that the employee's performance could not have contributed to the accident.

(f) *Refusal to submit to a required alcohol test.* A covered employee may not refuse to submit to any alcohol test required under appendix J to part 121 of this chapter. An employer may not permit an employee who refuses to submit to such a test to perform or continue to perform safety-sensitive functions.

[Amdt. 65-37, 59 FR 7389, Feb. 15, 1994, as amended by Amdt. 65-47, 71 FR 35763, June 21, 2006]

§ 65.46b Testing for alcohol.

(a) Each air traffic control facility not operated by the FAA or the U.S. military (hereinafter *employer*) must establish an alcohol misuse prevention program in accordance with the provisions of appendix J to part 121 of this chapter.

(b) No employer shall use any person who meets the definition of *covered employee* in appendix J to part 121 to perform a safety-sensitive function listed in that appendix unless such person is subject to testing for alcohol misuse in accordance with the provisions of appendix J.

[Amdt. 65-37, 59 FR 7389, Feb. 15, 1994]

§ 65.47 Maximum hours.

Except in an emergency, a certificated air traffic control tower operator must be relieved of all duties for at least 24 consecutive hours at least once during each 7 consecutive days. Such an operator may not serve or be required to serve—

(a) For more than 10 consecutive hours; or

(b) For more than 10 hours during a period of 24 consecutive hours, unless he has had a rest period of at least 8 hours at or before the end of the 10 hours of duty.

§ 65.49 General operating rules.

(a) Except for a person employed by the FAA or employed by, or on active duty with, the Department of the Air Force, Army, or Navy, or the Coast Guard, no person may act as an air traffic control tower operator under a certificate issued to him or her under this part unless he or she has in his or her personal possession an appropriate current medical certificate issued under part 67 of this chapter.