

loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees or employers or to the general public.

§ 655.7 Starting date for testing programs.

An employer must have an anti-drug and alcohol misuse testing program in place by the date the employer begins operations.

Subpart B—Program Requirements

§ 655.11 Requirement to establish an anti-drug use and alcohol misuse program.

Each employer shall establish an anti-drug use and alcohol misuse program consistent with the requirements of this part.

§ 655.12 Required elements of an anti-drug use and alcohol misuse program.

An anti-drug use and alcohol misuse program shall include the following:

(a) A statement describing the employer's policy on prohibited drug use and alcohol misuse in the workplace, including the consequences associated with prohibited drug use and alcohol misuse. This policy statement shall include all of the elements specified in § 655.15. Each employer shall disseminate the policy consistent with the provisions of § 655.16.

(b) An education and training program which meets the requirements of § 655.14.

(c) A testing program, as described in Subparts C and D of this part, which meets the requirements of this part and 49 CFR Part 40.

(d) Procedures for referring a covered employee who has a verified positive drug test result or an alcohol concentration of 0.04 or greater to a Substance Abuse Professional, consistent with 49 CFR Part 40.

§ 655.13 [Reserved]

§ 655.14 Education and training programs.

Each employer shall establish an employee education and training program for all covered employees, including:

(a) *Education.* The education component shall include display and distribution to every covered employee of: informational material and a community service hot-line telephone number for employee assistance, if available.

(b) *Training.* (1) *Covered employees.* Covered employees must receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use.

(2) *Supervisors.* Supervisors and/or other company officers authorized by the employer to make reasonable suspicion determinations shall receive at least 60 minutes of training on the physical, behavioral, and performance indicators of probable drug use and at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

§ 655.15 Policy statement contents.

The local governing board of the employer or operator shall adopt an anti-drug and alcohol misuse policy statement. The statement must be made available to each covered employee, and shall include the following:

(a) The identity of the person, office, branch and/or position designated by the employer to answer employee questions about the employer's anti-drug use and alcohol misuse programs.

(b) The categories of employees who are subject to the provisions of this part.

(c) Specific information concerning the behavior and conduct prohibited by this part.

(d) The specific circumstances under which a covered employee will be tested for prohibited drugs or alcohol misuse under this part.

(e) The procedures that will be used to test for the presence of illegal drugs or alcohol misuse, protect the employee and the integrity of the drug and alcohol testing process, safeguard the validity of the test results, and ensure the test results are attributed to the correct covered employee.

(f) The requirement that a covered employee submit to drug and alcohol

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testing administered in accordance with this part.

(g) A description of the kind of behavior that constitutes a refusal to take a drug or alcohol test, and a statement that such a refusal constitutes a violation of the employer's policy.

(h) The consequences for a covered employee who has a verified positive drug or a confirmed alcohol test result with an alcohol concentration of 0.04 or greater, or who refuses to submit to a test under this part, including the mandatory requirements that the covered employee be removed immediately from his or her safety-sensitive function and be evaluated by a substance abuse professional, as required by 49 CFR Part 40.

(i) The consequences, as set forth in § 655.35 of subpart D, for a covered employee who is found to have an alcohol concentration of 0.02 or greater but less than 0.04.

(j) The employer shall inform each covered employee if it implements elements of an anti-drug use or alcohol misuse program that are not required by this part. An employer may not impose requirements that are inconsistent with, contrary to, or frustrate the provisions of this part.

§ 655.16 Requirement to disseminate policy.

Each employer shall provide written notice to every covered employee and to representatives of employee organizations of the employer's anti-drug and alcohol misuse policies and procedures.

§ 655.17 Notice requirement.

Before performing a drug or alcohol test under this part, each employer shall notify a covered employee that the test is required by this part. No employer shall falsely represent that a test is administered under this part.

§§ 655.18–655.20 [Reserved]

Subpart C—Prohibited Drug Use

§ 655.21 Drug testing.

(a) An employer shall establish a program that provides testing for prohibited drugs and drug metabolites in the following circumstances: pre-employ-

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ment, post-accident, reasonable suspicion, random, and return to duty/follow-up.

(b) When administering a drug test, an employer shall ensure that the following drugs are tested for:

- (1) Marijuana;
- (2) Cocaine;
- (3) Opiates;
- (4) Amphetamines; and
- (5) Phencyclidine.

(c) Consumption of these products is prohibited at all times.

§§ 655.22–655.30 [Reserved]

Subpart D—Prohibited Alcohol Use

§ 655.31 Alcohol testing.

(a) An employer shall establish a program that provides for testing for alcohol in the following circumstances: post-accident, reasonable suspicion, random, and return to duty/follow-up. An employer may also conduct pre-employment alcohol testing.

(b) Each employer shall prohibit a covered employee, while having an alcohol concentration of 0.04 or greater, from performing or continuing to perform a safety-sensitive function.

§ 655.32 On duty use.

Each employer shall prohibit a covered employee from using 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.

§ 655.33 Pre-duty use.

(a) *General.* Each employer shall prohibit a covered employee from using alcohol within 4 hours prior to performing safety-sensitive functions. No employer having actual knowledge that a covered employee has used alcohol within four hours of performing a safety-sensitive function shall permit the employee to perform or continue to perform safety-sensitive functions.

(b) *On-call employees.* An employer shall prohibit the consumption of alcohol for the specified on-call hours of each covered employee who is on-call. The procedure shall include: