

Marine ***E***mployers
Drug ***T***esting
Guidance

(What Marine Employers Need
to Know About Drug Testing)

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Edition Note

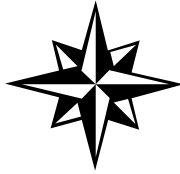
This edition of the Marine Employers Drug Testing Guidebook is dated September 2009. All previous editions and any other renditions of the Marine Employers Drug Testing Guidebook using this name or another similar name issued by the U.S. Coast Guard are obsolete and are not to be considered or used to be in compliance with the Chemical Testing Program regulations (46 CFR Parts 4 and 16; 33 CFR Part 95; and 49 CFR Part 40) as published by the U.S. Coast Guard and the Department of Transportation (DOT).

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Introduction: This booklet is designed to aid the marine employer in the development of a company drug and alcohol testing program that meets the requirements of Title 46 Code of Federal Regulations (CFR) Part 16; 46 CFR Part 4, and 49 CFR Part 40. In addition to reviewing this booklet, marine employers should become familiar with other federal regulations identified in this document. Employers should also consider the advice of their insurance carrier and legal staff, before finalizing any policies or procedures regarding a company implemented drug and alcohol testing program. This booklet cannot possibly address every circumstance and scenario encountered within maritime drug and alcohol testing; however, it will provide marine employers with an understanding of the federal requirements. This Guide will provide guidance for some practical means of complying with the regulations.

Purpose of the U.S. Coast Guard's Drug and Alcohol Testing Program: These regulations are to provide a means to deter the illegal use of controlled substances by merchant marine personnel and to promote a drug-free and safe work environment for the safe passage of embarked passengers and for carriage of cargo on U.S. waterways. Enforcement of these regulations by the U.S. Coast Guard is necessary to ensure that marine employers have taken the necessary steps to have a safe and drug-free working environment by conducting testing when required and in the manner described in the regulations.

This Guidebook contains useful guidance that will enable the marine employer to develop a program that serves as a strong deterrent to the illegal use of controlled substances by covered crewmembers, and that promotes a safe, drug-free workplace.

Applicable Code of Federal Regulations (CFR)



These citations provide more information on the chemical testing requirements. See Enclosure 1 for methods of obtaining these regulations.

46 CFR 16 - Coast Guard: Chemical Testing. This regulation includes the chemical testing requirements for marine employers. Some areas that are included are: test categories, procedures, (when and who to test), and management of the test program.

46 CFR 4.06 - Coast Guard: Mandatory Chemical Testing Following Serious Marine Incidents Involving Vessels in Commercial Service. This regulation will assist the marine employer in understanding the requirements for drug and alcohol testing following a Serious Marine Incident and the steps to take to achieve compliance.

49 CFR 40 - Department of Transportation (DOT) - Procedures for Transportation Workplace Drug and Alcohol Testing Programs: The procedures for all DOT-regulated drug testing, includes technical regulations for collection and testing (how to test).

33 CFR 95 - Coast Guard - Operating a Vessel While Under the Influence of Alcohol or Dangerous Drug: This will set the standard for under the influence of alcohol or a dangerous drug and contains authority for chemical testing, primarily for alcohol. 33 CFR 95 is not discussed in this guide but a prudent marine employer should be keenly aware of the regulation.

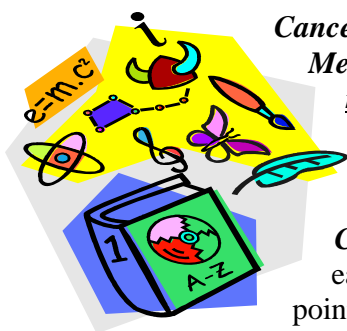
Failure, on the part of a marine employer, to implement or conduct chemical testing for dangerous drugs or for evidence of alcohol may result in **a civil penalty of up to \$5,500.00 per day for each violation**. Each day of a continuing violation constitutes a separate violation. (46 United States Code, Section 2115).

Definitions

Before getting started, a marine employer must first become familiar with some basic terms. Understanding the meaning of these terms is an important part of understanding what the regulations are asking of the marine employer. For a more complete list of definitions, please refer to 46 CFR 16.105 and 49 CFR Part 40.3. Definitions are listed by function and relation, rather than alphabetically.

The following listed terms are the most commonly used by marine employers and DAPIs:

Alcohol Use: The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.



Cancelled or Invalid Test: A drug test that has been declared invalid by a **Medical Review Officer (MRO)**. A cancelled test is neither a positive nor a negative test. A sample that has been rejected for testing by a laboratory is treated the same as a cancelled test. A Cancelled or Invalid test may have to be recollected immediately dependent upon the test reason.

Chain of Custody: Is the set of procedures to account for the integrity of each urine or blood specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. In drug testing, this requires the use of the appropriate drug testing custody and control form, from the time of collection to receipt by the **laboratory** to the final verified report issued by the **MRO**.

Collection Site: A place **designated by the employer** where individuals present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs. Not to be confused with **laboratory**.

Commercial Service: includes any type of trade or business involving the transportation of goods or individuals.

Consortium/Third Party Administrator (C/TPA): A service agent that provides or coordinates the provision of a variety of drug and alcohol testing services to employers. C/TPAs typically perform administrative tasks concerning the operation of the employers' drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers" for purposes of this part.

One of the major services that C/TPAs provide and manage is the random testing process for their clients. Basically, the **consortium** takes crewmembers from a number of marine employers, puts them into a random testing pool, and then ensures that the pool is tested at the random rate established by the Coast Guard (50% annually).

For example, if there are 1,000 covered crewmembers, employed by 10 employers in the random drug testing pool, the **consortium**, on behalf of the employers, is responsible for conducting 500 completed random tests during the calendar year. It is important to note that members of a **consortium** may not see 50% of their own personnel tested in a given year. It is also possible that a **consortium** member may see more than 50% of its personnel tested in a given calendar year.

Crewmember: An individual who is either;

- (a) On board a vessel acting under the authority of a license or merchant mariner's document issued under this subchapter, whether or not the individual is a member of the vessel's crew.

For example:

License holders - The operator of an uninspected towing vessel, the master of a 500 gross ton ocean going vessel, or the operator of an uninspected passenger vessel [6-pack];

Merchant Mariner Document - able bodied seaman or tankerman.

- (b) Engaged or employed on board a vessel owned in the United States that is required by law or regulation to engage, employ, or be operated by an individual holding a license, certificate of registry, or merchant mariner's document issued under this subchapter.

(Simply stated, if your vessel is required by law to be operated by a USCG licensed or documented mariner, personnel operating the vessel, including yourself, if self-employed, are subject to drug testing.)

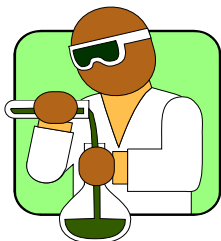
- (c) Exceptions: The following personnel are not subject to drug and alcohol testing under 46 CFR 16:
 - (1) Individuals on fish processing vessels who have no duties that directly affect the safe operation of the vessel
 - (2) Scientific personnel on an oceanographic research vessel
 - (3) Individuals aboard a vessel, not fulfilling a requirement for manning under 46 CFR Part 15, who have no duties that directly affect the safe operation of the vessel (see "*safety sensitive positions*")

DAPI: Drug and Alcohol Program Inspector. The **DAPI** is a Coast Guard representative who is specifically trained to check for compliance with the U.S. Coast Guard drug and alcohol program regulations and is assigned to a local Coast Guard Sector Office. Marine Inspectors also check for compliance with the regulations during vessel inspections.

District DAPI: Is the person in charge of the U.S. Coast Guard drug and alcohol testing program for a Coast Guard District. The **District DAPI** manages the program within district boundaries and conducts audits of marine employers' programs. This billet is congressionally mandated. Each Coast Guard District has a **District DAPI**, although the Eighth District has two, one for the Gulf Coast, one for the Western Rivers. The District DAPIs operate through the authority of the District Commander and under the guidance of the Drug and Alcohol Program Manager located at Coast Guard Headquarters, Washington, DC.

A District DAPI has regulatory authority over service agents and is empowered to inspect service agents.

Dangerous Drug: A narcotic drug, a controlled substance, or a controlled-substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 -- Title 21 United States Code Section 802). For testing purposes, this manual will primarily be concerned with:



- (a) Amphetamines (speed)
- (b) Cocaine
- (c) Opiates (morphine, codeine, and heroin)
- (d) Marijuana
- (e) Phencyclidine (PCP or angel dust)

DER: Designated Employer Representative. An employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this part. **Service agents cannot act as DERs.**

Drug Test: Means a chemical test of an individual's urine for evidence of dangerous drug use. The only acceptable **Drug Test** pursuant to Coast Guard regulations is a Department of Transportation (DOT) 5-panel test. These are often referred to as a NIDA 5-panel or SAMHSA approved drug test. A marine employer may conduct other types of tests, but the DOT 5-panel test, using a Federal CCF, is the only test that will be accepted for showing compliance with the regulations.

If a marine employer conducts testing for more drugs than is permitted by Coast Guard regulations, that testing shall be separate from any Coast Guard mandated program, including specimen collection.

DOT: Department of Transportation. A Federal cabinet level agency charged with responsibility for a safe transportation system for the public. This agency includes the following administrations: Federal Aviation Administration (FAA), Federal Motor Carrier Safety Administration (FMCSA), Federal Railroad Administration (FRA), Federal Transit Administration (FTA), and Pipeline and Hazardous Material Safety Administration (PHMSA). The Coast Guard was part of DOT but is now with the Department of Homeland Security (**DHS**), however, the drug test program mandated by Coast Guard follows procedures established by DOT 49 CFR part 40.

Federal Drug Testing Custody and Control Form (CCF) (chain of custody): This is the form upon which the handling of a **drug test** is documented. If this form is not completed correctly, a urine test may be considered "fatally flawed" and be deemed invalid. The collection of DOT required **drug tests** must be documented on this form only. This form is frequently referred to as the DOT form.

EAP: Employee Assistance Program. This is an awareness program where employees are made aware of the dangers of illegal drug use. Part of this program is the training of supervisors in recognizing the signs of illegal drug use.

Employer: Is a **marine employer or sponsoring organization**. As an example, a sponsoring organization may be a union that represents employees. Marine employer will operate vessels for hire and/or have personnel that perform safety-sensitive duties.

Laboratory: Means a facility that has met the requirements of the National Laboratory Certification Program (NLCP) managed by the Department Of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA). A listing of laboratories that meet the NLCP requirements is published once a month in the Federal Register. These labs are charged with the proper handling, analysis, and reporting of the results of urine samples submitted for testing under the Federal Workplace Drug Testing Guidelines. Specimens are to be analyzed by a SAMHSA accredited laboratory and are considered a valid test by the U.S. Coast Guard.

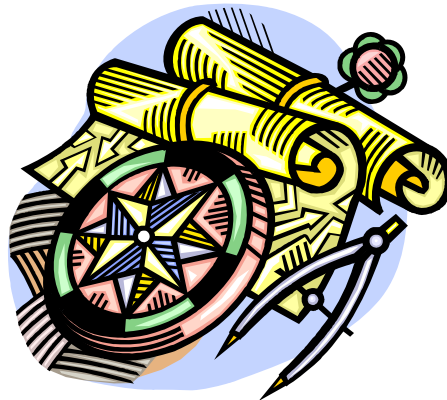
Marine Employer: A marine employer is anyone, including the self-employed, who will be one of more of the following:

- (a) Owner,
- (b) Managing operator,
- (c) Charterer,
- (d) Agent,
- (e) Master, or
- (f) A person in charge of a vessel, other than a recreational vessel (remember that a bass boat, when used for a *passenger for hire* situation, is no longer a recreational vessel, it is a commercial vessel).

Medical Review Officer (MRO): Is a licensed physician (MD or Doctor of Osteopathy (D.O.)) responsible for receiving laboratory results generated by an employer's drug testing program. The MRO has knowledge of substance abuse and the training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant bio-medical information. The MRO shall be qualified in accordance with 49 CFR Part 40 before performing MRO duties for DOT/USCG regulated companies.



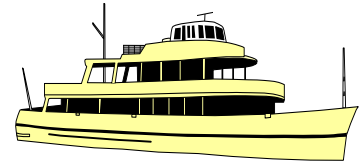
MIS Report: The Management Information System Report is required to be submitted to the Coast Guard every year. The form is an official Department of Transportation (DOT form) document and can be submitted to Coast Guard by mail or by submitting the required information via the Internet. This form is required to be filled out by the marine employer and sent to Coast Guard Headquarters by March 15th of each year. The form details the *marine employer's* drug testing activity for the preceding calendar year. *Consortiums and Third Party Administrators* may submit these on behalf of their clients. The *marine employer* must be able to show that this report has been submitted at the time of vessel inspection.



Operation: Means to:

- (a) Navigate
- (b) Steer
- (c) Direct
- (d) Manage, or
- (e) Sail a vessel, or to
- (f) Control, monitor, or maintain the vessel's main or auxiliary equipment or systems
- (g) Determine the vessel's position
- (h) Pilot
- (i) Direct the vessel along a desired trackline
- (j) Keep account of the vessel's progress through the water
- (k) Order or execute changes in course, rudder position or speed
- (l) Monitor a lookout
- (m) Control, operate, monitor, maintain, or test the vessel's
 - (1) Propulsion and steering systems
 - (2) Electric power generators
 - (3) Bilge, ballast fire and cargo pumps
 - (4) Deck machinery including winches, windlasses, and lifting equipment
 - (5) Life-saving equipment and appliances
 - (6) Firefighting systems and equipment
 - (7) Navigation and communication equipment
- (n) Moor, anchor, or handle lines
- (o) Load or discharge cargo or fuel
- (p) Assemble or disassemble tows
- (q) Maintain the vessel's stability and watertight integrity

Passenger for Hire: Means a passenger for whom consideration is contributed as a condition of carriage on the vessel whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.



Consideration means an economic benefit, inducement, right, or profit, including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.



Refusal or Refuses to Submit: Happens when a **crewmember** fails to provide a urine sample as required by 49 CFR Part 40, without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement to be tested in accordance with the provisions of this part, or engages in conduct that clearly obstructs the testing process, such as substitution, intentional dilution, or adulteration of a sample.

Return to Work Letter: This is a letter, issued by an **MRO**, that verifies that an individual, who had previously tested positive for drugs, is now considered “drug-free” and that the risk of subsequent drug use by the individual is sufficiently low enough to warrant the return to work of that individual in a “**safety sensitive position.**” Only the **MRO** has the authority to issue this type of letter. The **return to work letter** must be presented to the marine employer before allowing a mariner that had a non-negative test result, to return to work in a **safety sensitive position.**

Safety Sensitive Duties: Include but are not limited to;

- (a) Directing and mustering passengers in emergencies
- (b) Passing out lifejackets
- (c) Controlling and operating lifesaving equipment
- (d) Controlling and operating firefighting equipment

Safety Sensitive Position: Is any position (billet) aboard a vessel, that requires the person filling that position to perform one or more **safety sensitive duties** or **operation** of a vessel on either a routine or emergency only basis. **Examples** of this type of crewmember may include card dealers, bartenders, game operators and service personnel aboard excursion or gaming vessels. Any person filling a **safety sensitive position** is subject to U.S. Coast Guard drug and alcohol testing. All **crewmembers**, that are responsible for the safe handling of passengers, are considered to be filling **safety sensitive positions** as well.

Serious Marine Incident: Is any reportable marine casualty as defined in 46 CFR 4.03-1 and 46 CFR 4.05-1, involving a vessel in commercial service, which results in any of the following:

- (a) One or more fatalities.
- (b) An injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties.
- (c) Damage to property, as defined in 46 CFR 4.05-1, in excess of \$100,000
- (d) The actual or constructive total loss of any vessel subject to Coast Guard Inspection
- (e) The actual or constructive total loss of any self-propelled vessel, not subject to inspection by the Coast Guard, of 100 gross tons or more
- (f) A discharge of oil of 10,000 gallons or more, into a navigable waterway.
- (g) A release of a hazardous substance equal to or greater than its reportable quantity into the navigable waters of the United States, or into the environment of the United States, whether or not the release resulted from a marine casualty.

Directly Involved in a Serious Marine Incident: A marine employer is responsible for determining what personnel were directly involved in a **Serious Marine Incident**. This determination should be based on the operation being performed at the time of the accident, and what personnel could have or should have had a role in that operation. A guideline is to test any personnel whose negligence cannot be discounted as contributing to the serious marine incident. A law enforcement officer has the authority to further name personnel as being directly involved in a **Serious Marine Incident** and as such, direct them to submit to alcohol and drug testing.

Service Agent: Any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, Breath Alcohol Technicians (BATs), Screen Test Technicians (STTs), laboratories, MROs, substance abuse professionals, and C/TPAs. There are some service agents who must meet the qualification requirements set forth in applicable sections of 49 CFR Part 40 before providing services to regulated employers. Service agents are not employers for purposes of this part.

Sponsoring Organization: Is any company, consortium, corporation, association, union, or other organization with which individuals serving in the marine industry, or their employers, are associated.

SAP (Substance Abuse Professional): An individual who has met DOT qualification standards who will do an assessment/evaluation of an employee who has a drug test violation and will make recommendations concerning education, treatment, follow-up testing, and aftercare that will assist these personnel in returning to a DOT safety-sensitive position.



HOW TO IDENTIFY AND LOCATE QUALIFIED SERVICE AGENTS

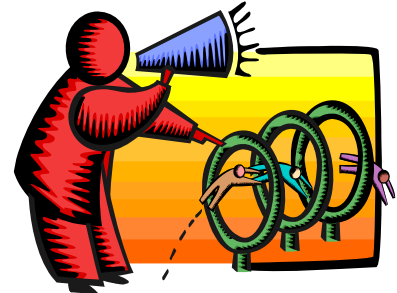


1) Service Agent General Notes:

All marine employers when planning to start or do a drug test program are, by necessity, required to do business with a service agent. A service agent is a business entity that will provide one or more drug testing service packages to aid employers with compliance. Two primary service agents are the SAMHSA accredited labs where the specimen are analyzed and the Medical Review Officers (MRO), who have to receive the drug test results from the lab, review the test results, conduct interviews as necessary and report the drug test results to an authorized receiving individual. A collection site, considered to be a service agent, is where the specimens are collected. If an individual tests positive or has a drug test violation, they are required to see a Substance Abuse Professional (SAP) who is also a service agent. Another service agent who can provide many or most of the above service is a Consortia/Third Party Administrator (C/TPA).

When you select a service agent, there are several considerations to look for. Some of the primary considerations are:

- a) What is the service provided?
- b) What is the quality of service?
- c) What is the level of service being provided?
- d) Where is the service provider located?
- e) What are the qualifications of the service provider?
- f) Do the qualifications meet identified regulatory requirements?
- g) Can they meet your needs or requirements?
- h) Is the fee for services being given reasonable?
- i) What is their reputation from other marine employers?

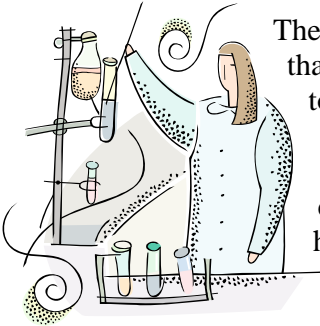


A common misconception is that the Coast Guard approves service agents that provide services to the regulated marine employers. **The Coast Guard does not approve service agents.** There are qualification processes for some of the required service agents and other performance measurement tools in place that can assist to select service agents that can meet your requirements.

Service agents are subject to oversight from the Coast Guard and other DOT Agencies. Some of these oversight duties can include inspections, audits, investigations and enforcement actions. These types of oversight duties can be done upon being informed of an incident or a complaint by a marine employer to the nearest Coast Guard District DAPI.

The Coast Guard will review programs upon specific request but will not approve nor endorse any particular program. If the Coast Guard determines that a program has met identified standards, a Letter of Regulatory Compliance (LORC) will be issued to the service agent. This LORC is not an approval letter but simply states that the program has been reviewed and has met regulatory standards.

2) SAMHSA Accredited Laboratories



The first service agent most employers are concerned with is the laboratory that will be conducting the testing. You as a marine employer are restricted to the laboratories that you can use. Any lab that you use has to be on the listing of accredited labs published by Substance Abuse and Mental Health Services Administrator once a month in the *Federal Register*. A current listing is available from your District DAPI or on the Internet at <http://workplace.samhsa.gov/home.asp>. The marine employer is responsible for contacting the lab and making arrangements for testing. As an alternative, the marine employer may contract for services with a lab through a Consortia/Third Party Administrator.

A laboratory that is on the SAMHSA accredited lab list has to meet and maintain certain standards to be on that list. It will be dependent upon the marine employer to make the final determination based on location, services offered, cost of services and other factors that may be important to the marine employer.

Labs, most often, will offer different price packages. The pricing packages are generally considered bundled pricing or unbundled pricing.

Bundled pricing means one price is offered for both positive and negative test results. A lab may charge additional fees for any additional testing to include testing that will determine the validity of a submitted specimen, or for other tests to determine if drug(s) are present or not present. Normally labs will recognize a 3-5% positive rate as a break-even point for the offer of bundled pricing.

Unbundled pricing is the separate pricing for negative tests and non-negative test. As a rule, the cost of a negative test will be lower than the bundled test rate. The pricing for a positive or non-negative test will be considerably higher than the bundled test price. Most labs as part of doing business just offer the bundled test pricing as the most cost-effective method of doing business.

3) Medical Review Officers (MRO)

The MRO is another entity required for the drug test program. The MRO is the recipient of the drug test results that are reported from the laboratory. The MRO being the recipient of the test results from the laboratory has many responsibilities, some of which are:

- a) Verifying that the test result is accurate;
- b) Ensuring that the test result is correct and not flawed because of chain-of-custody or any other administrative errors;
- c) Verifying that all positive drug test results are the result of illegal use of a controlled substance;
- d) Reviewing all test results that are substituted or are adulterated; and
- e) Conducting an interview of the specimen donor prior to reporting out any drug test result that is a non-negative test result.



As can be seen in the above, there is a great deal of responsibility for the MRO. It is extremely important for the marine employer to select the MRO who will be doing MRO services with care. The MRO is who will be reporting verified drug test results to the marine employer.

The requirement is for MROs to be qualified in accordance with 49 CFR part 40. Once a licensed physician or D.O. is DOT qualified, they are eligible to legitimately receive DOT drug tests from a SAMHSA accredited lab. There is a continuing education course requirement for the MRO to maintain DOT qualification.

Additionally, it is advisable to let the MRO who you select know that you are a marine employer and ask if he/she is aware of the Coast Guard Return-To-Duty requirements and the role that the MRO plays in returning a mariner who has a non-negative test result returning back to work. If the MRO is not familiar with these unique Coast Guard requirements, it could prove to be a problem in the future. On occasion, MROs are reluctant to have marine employers as clients because of the unique return to work requirements.

There are some resources to locating a Medical Review Officer for your company. The SAMHSA accredited laboratory will not recommend a MRO due to the appearance of a potential conflict of interest. Some sources of MROs are those associations that provide the MRO training and assist the MRO in meeting DOT qualification standards. These organizations do maintain lists on the Internet of qualified MROs. They are American Association of Medical Review Officers (AAMRO) and Medical Review Officers Certification Council (MROCC). The web addresses for both groups is www.aamro.com for AAMRO and www.mrocc.org for (MROCC). The MRO, upon request, is required to present the documentation showing that they have met the DOT qualification requirements.

MROs, like the labs, offer bundled pricing, which means that they offer one price for both positive and negative test results. Normally MROs will recognize a 5% positive rate as a break-even point for the offer of bundled pricing. Unbundled pricing is the separate pricing for negative tests and non-negative test. As a rule, the cost of a negative test will be lower than the bundled test rate. The pricing for a positive or non-negative test will be considerably higher than the bundled test price. Many MROs, as part of doing business, just offer the bundled test pricing as the most cost-effective method of doing business.

There are other factors to consider when selecting an MRO who will do the verification process. Some of the factors are:

- a) Their in-depth knowledge of the regulations that you operate under;
- b) Proximity of their location to your business if you are a small business;
- c) 800 telephone number capability;
- d) Length of time doing MRO work;
- e) Voice mail capability (for split specimen requests);
- f) Specimen turnaround time (Length of time to report specimen test results to you);
- g) What is the charge for their services; and
- h) Are there any extra or hidden costs associated with using a particular MRO service?

A very important factor is if they are also a specimen collection facility. If the facility is a joint collection and MRO site, a review needs to be done to ensure that they have separated the MRO functions from the specimen collection functions so that the same person is not doing both jobs. The regulations, 49 CFR part 40.353(b) and (c), do require that this be accomplished if a facility (i.e., medical clinic) is doing both functions.

4) Specimen Collection Facility



The selection of a specimen collection facility is equally important as selecting other service agents. It is this facility where your employees will come face-to-face with the testing requirements. It is, often times, where the most errors occur during the testing process. There is no other facility or service agent where the individual being tested will have the face-to-face contact with the drug test program. The MRO does not and often will not have any direct contact and along with the laboratory is absent and is often located in another area of the country. The Consortia is often located in yet a completely different geographic area and will have no direct interface with you or your employees. For these reasons, it is important a collection facility is used that has awareness of the importance of the entire process.

One of the primary things to look for is the qualification of the personnel who are doing the collections of the specimens. Before an individual can collect a specimen, it is required that they be trained in how to collect specimens and to take and pass an examination. Part of this examination is a practical where the individual being trained has to do 5 mock collections (two of them problem collections) before they are deemed qualified to DOT collections. These individuals should be prepared to present documentation that they have met these requirements and that they are current. Refresher training is required every five years.

There are obviously things to look for when reviewing facilities to do the collections. Among those items are:

- a) Cleanliness of the facility;
- b) Treatment of your employees by facility personnel;
- c) Facility personnel appearance;
- d) What is the responsiveness of the facility to your needs;
- e) Time facility is open for business;
- f) Facility hours of operation match or closely parallel your operational hours (think of serious marine incident testing);
- g) Facility personnel qualifications;
- h) Facility location to your company location;
- i) Facility parking accessibility;
- j) Copies of the Chain-of-Custody sent on a timely manner to all parties;
- k) If the MRO and collection facility are in the same physical location, are the personnel who are handling the collection of the specimens allowed to see or handle the test results; and
- l) Copy of current regulations readily available to staff.

The above list is not fully comprehensive but can serve as a guide. The marine employer, when selecting a facility, should see how comfortable they feel with the facility. It would also be advisable to do periodic visits to the facility to see how the facility appears and to judge their responsiveness. The marine employer should also encourage employees who experienced a problem with the facility to let them know about this problem or what happened, so that corrective action can be taken.

Appendix (d) is **DOT's 10 Steps to Collection Site Security and Integrity**. As an employer, you should be aware of these 10 steps as it will affect every one of your employees and potential employees. Use this as tool when making sure that the collection site you utilize meets these minimum standards.

Appendix (e) is an overview and checklist of a collection scenario and what should occur and not occur during the specimen collection process. It is suggested that this be used to acquaint your employees with the collection process so they are familiar with what is required to happen.

5) Substance Abuse Professional (SAP)



The SAP is the individual who will evaluate employees who have a drug test violation. The SAP will then make a determination of their eligibility to return to work. In addition, the SAP is required to prepare an aftercare program. In addition, the SAP can assist in managing an employee who has been identified with a substance abuse problem.

The employer is required to give to the employee who has a drug test violation the name and contact information for a SAP. The employer is not required to keep this employee employed but can take employment action consistent with what is stated in the policies and procedures for the employer.

The employer is required to remove this individual from all safety-sensitive positions and cannot return the individual until the requirements of 46 CFR part 16.201 (f), and 49 CFR part 40, subpart O (SAP recommendations) have been successfully completed.

It is important for the marine employer to identify a qualified Substance Abuse Professional (SAP). The SAP is the individual who will ascertain that personnel have complied with the return-to-duty program requirements and can recommend, upon request from the MRO, the individual is ready to be returned to a safety-sensitive position. There are two key regulatory requirements for SAPS and they are:

- a) DOT Qualified to do SAP functions as stated in 49 CFR part 40; and
- b) Have to be in local area as face-to-face interviews are required.



There are some Internet web sites that can assist in locating a qualified SAP in your area. Some of them are:

www.saplist.com
www.eapassn.org/public/providers

www.naadac.org
www.nbcc.org

There are, as for the other service providers, qualifications and other criteria that you will want the SAP who is selected to provide services, to have or to maintain. Much of the criteria used to select an MRO or a lab can be used to select an SAP. An additional and important qualification would be familiarity of the SAP to deal with the MRO on Coast Guard required Return to Work areas of concern.

6) Consortium/Third Party Administrator (C/TPA) Selection

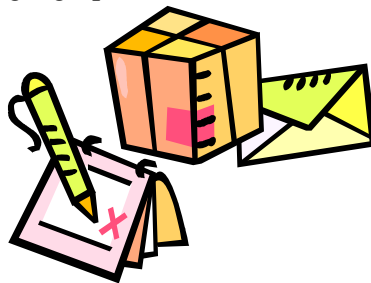
If you elect to use the services of a C/TPA, the selection of the C/TPA to assist in the management of your program is the most important selection. You will rely on this service agent to keep you in compliance with the drug and alcohol testing regulations.

The marine employer should have a certain degree of familiarity with the applicable regulations, even if the decision is made for a C/TPA to handle drug test program compliance. The marine employer then needs to identify the primary program elements and those elements that can be handled in house. The minimum that a marine employer needs to do is to appoint a Designated Employer Representative and establish a system of records that can be kept secure. The marine employer should also have some expectations of what is expected for minimal program compliance.

There are several ways to locate a consortium. One method is to review the Coast Guard web site: <http://homeport.uscg.mil/> Missions>Investigations>Drug and Alcohol Program. The Coast Guard maintains a list of consortiums that have been issued a Letter of Regulatory Compliance (LORC) or are in the LORC application process. Another way is to look in the yellow pages of your local phone book or do an Internet web search for drug testing services and see if there are any consortiums listed. Another method is to ask your fellow marine employers if they know of any or if there is a particular one that is providing services to the local marine employers.

The regulations are written so that you as the marine employer are responsible for being in compliance, not the C/TPA. This is why the proper identification and selection of a C/TPA is important. You have to be assured that the C/TPA will keep you in compliance at all times.

When selecting the C/TPA that will provide services, ensure that they can provide compliance services during all of your hours of operation. You are dependent upon them to provide services in all compliance areas, remote geographic locations, and in many instances, overseas locations.



7) Service Agent Contracts

It is extremely important that the marine employer have a written contract with all the service agents that they are dealing with or have established a business relationship with. The regulations do not require a written contract but practical business sense would indicate that something in writing be in place that defines the services being provided. It should include the how and where these services will be provided, the price for these different service levels, and what services that will be provided in order to keep the marine employer in compliance with the applicable regulations. If a contract dispute goes to court, a written contract that defines provided services is viewed in a better light than a verbal or handshake type of service contract.

When reviewing the offered contract, review all the services being offered to determine if they meet all of your needs and requirements. Any exceptions to meeting the requirements should be identified by either party prior to the signing of the contract. Many of the contracts offered to marine employers by C/TPAs state that they will keep the marine employer in compliance with applicable regulations and there will be no service exceptions noted. If something goes wrong and the marine employer is dependent upon the service agent to provide services and those services are not happening, the marine employer is still responsible for compliance and for any penalties that may be imposed by the regulating agency.



Getting Started



With a basic understanding of the terms commonly used in discussing drug and alcohol testing programs, a marine employer is ready to begin putting together a program. The next pages are dedicated to taking a marine employer, step-by-step, through the process of developing a policy and program, and then how to implement the program.

The entire program can be viewed as an equilateral triangle. The first side is the policy, either written or oral; the second side is the testing requirements; and the third side is the drug and alcohol education awareness program.

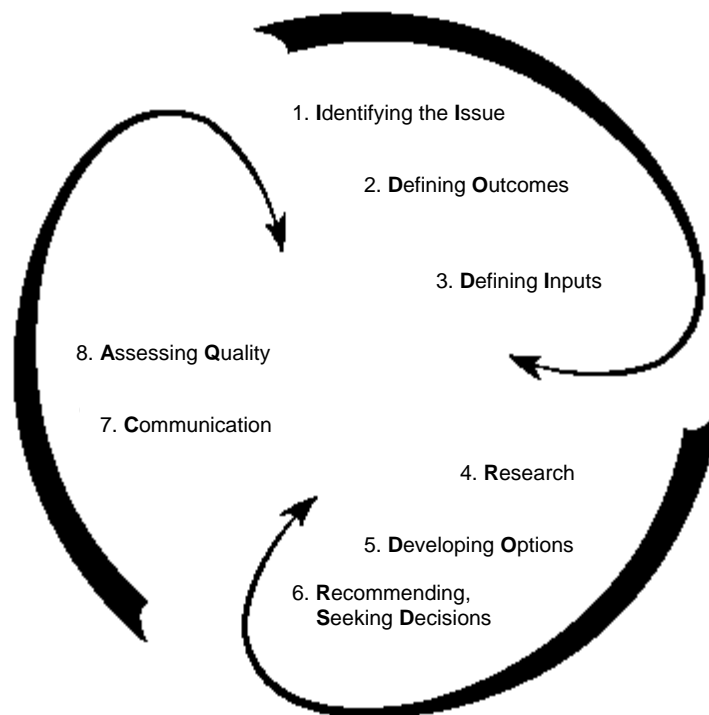
STEP ONE -- THE WRITTEN POLICY:

Each marine employer is required to have a written drug and alcohol testing policy. This policy details a company's position regarding their expectations of their crewmembers with regard to drug and alcohol testing and actions to be taken as a result of drug testing results. This policy is required to be distributed to crewmembers as stated in the EAP section of the regulations.

- 1) At a minimum, a policy should cover the following topics (See Enclosure 2 for sample drug and alcohol policy):
 - a) That all company personnel, full-time, part-time, year round, seasonal, or contracted, who meet the definition of a crewmember, are subject to U.S. Coast Guard Drug and Alcohol Testing, in accordance with 46 CFR Parts 4 and 16.
 - b) That any crewmember that has a positive drug test and/or drug test violation, will be immediately removed from their safety sensitive duties.
 - c) Dismissal policy. Nothing in the regulations requires the marine employer to terminate the employment of a crewmember that tests positive or refuses to test, only that they be removed from their safety sensitive duties. It is up to each individual employer to decide if a positive test or refusal will result in termination. If so, it needs to be stated in the company policy. It is recommended that phrases that are subjective or open to different interpretations be removed from the policy. At a minimum, all phrases that are subjective should be reviewed and restated in more objective terms so as to remove any doubt as to the meaning of the phrase.

- d) A referral to a SAP who is used by a marine employer for all drug test violations. The referral shall include the name and contact information for the SAP.
- e) Policy regarding alcohol use and possession and the consequences for being found aboard a commercial vessel with a blood alcohol concentration greater than or equal to, 0.040% BAC.

Shown below is a policy development flow chart that can assist in the development of your policy.



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- 2) Many marine employers incorporate their position regarding the possession of drug paraphernalia, illegal drugs, and use of prescription drugs or over the counter medications in their policy. Additionally, any other employment actions the company plans to take should be spelled out in the policy.
 - 3) It is recommended that each crewmember sign a statement stating they have read and understand the company’s drug and alcohol testing policy. This signed acknowledgement should remain on file for as long as the company employs the individual. In the event that the employee is terminated for a drug test reason, the signed acknowledgment should be retained for an indefinite period of time.

Note: It is highly recommended that marine employers have a written policy. The size of the marine employer has no bearing on the recommendation for a written policy.

STEP TWO -- THE PROGRAM:

After the marine employer's policy is established, the next step is to develop a program. It is suggested that the program be in writing. It can be compared to a spill response plan or operations plan. A written program is not a regurgitation of the regulations. Essentially, the program details how the marine employer will comply with the regulations.

An easy way to format a program is to briefly paraphrase each section of the regulation and directly after each summary, list the company's responsibility, the employee's responsibility, and any third party's responsibility as applicable.

1) Testing Program: To be effective, and meet the requirements of the regulations, a plan must specifically address the following areas:

- a) Designate a primary collection facility.
- i) This is the collection facility the marine employer will use for the majority of the drug test specimen collections. Obviously, other sites may need to be used, but the primary facility will likely be the one where all pre-employment testing will be conducted, as well as the bulk of random testing.
 - ii) The collection site shall have qualified collection personnel.
 - iii) The designation is the name, address and phone number of the collection facility.
 - iv) The personnel designated to perform collection services shall meet the qualification requirements stated in 49 CFR part 40.31

- b) Procedures for the collection of specimens. This information is available through the primary collection facility, as they are required to have written procedures available to their collectors. Simply ask for a copy. **Note:** If collections will occur aboard vessels, ensure collectors have procedures to follow for on scene collections as well. The security and privacy of the collection site must also be addressed.



c) Designate a DHHS/SAMHSA approved laboratory.



- i) In many cases, a C/TPA service agent is being used and has already selected a DHHS/SAMHSA lab to do business with. All the marine employer needs to do is put it down in writing. The marine employer shall ensure that the laboratory is listed by DHHS/SAMHSA as an accredited laboratory. If the laboratory is removed from the list of accredited laboratories by DHHS/SAMHSA, ensure that the laboratory has procedures to notify affected clients.
 - ii) If the marine employer is running their own program they need to identify the DHHS/SAMHSA lab that will be providing laboratory services along with the other service providers.
 - iii) The designation is the name, address and phone number of the laboratory.
- d) Designate an MRO.
- i) In most cases, a C/TPA service agent is being used to provide services and has already selected a qualified MRO to do business with. All the marine employer needs to do is put the name and contact information for the MRO in writing.

- ii) If the marine employer is running their own program, they need to identify the qualified MRO who will be providing MRO services.
 - iii) The designation is the name, address and phone number of the qualified MRO.
 - iv) The marine employer is to ensure that the medical review officer(s) meet the qualification requirements stated in 49 CFR Part 40.121.
- e) Detail the categories of testing crewmembers will be subject to. These include:
- i) Pre-employment (include exemptions)
 - ii) Random (state who will manage the selection process and how the random testing process will work.)
 - iii) Post-Accident (state the definition of Serious Marine Incident or “post-accident”)
 - iv) Reasonable Cause (state circumstances that create reasonable cause)
 - v) Periodic (address test requirements or exemptions for license/document renewals). This testing is usually done at the expense of the credential holder or a credential applicant. This should be stated in the written policy, if periodic testing is addressed in policy.
- f) List the five (5) drugs or drug classes that will be tested:
- i) Amphetamines
 - Methamphetamine
 - Amphetamine
 - ii) Cocaine
 - iii) Marijuana
 - iv) Opiates
 - Morphine
 - Codeine
 - Heroin
 - v) Phencyclidine

Cut off levels is a predetermined level at which a test will be determined to be positive or negative for the presence of drugs. The levels for DOT workplace programs have been designed to address passive exposure to the controlled substances being tested for.

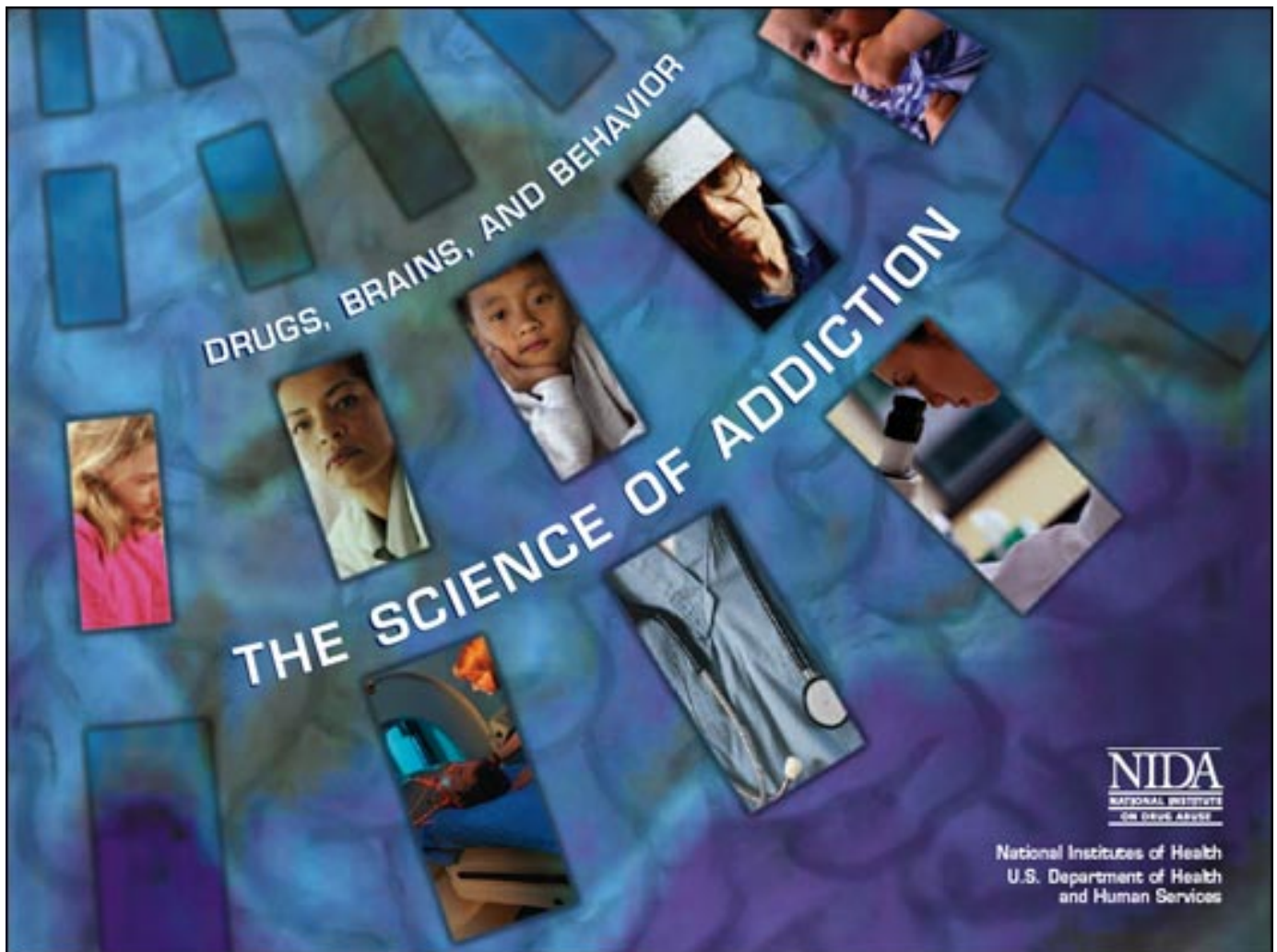


2) Educational Awareness/Assistance Program.

- a) Employee Assistance Program description. This section should describe exactly how crewmembers and supervisors will receive their training and education, and should detail the assistance numbers that must be posted in the workplace. EAP training shall be given as per regulatory requirement. It is highly recommended to document when this training has been conducted. That documentation must be provided to an auditor or USCG inspector upon request. Signed attendance rosters and certificates of completion are one way to document the training. Supervisory personnel **shall** have sixty minutes of documented EAP training. This training shall cover the following elements to include

effects and consequences of drug and alcohol use on personal health, safety, and work environment; the manifestations and behavioral cues that may indicate drug and alcohol use and abuse. The illegal use of controlled substances and or alcohol is NEVER ALLOWED.

- b) Designate a Substance Abuse Professional (SAP)
 - i) In most cases, a service agent is being used and has already selected a qualified SAP in the vicinity of the marine employer to do business with. All the marine employer needs to do is record that information in writing and give the SAP name and contact information to any employee who has a drug test violation.
 - ii) If the marine employer is running their own program, they need to identify the qualified SAP who will be providing SAP services.
 - iii) The designation is the name, address and phone number of the qualified SAP.
 - iv) The marine employer is to ensure that the Substance Abuse Professional meets the qualification requirements stated in 49 CFR Part 40.281.



- 3) **MIS reporting requirements.** Identify the individual in the company responsible for generating and filing the report, or, indicate that the report will be filed on the company's behalf by either a consortium or TPA. If self-reporting the MIS, there are reporting methods available through the Internet at this website: <http://damis.dot.gov>. You will need to obtain a username and password to file your MIS report online. Please follow the instructions at this web site to obtain a username and password for successful Internet submission of your drug test data.

Enclosure 3 is an example of the MIS report.

- 4) **Reporting requirements.** The Coast Guard requires marine employers to report all positive drug tests on mariners that hold a credential to the local or area Officer in Charge of Marine Inspection (OCMI), U.S. Coast Guard. It is also requested that marine employers report other drug test violations to the OCMI. Enclosure 4 is a sample form letter for marine employers to use to report non-negative drug tests to the U.S. Coast Guard. A copy of the custody and control form, as well as a copy of the MRO/lab report should accompany the letter to the appropriate Coast Guard Sector Office.



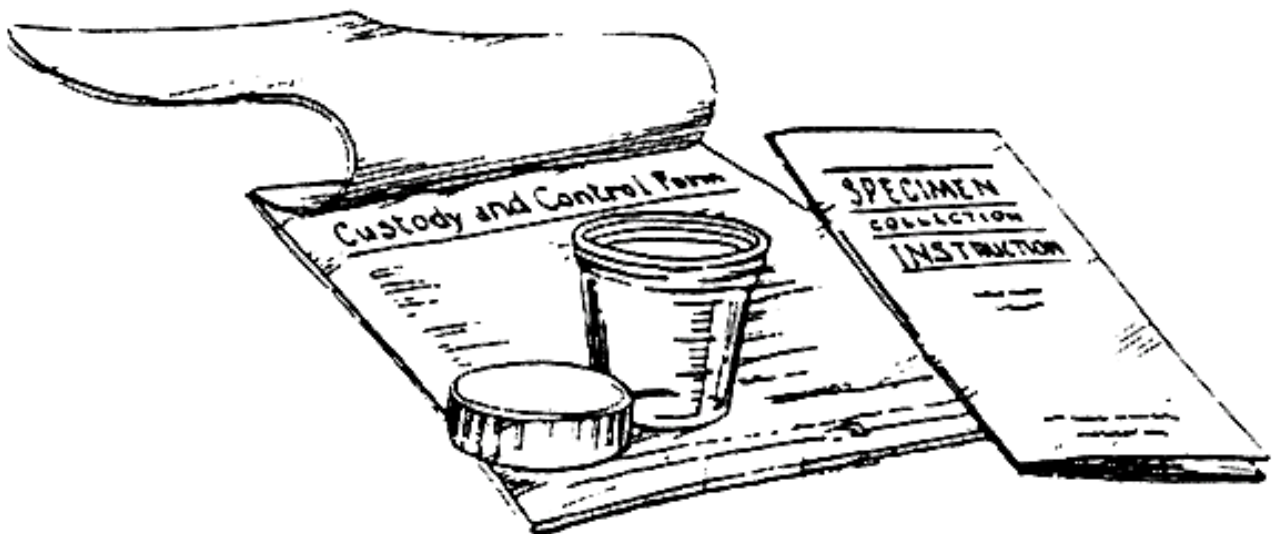
STEP 3 -- CONDUCTING THE PROGRAM:

The following section is a discussion of the practical, day-to-day execution of the marine employer's drug and alcohol testing program. This will begin with a new hire and follow this crewmember through the entire testing program. The specifics discussed in this section need to be written into the program. Refer to the FREQUENTLY ASKED QUESTIONS section of this booklet for practical answers to common problems associated with the administration of the drug and alcohol testing program.

- 1) **The Pre-employment Test:** Your company is about to hire a mariner to serve aboard one of your vessels, and that particular vessel is, by law, required to be operated by a credentialed mariner. The company needs to conduct a pre-employment test on this prospective employee. Before conducting the test, the new hire should read and acknowledge the company's drug and alcohol testing policy. **The company cannot put this person to work in a safety sensitive position until the results of the pre-employment test are received.** Obviously, a positive or a non-negative test result will prohibit your company from placing the individual in a safety sensitive position. {Reference 46 CFR 16.210(a)}

- a) **Pre-employment Exemptions:** There are two scenarios in which a marine employer may waive a pre-employment drug test. {Reference 46 CFR 16.210 (b)(1)(2)}.
 - i) The mariner has passed a DOT drug test within the previous six (6) months, and has had no positive tests within those 6 months. **-or-**
 - ii) The mariner has been subject to a random drug testing program in accordance with Coast Guard regulations for at least 60 of the preceding 185 days, did not have any positive test results, and did not refuse to take a required test.

Note: In each of these cases, the marine employer is required to obtain documentation that supports either of the exemptions. This documentation comes in the form of a letter from a previous marine employer or in the form of a negative drug test result that has been verified by a qualified MRO.



- b) **Record Keeping for Pre-Employment Tests:** A negative test result (mariner passed the test) needs to be kept on file and readily available for at least the first year of employment. After one year of employment has elapsed, the employer will need to document that the individual has been subject to random drug testing at a rate of 50% to remain eligible for placement in a safety-sensitive position. A DAPI conducting an audit will verify compliance with 46 CFR 16.210(a) by asking for proof that the marine employer did not **“engage or employ any individual to serve as a crewmember unless the individual passed a chemical test for dangerous drugs for that employer.”**
- i) Simply, on any given day, a DAPI should be able to pick any name from your company’s crew list, and be able to see a pre-employment drug test result or subject to random drug testing in accordance with 46 CFR part 16.230.
 - ii) The only exception is for those crewmembers still serving who were hired prior in 1989 or earlier, as this is when the drug testing regulations were established.
 - iii) Likewise, any documentation supporting an exemption to pre-employment drug testing must be retained for as long as the marine employer employs the crewmember.
 - iv) **POSITIVE** or **NON-NEGATIVE** test result(s) must be kept on file for five (5) years, whether or not the mariner was hired. If the mariner holds a license or merchant mariner document, the positive or non-negative test result must be reported to the nearest or area U.S. Coast Guard, Officer in Charge Marine Inspection (OCMI).



2) **The Pre-employment Background Check:**

As of August 1, 2001, employers are required to obtain drug and alcohol testing information on new hires that will be working in a safety sensitive position.

As a marine employer you must, **after obtaining an employee’s written consent**, request the information from all previous DOT employers, about the individual, before 30 days has passed from the date that they first started performing safety-sensitive duties. The date of request should be documented and kept on record for 3 years. **Each request should have the employee’s original signature.**

- a. The following information must be requested from DOT regulated employers who have employed the individual during any period during the two years before the date on the employee application or transfer:
 - i) DOT Alcohol tests with a result of 0.04 or higher (not available from marine employers).
 - ii) Verified positive drug tests.
 - iii) Refusals (including adulterated or substituted samples).
 - iv) Other violations of DOT drug and alcohol testing regulations.
 - v) If an individual has violated a DOT drug and alcohol regulation, documentation of the individual’s successful completion of the DOT return -to-duty requirements.

- vi) Drug and Alcohol information from previous employers.
- b) The results of alcohol tests, done in accordance with 33 CFR Part 95 and 46 CFR Part 4, may be released provided that a disclaimer is added that the alcohol tests were not DOT alcohol tests but that the tests were done in accordance with Coast Guard regulations.
 - j) If information of a DOT drug violation is obtained, the individual may not be employed in any safety sensitive position until the DOT return-to-duty requirements are met. {Reference 49 CFR 40.25}
 - ii) The release of information under this section must be in written form (e.g. fax, e-mail, or letter) that ensures confidentiality.
 - ii) You as a marine employer are obligated to respond to all requests from other DOT regulated employers. Before responding, you should make sure that the employee's signature is on the information request. You should respond as soon as possible and document the date of your response.
 - iii) If you do not receive a response within 30 days, from previous employers, of the individual being placed in a safety-sensitive position, you may continue to employ that individual in a safety-sensitive position.



3) Random Drug Testing: Now that we have in hand a negative test result or a pre-employment test exemption, for our newly hired mariner, we need to get that mariner enrolled in a random drug testing program that meets the requirements of 46 CFR 16.230. Any person serving aboard a commercial vessel that meets the definition of a crewmember or performs a safety sensitive function is required to be enrolled in a random drug test program. Excursion vessels or gaming vessels should ask the following question; “Is this person required to participate in drills as part of the vessel’s inspection process?” If the answer is yes, that person is subject to all of the provisions of 46 CFR 16 and must be included in your random program. (On smaller operations, i.e. 6-packs, generally all crewmembers are in safety sensitive positions).

EXAMPLE: On a dinner excursion boat, a bartender is required to muster passengers and pass out life jackets in case of fire. When the Coast Guard inspected the vessel, the bartender was required to perform this function. In this case, the bartender is performing a safety sensitive duty and is required to be drug tested.

a) **What is a Random Selection:** “The selection of crewmembers for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer based random number generator that is matched with crewmembers’ Social Security numbers, or other comparable identifying numbers.” The random selection methodology is an unbiased defensible method of doing random selections. It is recommended that a third party perform the random selection process with no bias in how personnel are selected to take a random test. {Reference: 46 CFR 16.230 (c)}

- i) This means there has to be some kind of an impartial selection process. The random selection method is required to be scientifically valid. This includes:
 - (1) Computer program for random selection (often used by human resource departments, TPAs and consortiums) or
 - (2) Random Number Table Generator to match employers SSN or Employer ID number.
- ii) **The drawing of names out of a hat or other similar drawing methods is not defensible.** If that type of random selection is being conducted, a finding of non-compliance will be made by Coast Guard inspectors with instructions to correct the deficiency.



- iii) In addition, “Each marine employer shall ensure that random drug tests conducted under this part are unannounced and that the dates for administering random tests are spread reasonably throughout the calendar year [or operating season].” {Reference 46 CFR 16.230 (h)}
 - (1) Simply put, if you have to do 12 random tests in a given year, they should not all be done on the same day.
 - (2) The idea is that crewmembers should have the feeling that on any given day, they could be called up to provide a specimen. This feeling will only happen when crewmembers see random testing being conducted throughout the year, with no patterns.
 - (3) The use of testing on a particular day, such as payday, the 15th or 1st of the month, or to a particular month, such as the 1st or last month of the each selection period, develops a pattern that mariners will pick up on and use to their advantage, if they are so inclined.

b) How to determine how many Random tests to conduct in a year: “The minimum annual percentage rate for random drug testing shall be 50 percent of covered crewmembers.” {Reference 46 CFR 16.230 (e)}

- 1. This means just what it says, the number of completed random drug tests shall be 50 percent of the companies or consortium’s total number of covered crewmembers.
- 2. Furthermore, “Under the testing frequency and selection process used, each covered crewmember shall have an equal chance of being tested each time selections are made and an employee’s chance of selection shall continue to exist throughout his or her employment.” {Reference 46 CFR 16.230 (c)}

3. This means that random testing is based on the total number of personnel employed as crewmembers, not the number of crewmembers needed to man the company's vessels.
4. It also means that all of the crewmember names go into the selection process, regardless if they have already been selected earlier in the year. That is why it is possible to have one person selected several times while another may not be selected at all.



EXAMPLE: *A marine employer owns 10 tugboats with each tugboat requiring 10 crewmembers. The marine employer employs 300 mariners to fill the 100 billets. Since “each covered crewmember shall have an equal chance of being tested each time selections are made AND an employee’s chance of selection shall continue to exist throughout his or her employment,” the marine employer is required to conduct 150 random tests for the calendar year.*

EXAMPLE: *A marine employer owns one offshore supply vessel and employs 40 crewmembers. The marine employer is required to conduct 20 random tests for the calendar year.*

EXAMPLE: *An operator of an uninspected passenger vessel, a fishing guide, is self-employed and is the only crewmember. The guide is required to be selected randomly once during the calendar year but can be selected during the calendar year on more than one occasion. In this case, selection of the individual owner/operator must be made by a disinterested third party, since the random test, as with all random tests, must be “unannounced.”*

A practice that sometimes occurs is the termination of a selected crewmember from the employee rolls to avoid having to give the test and then to reemploy this same crewmember within a short time later. This not considered good faith compliance of applicable regulations.

c) **Making the Random Selection:** Knowing how many tests need to be conducted in a year will help the marine employer decide how often to conduct tests. There are a few acceptable methods for making random selections in the following paragraphs:

i) **General Notes.**

- (1) The majority of the time drug testing notification(s) to the marine employer is generally made in writing. It then becomes the marine employer's responsibility to contact the employees. Employees, upon being notified, are required to take the random drug test immediately to meet the requirements of 46 CFR 16.220(h).

- (2) It is not specified in the regulations, but the following should be used as a general guiding policy: The marine employer must notify the employee of the random drug test requirement, ONLY after the employer is sure that the collection site is available and the employee schedule allows enough time for the specimen collection to take place. Once notified, the employee must report immediately. **No more than two to four hours should lapse from the time of employee notification to the time that the employer reports to have a specimen collected.**
 - ii) **TPA or Consortium.** The marine employer provides updated crewlists to the TPA or consortium, which in turn enters the names on the crewlist into their database.
 - (1) Based on customer needs, the TPA or consortium will generally use a computer to select a number of mariners for a random test.
 - (2) In the case of a consortium, it is important to remember that the crewmembers have been entered into a much larger pool that includes crewmembers from other companies. The consortium must then randomly test a minimum of 50 percent of the total number of crewmembers in the pool. This means that a marine employer may not see 50 percent of his or her own mariners tested in a given year. See Enclosure 5 as an example of a random drug test notice that may be issued by a C/TPA to a marine employer.
 - (3) The marine employer's compliance proof with the random testing requirements may be covered by having and presenting a valid contract with a C/TPA for the calendar year or the MIS report. Conversely, the marine employer could see more than 50 percent of their employees tested. A TPA on the other hand, generally manages the random process for the marine employer, ensuring that the employer will have tested 50 percent of the total number of crewmembers during the course of a year.
 - (4) If a C/TPA is providing the random selection, the C/TPA should (but is not required) do a letter to all clients that random drug test selections were done to meet the regulatory requirements. This letter can then be presented to Coast Guard inspecting officials upon request.
 - iii) **Selection by Vessel:** For many companies it may be easier to choose to test by vessel, rather than deal with 300 or more names. In this case the marine employer may select "one or more vessels and [test] all crewmembers covered by this section, provided that each vessel subject to the marine employer's test program remains equally subject to selection. {Reference 46 CFR 16.230}."
 - (1) **Self-Administered Selection by Name:** Nothing prohibits a marine employer from managing their own random process so long as all of the provisions of 46 CFR 16.230 are met, AND, **the person conducting the selection is not subject to testing.**
- 4) **Serious Marine Incident (SMI) or Post-Accident Drug and Alcohol Testing:** The maritime industry accepts a certain amount of risk in its operations, and from time to time, accidents happen. Once all of the emergent concerns have been addressed, the marine employers must ensure that timely drug and alcohol testing is conducted.

- a) ***When Testing is Required following an Accident:*** The U.S. Coast Guard requires drug and alcohol testing for those personnel directly involved in an SMI, {Reference: 46 CFR 16.240, 46 CFR 4.060}. An SMI is any reportable marine casualty {Reference: 46 CFR_4.03-2} that results, or, in the marine employer's estimation, **may result**, in any of the following:
- i) One or more fatalities
 - ii) An injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid, and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties
 - iii) Property damage in excess of \$100,000
 - iv) Actual or constructive total loss of any inspected vessel
 - v) Actual or constructive total loss of any self-propelled uninspected vessel of 100 gross tons or more.
 - vi) A discharge of oil into a navigable water excess of 10,000 gallons.
 - vii) A release of a Hazardous Substance greater than or equal to its reportable quantity into a navigable water, whether from a casualty or not.

Note: A marine employer may decide to require post accident testing for a less serious incident, however, the employer's definition of an accident, or specific accidents that mandate testing, should be spelled out in the drug and alcohol testing program. Marine employers should consult their legal staff and insurance carriers when developing this portion of the drug and alcohol test program.



If a marine employer elects to do testing in the event of an accident that does not rise to the level of a Coast Guard mandated SMI or marine casualty, the marine employer is not eligible to use a Federal CCF for the drug test, but can do a non-DOT drug test.

- b) **How to Conduct Serious Marine Incident Testing:** Federal law requires **alcohol** testing to be conducted within two (2) hours of a Serious Marine Incident, once emergent concerns have been addressed. {Reference Section 304 Coast Guard

Authorization Act of 1998, 46 USC 2303(a)}. If there are safety concerns to be addressed, then up to 8 hours is allowed for the alcohol test to be completed. No testing is required after 8 hours has elapsed from the time of the SMI.

- i) The regulation requires that all alcohol tests be conducted within two hours of the incident and that drug tests be collected within 32 hours of the incident. Failure to comply with the two hour alcohol testing requirement may lead to further action.
- ii) To meet this mandate, it is recommended that marine employers identify, in writing, as part of their program, under the heading of post accident testing, resources available to them, 24-hours a day, 7 days a week, 365 days a year, in the areas their vessels operate. These resources should include how and where tests for drugs and alcohol are to be performed. This may require the carriage of alcohol testing devices or screening devices on board the vessel and personnel that are trained on how to correctly use these same devices.
- iii) This section of the written program needs to include the name of the qualified DOT drug test collector to be called or used, the physical location of the collection site, and the telephone number. If there are multiple areas of vessel operation, a listing for each operational area should be identified.
- iv) The testing in a post accident environment is generally conducted at the site, conditions permitting. It may also be necessary to conduct testing at a hospital. It is the marine employer's responsibility to see that the drug and alcohol tests are conducted in accordance with federal law and regulations.
- v) Again, only a DOT 5-panel test of a mariner's urine specimen is acceptable. A blood test for drugs is unacceptable. All drug tests are required to meet the requirements stated in 49 CFR Part 40 for collectors, laboratory and MRO services.
- vi) For alcohol, the testing device that will be used is required to be listed on the current Conforming Products List (CPL) periodically published by the National Highway Traffic Safety Administration (NHTSA). Acceptable specimens are: breath, saliva, or blood. **All blood alcohol tests are to be collected by trained medical personnel.** A urine test for alcohol is not acceptable.



- vii) The Serious Marine Incident (SMI) (post accident) required drug tests, need not be done within two (2) hours. Rather, the drug test must be conducted as soon as practicable but not more than 32 hours after the accident. If the drug tests cannot be collected within 32 hours due to safety concerns, they should be collected as soon as possible thereafter. {Reference 46 CFR 4.06-5 and 4.06-15}.

NOTE: Marine employers may want to consider soliciting the assistance of local drug test service agents to assist in the timely compliance with these regulations and to ensure a timely alcohol test is conducted. Sometimes assistance can come from local law enforcement agencies or from local Coast Guard units if equipped with breath alcohol testing equipment **and if they are available**. A marine employer should **not** rely on a local law enforcement agency or the Coast Guard to perform their required tests for them in a timely manner.

In most circumstances, all parties concerned will usually find it beneficial to conduct the tests one after the other, circumstances permitting.

Marine employers are required to make a report of all tests done in accordance with 46 CFR 4.06 to the local Coast Guard Officer in Charge of Marine Inspections on form CG-2692b (Enclosure 6). The CG-2692b is required to be turned into the OCMI at least five days following the SMI {Reference: 46 CFR 4.05-10}. If the drug and alcohol test results are not completed, those results may be turned in immediately upon receiving the test results. This is in addition to the report of a marine casualty on form CG-2692.

- 5) **Reasonable Cause Drug Testing:** Any crewmember engaged or employed aboard a U.S. vessel, required to be operated by a person holding a license or merchant mariner document, and is reasonably suspected of using a dangerous drug, must be chemically tested for dangerous drugs. {Reference 46 CFR 16.250(a)}. Likewise a crewmember suspected of being intoxicated or under the influence of alcohol, shall be subjected to a breath or blood test for blood alcohol concentration. An individual is under the influence of alcohol or a dangerous drug when:
 - a) The individual is operating a vessel other than a recreational vessel and has an alcohol concentration of .04 percent by weight or more in their blood; or,
 - b) The individual is operating any vessel and the effect of the intoxicant(s) consumed by the individual on the person's manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation. {Reference: 33 CFR 95.03}}.

NOTE: No one can be forced to submit to a reasonable cause test. Any refusal should be thoroughly documented and reported to the Coast Guard as appropriate. If any crewmember is suspected of being under the influence of a dangerous drug or alcohol the marine employer will remove the crewmember from all safety sensitive positions. The company consequences should be clearly defined in the company drug and alcohol policy.

- c) **Making a Reasonable Cause Determination:** "The marine employer's decision to test must be based on a reasonable and articulable belief that the individual has used a dangerous drug based on direct observation of specific, contemporaneous physical,

behavioral, or performance indicators of probable use. Where practicable, this belief should be based on the observation of the individual by two persons in supervisory positions.” {Reference: 46 CFR 16.250(b)}.

- i) The practical application of this rule is the “judge test.” If you as the marine employer or supervisor would feel confident in your ability to tell a judge exactly what physical, behavioral, emotional, or job performance cues indicated to you that a mariner needed to be drug or alcohol tested for reasonable cause, you probably have reasonable cause probability to conduct the test. It is highly recommended that all observations, employee discussions, etc., be documented.



- ii) On the other hand, if that decision was based on the thought, “Well, I’ve seen plenty of drunks and drug addicts on TV, and he looked like one,” you may have a problem making a valid determination.
 - iii) The best training available to the mariner (masters and licensed operators in charge of vessels are supervisors) and the supervisors of licensed operators, is the information provided through the Employee Assistance Program (EAP) training, which will be discussed in greater detail later. In short, this training lays the foundation for a person to recognize the physical and behavioral manifestations of substance abuse or alcohol use.
 - iv) When the marine employer requires testing of an individual under the provisions of this section, the individual must be informed of that fact and directed to provide a urine specimen as soon as practicable. This fact shall be entered in the vessel’s official logbook, if one is required. (See 46 USC 11502 for proper logbook entries). {Reference 46 CFR 16.250 (c)}
- c) **Expanding the Reasonable Cause Definition:** Many marine employers expand the definition of a reasonable cause drug test to include a number of situations. Examples include, “being reasonably suspected of possessing drugs or alcohol aboard a company vessel”, “being reasonably suspected of dealing drugs aboard a company vessel”, “being suspected of having been involved in an accident on company time” and many others.

- i) Marine employers are strongly advised to seek the counsel of their legal staff and insurance carriers in the development of reasonable cause test limits. Of course, at a minimum, the company drug and alcohol program shall state that reasonable cause testing will be conducted in accordance with 46 CFR 16.250.
 - ii) Should the marine employer decide to broaden the definition, the expanded definition must be clearly spelled out in the program as well.
- 6) **Periodic Drug Testing:** This category of drug testing centers is focused on the requirements of the National Maritime Center (NMC) for the issuance of licenses and merchant mariner documents. The marine employer is not responsible for the cost of these tests. The marine employer may be asked by a crewmember to provide the NMC with documentation that would support an exemption to testing for the mariner. For more information and guidance, the CG-719P DOT/USCG Periodic Drug Testing Form (Enclosure 7) or can be downloaded at <http://www.uscg.mil/nmc/>. {Reference 46 CFR 16.220}

REMEMBER: The marine employer's written drug and alcohol program must address the specific processes, methods, and resources the marine employer intends to use to comply with the provisions set forth in the regulations. The written program tells how the company will comply with the regulations. The program should avoid legal jargon and be written in such a manner (plain English) that any supervisor and employees can understand it.

- 7) **Record Keeping:** A marine employer's proof that they are complying with the regulations is in the form of paper records. In other words, a company has done all of the required testing, is now being audited by the Coast Guard and needs to provide records showing compliance. An example of what Coast Guard vessel inspectors will look for is given in Enclosure 8.
- a) To show that a marine employer has done the tests as required, the company must be able to produce the following documentation:
 - i) A custody and control form, signed by the MRO, indicating the test is either positive or negative **or**,
 - ii) A lab report (which may have been faxed) that has been signed by the MRO indicating that the test is either positive or negative.
 - iii) In most cases, the marine employer receives COPY 4 of the custody and control form, which does not bear the MRO's signature. This is then followed up with the MRO report or lab report signed by the MRO. These two documents should be filed together.
 - iv) The signature of the MRO is the only indicator that the test is either a verified positive (non-negative) or negative. MRO assistants or MRO staff personnel are not permitted to sign or affix their name for negative drug tests. As such the marine employer is required to maintain the records so that they "shall be sufficient to satisfy the requirements of 46 CFR 16.210(b)."



- b) These two records (Federal Custody and Control Form and MRO/lab report) are the only documents that serve as proof that drug testing has been conducted in accordance with federal regulations. From these records an auditor can tell:
- i) If the proper custody and control forms were used
 - ii) If only DOT 5-panel tests were conducted
 - iii) If the test dates (random) were spread reasonably throughout the year
 - iv) If pre-employment tests were received by the employer prior to placing a person in a safety-sensitive position
 - v) If a DHHS/SAMHSA lab was used to analyze the specimen
 - vi) The name and contact information for the MRO
 - vii) The various account numbers for DHHS/SAMHSA lab and MRO
 - viii) Time the test was received at the MRO from the laboratory
 - ix) The time the test result was transmitted to the marine employer
 - x) The verified test results as reported by the MRO
 - xi) If the records support the information provided on the MIS report.

With the information that is provided on the two reports or forms, a drug test can be tracked from the date and time of collection to the final report by the marine employer.

In addition, the marine employer is required to maintain records that “identify the total number of individuals chemically tested annually for dangerous drugs in each of the categories of testing required by this part including the annual number of individuals failing chemical tests and the number and types of drugs for which individuals tested positive.” The MIS report will satisfy this requirement for record keeping. {Reference 46 CFR 16.260(b)(2)}

How Long to Keep Records: All non-negative test results which include positive drug tests must be kept for a minimum of five (5) years. This includes non-negative pre-employment drug tests for mariners the marine employer did not hire as a result of the failed test. Negative drug tests must be kept on file for a minimum of one year. Please refer to 49 CFR Part 40, Subpart P and the originating source of each record.



Note: It is not necessary to keep negative pre-employment test results for as long as the marine employer employs the crewman. After the first year has passed of being employed in a safety-sensitive position, the way to show individual employee compliance is to document the random testing program and which employees have been subject to random testing.

8) **Employee Assistance Programs:** This is the section of the drug and alcohol test program that causes marine employers the most problems. The majority of the problems with compliance documentation arise when an audit or compliance check is performed. Often, the employer is dependent upon the C/TPA for providing compliance service and does not know how to ask for the proper compliance services or documentation that this service had been provided.

- a) **Program Intent:** The intent of an EAP is to provide mariners with avenues for getting assistance, should they decide that they have a substance abuse problem or alcohol abuse problem, the mariners will have guidance on where to go to seek counseling and assistance.

It is up to each marine employer to decide if they want to pay for any rehab or counseling. This is another consideration that should be spelled out in the policy or program.

- b) **Program Requirements:** There are essentially two parts to the EAP, education and training.

i) **EAP Education Program:** “Each EAP education program must include at least the following elements.

- (1) Display and distribution of informational material
- (2) Display and distribution of a community service hot-line telephone number for crewmember assistance
- (3) Display of the employer’s policy regarding drug and alcohol use in the workplace.” {Reference 46 CFR 16.401(a)}



Simply stated, the marine employer must post their policy and hotline numbers in the workplace. Good locations include the galley, bridge, bulletin boards, or by time clocks. The material should be posted where the majority of the crew will routinely see it. Many employers find it easy to place the assistance hot-line numbers on the same page as their policy.

Note: The Coast Guard does not provide educational materials or sponsor any hotline numbers. Hot-line numbers can be found in the yellow pages and materials are available through various commercial sources and may be available from TPAs, consortiums, MROs, or a national hotline number for substance abuse assistance located at http://www.samhsa.gov/treatment/treatment_public_p.aspx.

- ii) **EAP training program:** An EAP training program must be conducted for the employer's crewmembers and supervisory personnel. The training program must include at least the following elements:
- (1) The effects and consequences of drug and alcohol use on personal health; personal safety; and work environment
 - (2) The manifestations and behavioral cues that may indicate drug and alcohol use and abuse.
 - (3) Documentation of training given to crewmembers and the employer's supervisory personnel.
 - (4) Supervisory personnel must receive at least 60 minutes of training.

- 9) **Management Information System (MIS):** Marine employers are required to submit to Coast Guard Headquarters, an MIS report by March 15th of each year, which documents that employer's drug testing activities for the preceding calendar year. Enclosure 3 is an example of the MIS Drug Test Reporting form.

NOTE: Alcohol tests are not required to be submitted on this MIS report as they are reported to Coast Guard on a different report form or letter. They are required to be reported at the time of the test event.

EXAMPLE: Company XYZ conducted 300 random, 500 pre-employment, 16 post-accident, and 0 reasonable cause tests during calendar year 2006. This information, along with the numbers of negative and positive results, and the types of drugs detected, will be entered on the DOT Form (MIS report) by the marine employer and the report will be mailed to the Coast Guard not later than March 15, 2010.

- a) **Exception to the reporting requirement:** Those marine employers with 10 or fewer crewmembers are only required to file the MIS report for three consecutive years (post 1996). If 2003 is the first year such a marine employer is filing a report (to cover calendar year 2002), then the marine employer would have to file again in 2004, and again in 2005. After 2005, the marine employer is not required to file again. If a marine employer has more than 10 covered employees in a safety-sensitive defined position during the year, the marine employer is required to submit a report.

The marine employer with less than 10 employees, is still required to keep track of the information, in accordance with 46 CFR 16.260(2), but would not need to complete the MIS report.



b) **How are the MIS reports submitted to Coast Guard?**

There are two methods for submitting the required reports to Coast Guard. The first method is send the report in by U.S. Postal Service or to use an overnight or expedited delivery service for getting the information to the Coast Guard at the following address:

Commandant (CG-545) (Rm 2404)
U.S. Coast Guard Headquarters
2100 Second Avenue, SW
Washington, DC 20593-0001

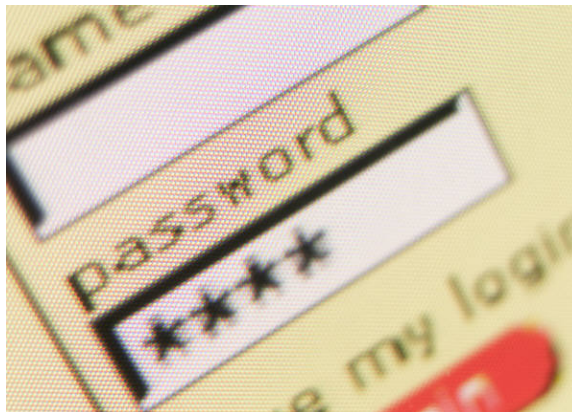
The other preferred method of submitting the MIS report is via the Internet. A username and user password issued by the Coast Guard is required for this method. The step by step procedure is:

- i) Go to web address site: <http://homeport.uscg.mil>
 1. Look for Investigations on the left hand side and click.
 2. Scroll until you see Drug and Alcohol Program and click on that link.
 3. Scroll until you see the link titled "Using the Department of Transportation Reporting Website" and click on that link.
- ii) Follow the instructions to generate an email. Be sure to include the required information (Name of company; Last name of requester, phone number of requester, and email address of requester.)
- iii) Once the requested information is completed and the email sent, you have initiated a request for a username and password to the Coast Guard via email.
- iv) When your email is received a user name and password will be generated and sent to you for your use in filing the MIS report.
- v) Upon receipt of your username and user password via email, you are ready to begin the process of submitting your data electronically.



IMPORTANT NOTES:

1. You will need a new username and password for each year. Usernames and Passwords for previous years cannot be used.
2. If you have previously submitted the MIS report electronically, your email address is on file and we will automatically send you a new username and password. This will occur during the first two weeks of January of each year.
3. If you change your email address, it is requested that you inform us so records may be updated.



- vi) Go to <http://damis.dot.gov>. Once at that site you will need to enter your username and user password where indicated. After that point, follow the instructions for entering the data. Review the data that you have entered for completeness and correctness. There will be several prompts as data is entered into the MIS database.
- vii) Be sure to have your vessel identification numbers (VIN) for each vessel you own or operate that you are submitting a report for. The VIN will be the Coast Guard issued document number or the state registration number of the state where the vessel operates.
- viii) Upon completion of data entry, you can print out a copy of the report for your own records and as evidence that you have complied with the MIS submission requirements. A copy of the report can also be emailed to you as an attachment in PDF file format.

- 10) **Return-To Duty Process:** When a marine employer has had a positive drug test or a drug test violation, the mariner, if wanting to return to work in a maritime environment, has to fulfill certain requirements. These requirements are identified in 46 CFR part 16.201 and 49 CFR part 40. The return to work process is not part of any proceeding where the mariner is required to complete requirements to have a Coast Guard issued credential returned.



It should be noted that all Return-To-Duty and Follow-up drug tests are to be collected using Direct Observation procedures as required in 49 CFR 40. Direct observation requires that the collector watch the specimen physically leave the body and go into a specimen collection container.

For more information or for a more detailed discussion, please see Frequently Asked Questions (FAQs).

- a) What happens when one of my crewmembers tests positive? (Page 41)
- b) Return to Work Process after testing positive or with a drug test violation? (Page 41)
- c) One of my crewmembers tested positive, but he got some counseling and took another test and came up negative. Can I put him back to work on my boats? (Page 42)

FREQUENTLY ASKED QUESTIONS

Do I need a chemical-testing program?

A prevailing question that smaller commercial operators (employing only one or two employees) often ask is “Do the chemical testing regulations apply to me?” The answer is a big “Yes”. The chemical testing regulations apply to most commercial vessel operations regardless of the number of employees and regardless of whether the vessel is inspected or uninspected. This includes “guide services” and self-employed mariners.

Do “independent contractors” or part time crewmembers need to be part of a marine employer’s chemical testing program?

Again, the answer is “yes”. If an individual meets the definition of a crewmember, as described in 46CFR16.105, they must be part of the chemical-testing program, regardless of how short the time period they work on board the vessel.

With bareboat charters, who is responsible for ensuring a drug-testing program is in place for that chartered vessel (the hired captain, vessel owner, people who chartered the vessel, etc.)?

The marine employer is responsible. This can be played out in several ways depending on the arrangements/contracts and should probably be looked at on a case-by-case basis. Any one of the people listed above can play the part of the marine employer. That person must have a chemical-testing program in place. See Enclosures 1 and 7 for assistance.

I change mates so frequently; do I have to obtain a pre-employment test for each mate?

The pre-employment test may be waived if one of the conditions under 46CFR16.210 is met, otherwise you must conduct a pre-employment test for each new-hire, and, must obtain the results of the test prior to engaging or employing the mariner aboard your vessel.

What are the penalties for violating these regulations?

The following enforcement actions may be taken for noncompliance with the Coast Guard chemical testing regulations:

1. Certificate of Inspection (COI) may be removed or not issued.
2. Civil Penalty for first time violators may be assessed of up to \$5,500.00 per violation, per day.
3. Suspension and Revocation (S & R) proceedings may be initiated against an individual’s license, MMD, or COR.
4. Captain of the Port (COTP) order may be issued (prohibiting the operation of the vessels involved until compliance is gained).
5. Letter of Warning.
6. CG-835 (deficiency ticket) may be issued.

What about the marine employer who runs a “not-for-profit” or charity operation and the crewmember who is a “volunteer”?

In these two cases the financial or payment status is not an issue. The requirements for chemical testing still apply.

Are individuals changing positions or ships within a company’s fleet considered “new hires” and need a pre-employment test?

No.

Are Breathalyzer devices required onboard?

No, what is required is the ability to test for alcohol following a Serious Marine Incident (SMI) within two hours of the SMI. Breath, saliva or blood may be used as a specimen source to test for the presence of alcohol.

What happens when one of my crewmembers tests positive or has a non-negative test result?

Several things will need to be done by the marine employer. First and foremost, the crewmember must be removed from the safety sensitive position. The crewmember may not return to work in that, or any other safety sensitive position, until:

- 1) Obtains a “return to work” letter from the MRO; and
- 2) Completes the requirements of 49 CFR part 40, Subpart O.

Next, the marine employer is required to provide the crewmember with the name and contact information for the SAP provider so that the crewmember can seek assistance.

If the crewmember is the holder of a Coast Guard issued license or merchant mariner’s document, then the marine employer is required to report the positive test to the U.S. Coast Guard. (Failure to report positive or non-negative test results may result in a civil penalty against the marine employer.)

Non-credentialed mariners are removed from safety sensitive positions and cannot return to work until they obtain a return to work letter from the MRO and have completed the requirements of 49 CFR part 40, subpart O.

Return to Work Process after testing positive or with a drug test violation?

Once the Coast Guard receives the report, an Investigating Officer will be assigned to investigate the drug test. This investigation will verify the validity of the test.

If the investigation confirms that the positive or non-negative test result is valid and the mariner is the holder of a Coast Guard issued credential, the Investigating Officer will serve a complaint against the mariner and initiate a Suspension and Revocation case or enter into a settlement agreement.

After being served with a complaint for Use of a Dangerous Drug, the mariner has two basic choices:

- a) Contest the Complaint. If the mariner contests the allegations made in the complaint, an Administrative Law Judge at a formal Suspension and Revocation Hearing will hear the case. If the Coast Guard proves its case at the hearing, the Administrative Law Judge will likely revoke the mariner's document.
- b) Enter into a Settlement Agreement. If the mariner does not wish to contest the allegations made in the complaint, the mariner must turn in his credential to the assigned Coast Guard Investigator and the case can be settled through a Settlement Agreement. For Use of a Dangerous Drug, the standard Settlement Agreement has the following sanctions and conditions:
 - i) Revocation of the credential, revocation is suspended if the terms of the Settlement Agreement are completed in a timely manner, 12 months suspension after completion of:
 - ii) A bona-fide rehab program
 - iii) 12 months of aftercare, consisting of documented attendance of support meetings like AA/NA (at least two meetings per month), not less than 12 unannounced random drug tests in 12 months (all must be negative), and obtain a return to work letter from the MRO.

It takes most mariners 12-18 months to complete this process. The mariner's credential is suspended during those 12-18 months. The credential is reinstated once all of the requirements of the agreement are met. Failure to complete the agreement in the specified time will result in revocation of the credential.

One of my crewmembers tested positive or had a non-negative test result, but he got some counseling and took another test and came up negative. Can I put him back to work on my boats?

A mariner who tests positive or has a non-negative test cannot return to work in a safety sensitive position until he or she has obtained a return to work letter from the MRO and completes the requirements of 49 CFR Part 40, Subpart O, regardless of any other treatment, counseling, or subsequent drug tests. A marine employer that knowingly returns a mariner to duty without the MRO return to work letter and fulfilling the requirements of the Substance Abuse Professional (SAP) is subject to a civil penalty of up to \$5,500.

What is an "adulterated" specimen?

An adulterated specimen is a urine specimen, submitted for USCG/DOT drug testing, that has been found by a DHHS/SAMHSA laboratory, to have substances in the specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine. The laboratory report of adulterated will be verified by the MRO before being reported to the employer

Can a diluted specimen report be recollected as a direct observation collection?

No, If a report of dilute negative is received by the marine employer from the MRO and the creatinine of the specimen is **5.1 mg/dl or greater**, the policy of the employer should state how this will be treated. The policy may state that all negative dilute tests are to be recollected or that requirement may not be in place and all negative dilute tests will be accepted for employment purposes. This is a decision of the marine employer. The type of policy that is adopted by the employer has to be applied in a non-discriminatory manner.

Yes, if the MRO reports a negative dilute and the creatinine is between ≥ 2.0 and ≤ 5.0 mg/dl, the directions of the MRO are to be followed immediately with a specimen collected using observed collection techniques.

What will the Coast Guard do about a mariner who refuses a test?

A refusal is handled in the same fashion as a positive or a non-negative test result. That does not mean a refusal is a positive, it simply means that the Coast Guard will seek the same sanctions against a licensed or documented mariner who refuses a test, as that for a licensed or documented mariner who fails a drug test. The Coast Guard would initiate Suspension and Revocation proceedings against the mariner, seeking the revocation of the license or document.

Refusing to take a test can be an MRO verified report of adulteration or substituted; failure to report to the collection facility on time; non-cooperation with the specimen collection; or when directed to give another specimen under observed conditions, refusing and leaving the collection facility.

All personnel that refuse to test are to be immediately removed from safety-sensitive positions.

What will the Coast Guard do about a substituted or adulterated specimen?

The act of adulterating or substituting urine specimens submitted for drug test is by definition, a refusal to test. The Coast Guard, upon investigation, will most likely institute Suspension and Revocation proceedings against a licensed or documented mariner who adulterates or substitutes their specimen, seeking revocation of their license or document. Marine employers must report substituted or adulterated specimen incidents to the USCG if a licensed or documented mariner is involved.

I am a self-employed fishing guide. Can I conduct my own random selection process?

No. A person subject to testing cannot conduct the random selection and still meet the definition of “unannounced” as it pertains to random tests. This does not mean that you need to join a consortium, it does however mean that you need to find a disinterested third party to conduct the random selection process. This can be done through the services of a Third Party Administrator (TPA), such as a collection site manager, or by any other person that has no vested interest in the outcome of your test and can ensure that the random selection process is scientifically based.

I belong to a consortium and noticed that only 10% of my crewmembers were selected for random tests this year. Am I subject to a civil penalty for not testing 50% of my crewmembers?

No. By being a member of a consortium, you are meeting your obligations for random testing. Your crewmembers are “pooled” together with crewmembers from many other marine employers. The consortium, if they state that they are providing services in compliance with the DOT and USCG regulations, is responsible to the marine employer that it will test that “pool” of crewmembers at 50% random testing rate annually. This 50% is completed tests and does not count personnel that have been selected for a random test but have not been completed. You must however, upon demand, provide a copy of the MIS report submitted for your company, or, a letter from the consortium stating that the consortium on behalf of your company filed the MIS report.

Can I and/or my crewmembers stay on my random drug test program after the season is over to avoid the pre-employment drug test costs next season?

Yes, but you and your crewmembers are subject to sanctions and enforcement action including removal of a Coast Guard issued credential if you do not comply with the regulations. You must ensure that the consortia/TPA notifications are received and complied with as if you were in operation. This means that if you are notified of a random selection for you or one of crewmembers, that test requirement must be complied with, even if you or your crewmember is physically located elsewhere. This means that you will have to keep your C/TPA that manages your program informed of where you will be and your crewmembers keep you informed of their whereabouts. If your seasonal employee in the off season and you do not have control of your crewmember’s schedule (i.e., they are in college in another state or traveling around the country) then you cannot have them on the random selection list.

Can the same crewmember be randomly tested more than once in a calendar year, and if so, will that count towards the 50%?

Yes, if your selection process is in fact random. Each crewmember must have an equal chance of being selected each time a random selection for testing is conducted. Since the selection is random, it is reasonable to expect some people to be selected more than once, while others may not be selected at all during a given year. If you employ 100 crewmembers, you must select 50 crewmembers on a random basis for testing. You do not have to select 50 different people but you only have to ensure you randomly select 50 individuals.

Is the Consortium (C/TPA) or the Marine Employer responsible for ensuring 50% random test compliance?

The marine employer is ultimately responsible for ensuring compliance with the chemical testing program. The marine employer if contracting out for compliance services to a C/TPA, should be able to ensure that all procedures are being followed.

Is there mandatory contract language between a marine employer and a service agent?

Yes, there is. All contracts, agreements, or other contractual documents for services should state that all services are being provided in accordance with 49 CFR part 40 and 46 CFR part 16. The agreements, contracts, etc., can be verbal or written documents. The smart marine employer will have all contractual documentation (agreements, etc) between the employer and service agent(s) in writing.

This is necessary in the event of non-compliance on the part of the service agent, there is documentation for the services that are being provided and to what level services are being provided. If a contractual dispute ends up in a courtroom, it is always a good practice to have important documents in writing.

Does the Coast Guard require pre-employment and random alcohol tests?

There is no requirement for pre-employment or random alcohol tests. Alcohol testing is only conducted following an SMI performed in accordance with 46 CFR Part 4.06 or as a reasonable cause test in accordance with 33 CFR Part 95.

There is one exception to this and that applies to ferry boat operators who receive grant money from the Federal Transit Administration (FTA). These operators are required to conduct random breath alcohol testing to be in compliance with the FTA regulations.

Can I base the 50% random selection rate on the number of billets I'm trying to fill on my vessels?

No. The rate of random testing applies to the total number of crewmembers employed by a marine employer. Since every crewmember (not just the ones working on any given day) must be subject to random testing each time a random selection is made, the 50% must be based on the total number of crewmembers.

My company's positive test rate has been below 1% for the last 3 years. Can we reduce the rate at which we randomly test our crewmembers?

No. 46 CFR 16.230(f) clearly states that the random testing rate can only be lowered by the Commandant of the Coast Guard, and that the rate may only be lowered when the industry-wide positive test rate falls below 1% for two consecutive years.

What is the difference between a collection facility and a lab?

A collection facility is the location where the marine employer sends his or her personnel to provide urine samples for drug testing. A lab is a place to which the collection facility ships the specimen for testing and analysis.

Are the chemical test regulations applicable only to inspected vessels?

No. The USCG chemical test regulations are applicable to commercial vessel crewmembers working on both inspected and uninspected vessels that are required to be operated by credentialed personnel.

What are the responsibilities of a master, who is not the owner of the vessel or marine employer regarding the chemical testing regulations?

The master may be held accountable if the company policy designates the master with responsibilities regarding the marine employer's chemical testing program. The master could be charged with misconduct for violating company policy. Therefore, you as the master should confirm that your marine employer knows about the chemical testing regulations.

Are volunteers considered crewmembers and therefore subjected to the chemical testing regulations?

Yes, if the volunteer meets the definition of "crewmember." The payment status of a paid employee or serving as a volunteer does not change the requirement for chemical testing.

For which drugs are urine specimens being tested?

Marijuana, Cocaine, Opiates, Amphetamines, and Phencyclidine (PCP), are the five drugs tested for in a 5-panel DOT test.

Can urine samples be tested for alcohol following a Serious Marine Incident?

No. The only acceptable SMI tests for alcohol are saliva, breath or blood.

Does the Coast Guard accept hair testing for drugs?

No. The only drug test accepted by the Coast Guard for compliance with 46 CFR Part 16 is a 5-panel urine DOT test, collected and analyzed in accordance with the procedures established in 49 CFR 40.

What is the legal Blood Alcohol Concentration for crewmembers aboard commercial vessels?

A mariner is presumed to be under the influence if his or her BAC is greater than or equal to 0.040% and they are operating a vessel. The reference is 33 CFR Part 95.

Can I count post-accident/Serious Marine Incident drug tests towards my 50% random test rate?

No. While accidents are a random occurrence, post accident tests are to be counted only as post accident/SMI tests and not as randoms.

I operate a seasonal business. My crewmembers are college students that I hire at the start of the season and employ for about 5 months. Are these crewmembers required to be chemically tested?

Yes. First, each crewmember will have to be pre-employment tested unless they meet criteria for an exemption under 46 CFR 210. Secondly, these crewmembers must be subject to random testing during the season. You as the marine employer are then responsible for ensuring that 50% of all the deckhands you hire are randomly tested. Additionally, you as the marine employer must make sure those tests are spread reasonably throughout the operating season.

Am I, as a marine employer responsible for the cost of any split specimen analysis?

Yes, the employer is responsible for all up front costs involved in having a split specimen analyzed upon request of the employee, whether the individual is a current employee, discharged employee or an individual who was never hired. This does not prohibit the marine employer from recovering the cost of this analysis from the individual's wage, etc., after the analysis has been completed.



If you have more questions, please use one of the resources given in Enclosure 1.

ASSISTANCE

The Coast Guard has representatives in each Coast Guard District that can assist the marine employer with compliance or audit issues.

If a technical, legal, or unique problem arises, consult the regulations, the nearest Coast Guard Marine Sector Office or contact the nearest Drug and Alcohol Program Inspector (DAPI):

| | |
|------------------------------------|-------------------|
| District 1 - Sector Providence, RI | (401) 435-2383 |
| District 5 - Norfolk, VA | (757) 398-6682 |
| District 7 - Miami, FL | (305) 415-6866 |
| District 8 - New Orleans | (504) 671-2152 |
| District 11 - Alameda, CA | (510) 437-6624 |
| District 13 - Sector Portland, OR | (503) 240-9312 or |
| District 13 - Seattle, WA | (206) 217-6252 |
| District 14 - Sector Honolulu, HI | (808) 522-8264 |
| District 17 - Sector Anchorage | (907) 271-6714 |

Or contact the Program Manager

Coast Guard Headquarters (Washington, DC) (202) 372-1033/1029

NOTE: The listed phone numbers are current with this publication. Some of the numbers may change. If you have problems reaching your District DAPI, please contact the Program Manager. The email address for the Program Manager is Robert.C.Schoening@uscg.mil.

WHERE TO GET INFORMATION ABOUT

SUBSTANCE ABUSE

National Clearinghouse for Alcohol and Drug Information
PO Box 2345
11426-28 Rockville Pike
Rockville, MD 20847-2345

1-800-729-6686 or (301) 468-2600

You can obtain a free catalog, containing thousands of drug prevention products, by calling the toll-free number.

THE DRUG TESTING REGULATIONS

There are several sources available to obtain the regulations.

Website: www.access.gpo.gov/nara/cfr/cfr-retrieve.html

Order charged to credit card: (202) 512-1800 or Order by fax: (202) 512-2250

Order by mail:

**Superintendent of Documents
Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954**

Purchases paid by check or money order made payable to **Government Printing Office**.

Ordering information:

46 CFR, Parts 4 and 16 (volume contains parts 1 through 40)

Order Document No. 869-034-00171-8 Cost: \$26.00 each

49 CFR, Part 40 (volume contains parts 1 through 99)

Order Document No. 869-034-00192-1 Cost: \$31.00 each

Internet Download: <http://www.gpoaccess.gov/ecfr>

US Coast Guard Drug and Alcohol Program Internet Home Page:

<http://www.uscg.mil/hq/g-m/moa/dapip.htm>

US Department of Transportation - Office of Drug and Alcohol Policy and Compliance:

<http://www.dot.gov/ost/dapc>

WHERE TO GET INFORMATION ABOUT...

COMMUNITY SERVICE HOTLINE NUMBERS

Your local telephone directory or a national hotline number available at 1-800-662-HELP

Or the Internet at

<http://findtreatment.samhsa.gov/facilitylocator/doc.htm>

COLLECTION PROCEDURES

A guidebook for drug test specimen collection is available at the Secretary of Transportation's Drug Office at (202) 366-3784 or on the Internet at

<http://www.dot.gov/ost/dapc>

CERTIFIED LABORATORIES

At the beginning of each month, the list of DHHS certified laboratories is published in the Federal Register.

The current laboratory list may be obtained at: <http://workplace.samhsa.gov> or at <http://www.dot.gov/ost/dapc>.

MIS FORM

A copy of the current MIS form provided in this guidebook or at.

Website: <http://homeport.uscg.mil> or <http://www.dot.gov/ost/dapc>

The form and its instructions may also be obtained at any Marine Sector Office.

Letter of Regulatory Compliance for Consortiums and Third Party Administrators The Coast Guard will issue a Letter Of Regulatory Compliance (LORC) to companies or Consortium/Third Party Administrators (C/TPA) who have submitted their programs for review. The programs will be reviewed and if the program has been determined to meet the basic requirements of the chemical testing regulations, an LORC will be issued. Additional information and submitting standards are available at <http://homeport.uscg.mil>

WHERE TO GET INFORMATION ABOUT...

Letter of Regulatory Compliance for Consortiums and Third Party Administrators The Coast Guard will issue a Letter Of Regulatory Compliance (LORC) to companies or Consortium/Third Party Administrators (C/TPA) who have submitted their programs for review. The programs will be reviewed and if the program has been determined to meet the basic requirements of the chemical testing regulations, an LORC will be issued. Additional information and submitting standards are available at <http://homeport.uscg.mil>

The LORC replaces the former Letter of Substantial Compliance (LOSC), which has no validity or standing. See the letter at <http://Homeport.uscg.mil> canceling all LOSCs effective March 22, 2002. For further information, please contact USCG Drug and Alcohol Program Manager to obtain an updated list of LORC holders or for information on how to apply for an LORC. Contact information is Robert.C.Schoening@uscg.mil and phone 202-372-1033/1029.

SAMPLE

DRUG AND ALCOHOL POLICY

GENERAL:

The purpose of this policy is to ensure public safety and to maintain a safe, and productive work environment for all employees by preventing accidents or other dangerous incidents that may result from drug or alcohol use. This policy pertains to all employees of the company who have cause to be on company vessel(s) and other company owned or leased properties.

POLICY STATEMENT:

The possession, use, or sale of alcohol on company premises during work hours is strictly prohibited. Further, the possession, use or sale of illegal drugs is prohibited at any time.

Employees are prohibited from reporting to work under the influence of alcohol or detectable levels of controlled substances..

An employee who is taking a prescription drug is required to present to the company a statement from the prescribing physician that the prescription drug will not impair the employee's work performance.

The company will require drug testing of applicants for employment in safety-sensitive positions. Any applicant who refuses to submit to the test will no longer be considered eligible for employment.

The company will require drug testing of employees who hold safety-sensitive positions. Any employee who refuses to submit to the test will no longer be considered eligible for employment.

Drug testing shall be conducted in accordance with DOT/USCG rules and regulations. Specifically, individuals will be tested for the presence of controlled substances (marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP) and alcohol) and will be subject to pre-employment, reasonable cause, periodic, random, and post accident drug testing. Such individuals must **TEST NEGATIVE** for the presence of controlled substances.

In the interest of the safety and health of its employees, the company reserves the right to inspect and search, at random, unannounced times, all packages, boxes, clothing, or any personal belongings carried on or off company property.

SAMPLE

DRUG AND ALCOHOL POLICY

DISCIPLINE:

Employees found to be in violation of this policy either directly possessing or using alcohol or drugs, as described above, or through a verified positive drug test or by court conviction, will be subject to immediate discharge from employment.

Any employee who fails to cooperate with the requirements set forth in this policy, including refusal to test, failure to provide a specimen within a reasonable time, failure to report for a scheduled appointment to provide a specimen, adulteration of a specimen, will be subject to disciplinary action that may include immediate termination of employment.

ADMINISTRATIVE:

The company strictly prohibits the use, possession, sale of illegal drugs, drug paraphernalia or unsanctioned use of alcohol aboard company vessel(s) or property. The company will cooperate fully with public authorities in the prosecution of anyone in violation of said prohibition.

Information concerning drug and/or alcohol test results, or violations of this policy will be treated as confidential information. Such information will be released only to management representatives who have a need to know. This information will also be provided to the Coast Guard or other federal and state agencies where required by law or regulation.

Test results or documentation showing the employee has been subject to random drug testing shall be provided to that employee or to their designated representative, upon written request by the employee.

ALCOHOL AND DRUG POLICY ACKNOWLEDGMENT

I, _____, acknowledge that I have read the company alcohol/drug policy, and that I fully understand that violation of this policy will be grounds for immediate termination of my employment.

Signature _____ Date _____

U.S. DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM
 Calendar Year Covered by this Report: _____

OMB No. 2105-0529

I. Employer:

Company Name: _____
 Doing Business As (DBA) Name (if applicable): _____
 Address: _____ E-mail: _____
 Name of Certifying Official: _____ Signature: _____
 Telephone: (____) _____ Date Certified: _____
 Prepared by (if different): _____ Telephone: (____) _____
 C/TPA Name and Telephone (if applicable): _____ (____)

Check the DOT agency for which you are reporting MIS data; and complete the information on that same line as appropriate:

___ FMCSA – Motor Carrier: DOT #: _____ Owner-operator: (circle one) YES or NO Exempt (Circle One) YES or NO
 ___ FAA – Aviation: Certificate # (if applicable): _____ Plan / Registration # (if applicable): _____
 ___ RSPA – Pipeline: (Check) Gas Gathering ___ Gas Transmission ___ Gas Distribution ___ Transport Hazardous Liquids ___ Transport Carbon Dioxide ___
 ___ FRA – Railroad: Total Number of observed/documentated Part 219 “Rule G” Observations for covered employees: _____
 ___ USCG – Maritime: Vessel ID # (USCG- or State-Issued): _____ (If more than one vessel, list separately.)
 ___ FTA – Transit

II. Covered Employees: (A) Enter Total Number Safety-Sensitive Employees In All Employee Categories:

| |
|--|
| |
|--|

(B) Enter Total Number of Employee Categories:

| |
|--|
| |
|--|

(C)

| Employee Category | Total Number of Employees in this Category |
|-------------------|--|
| | |

If you have multiple employee categories, complete Sections I and II (A) & (B). Take that filled-in form and make one copy for each employee category and complete Sections II (C), III, and IV for each separate employee category.

III. Drug Testing Data:

| Type of Test | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Refusal Results | | | | Cancelled Results |
|------------------------|--|---------------------------|---|------------------------|----------------------|------------------|----------------------|---------------------------|-----------------|-------------|---|-------------------------------------|-------------------|
| | Total Number Of Test Results [Should equal the sum of Columns 2, 3, 9, 10, 11, and 12] | Verified Negative Results | Verified Positive Results ~ For One Or More Drugs | Positive For Marijuana | Positive For Cocaine | Positive For PCP | Positive For Opiates | Positive For Amphetamines | Adulterated | Substituted | “Shy Bladder” ~ With No Medical Explanation | Other Refusals To Submit To Testing | |
| Pre-Employment | | | | | | | | | | | | | |
| Random | | | | | | | | | | | | | |
| Post-Accident | | | | | | | | | | | | | |
| Reasonable Susp./Cause | | | | | | | | | | | | | |
| Return-to-Duty | | | | | | | | | | | | | |
| Follow-Up | | | | | | | | | | | | | |
| TOTAL | | | | | | | | | | | | | |

IV. Alcohol Testing Data:

| Type of Test | 1 | 2 | 3 | 4 | 5 | 6 | Refusal Results | | |
|------------------------|---|---|--|--------------------------------------|--|---|--|-------------------------------------|-------------------|
| | Total Number Of Screening Test Results [Should equal the sum of Columns 2, 3, 7, and 8] | Screening Tests With Results Below 0.02 | Screening Tests With Results 0.02 Or Greater | Number Of Confirmation Tests Results | Confirmation Tests With Results 0.02 Through 0.039 | Confirmation Tests With Results 0.04 Or Greater | “Shy Lung” ~ With No Medical Explanation | Other Refusals To Submit To Testing | Cancelled Results |
| Pre-Employment | | | | | | | | | |
| Random | | | | | | | | | |
| Post-Accident | | | | | | | | | |
| Reasonable Susp./Cause | | | | | | | | | |
| Return-to-Duty | | | | | | | | | |
| Follow-Up | | | | | | | | | |
| TOTAL | | | | | | | | | |

SAMPLE REPORT TO COAST GUARD

(Fill in areas that are in ALL CAPS and **Bolded**)

COMPANY LETTERHEAD

DATE

Commanding Officer
Marine Sector Office XXXX
ATTN: Senior Investigating Officer
PO BOX XXXXX
CITY, ST 12345-6789

To : Senior Investigating Officer:

Pursuant to provisions of 46 CFR, Parts 4, 5, and 16, **COMPANY NAME**, hereby notifies you that **MARINER's NAME AND SOCIAL SECURITY NUMBER or EMPLOYEE ID** tested (**Give non-negative test result**) for a **REASON FOR TEST** chemical test administered on **DATE OF TEST** and in accordance with the standard set forth in 49 CFR40.

LABORATORY NAME:
LABORATORY ADDRESS:
IDENTIFICATION (CCF) NUMBER:

MEDICAL REVIEW OFFICER (MRO):
MRO ADDRESS:
MRO QUALIFYING ORGANIZATION
MRO REGISTRATION NUMBER:

If there are question about this report, please telephone or contact me at _____.

Sincerely,

SIGNATURE
NAME OF DESIGNATED REPRESENTATIVE or
AUTHORIZED AGENT (C/TPA)
TITLE

Enclosure: (1) USCG Merchant Marine License/Document (COPY) (if available)
(2) Drug testing Custody and control Form
(3) Lab report and/or MRO report

Enclosure 4

Consortia Name and Address

Random Drug Test Notice

Date: Should be date of selection

Company Name: Name of Marine Employer

This is a notice that the following person has been selected for a random drug test.

This individual is required to take a drug test immediately upon being notified of the requirement to take a random drug test. Failure to comply will result in a report to the US Coast Guard Sector Office. Please keep this notification for your records.

If this individual is no longer employed, please notify the C/TPA immediately. If the selected individual is unable to take the test, i.e., Sick, vacation, on a multi-day voyage, etc., please let the C/TPA know right away via FAX, telephone, email, postal mail service, etc.

NAME

Employer Identification Number

Date and Time employee notified: _____

Reason test not done in a timely manner:

_____ No longer employed Date Terminated: _____

_____ Vacation (To be tested upon return)*

_____ Sick (To be tested upon return)*

_____ Other (List Reason): _____

* When vacation or sick period exceeds 125 days, employee is automatically considered terminated and must take a pre-employment drug test before returning to work.

Enclosure 5

| | | | |
|---|---|---|--|
| U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-2692B (04-06) | REPORT OF REQUIRED CHEMICAL DRUG AND ALCOHOL TESTING FOLLOWING A SERIOUS MARINE INCIDENT <i>(See Instructions on reverse)</i> | APPROVED OMB NO. 1625-0001 Expiration Date: 08/31/2008 USCG MISLE ACTIVITY NUMBER | |
| SECTION I—VESSEL INFORMATION | | | |
| 1. Name of vessel | 2. Official Number | 3. Call Sign | 4. Nationality |
| 5. Vessel Type (<i>Freight, Towing, Fishing, MODU, etc.</i>) | 6. Length | 7. Gross Tons | 8. Year Built |
| 9. Operating Company Name: Address: Telephone Number: | | 10. Master or Person in Charge Name: Address: Telephone Number: | |
| SECTION II—INCIDENT INFORMATION | | | |
| 11. Type of Serious Marine Incident (<i>Check Appropriate Box(es). (See Instructions on Reverse)</i>) | | | |
| <input type="checkbox"/> a. Death (<i>Append to Form CG-2692</i>) <input type="checkbox"/> b. Injury requiring medical treatment (<i>Append to Form CG-2692</i>) <input type="checkbox"/> c. Property damage in excess of \$100,000 (<i>Append to Form CG-2692</i>) <input type="checkbox"/> d. Loss of inspected vessel (<i>Append to Form CG-2692</i>) | | <input type="checkbox"/> e. Loss of uninspected, self-propelled vessel of over 100 gross tons (<i>Append to Form CG-2692</i>) <input type="checkbox"/> f. Discharge of oil of 10,000 gallons or more into U.S. waters <input type="checkbox"/> g. Discharge of a reportable quantity of hazardous substance into U.S. waters <input type="checkbox"/> h. Release of a reportable quantity of hazardous substance into U.S. environment | |
| 12. Date of Incident | 13. Time (<i>local</i>) of Incident | 14. Location of Incident (<i>Latitude and Longitude or River and Milepost</i>) | |
| SECTION III—PERSONNEL / TESTING INFORMATION | | | |
| 15. Personnel Directly Involved In Serious Marine Incident | | 16. Drug and Alcohol Testing (<i>See Instructions on reverse</i>) | |
| 15a. Name (<i>Last, First, Middle Initial</i>) | 15b. Licensing/Certification (<i>Check Appropriate Box(es)</i>) USCG USCG License MMD Neither | 16a. Drug Test Urine Specimen provided within 32 hours? YES NO | 16b. Alcohol Test Specimen provided within 2 hours? YES NO |
| | | | Alcohol Test Specimen Source |
| | | | Saliva Blood Breath |
| | | | Alcohol Test Results |
| | | | |
| | | | |
| | | | |
| | | | |
| 17. SAMHSA Accredited Laboratory Conducting Chemical Drug Tests Name: Address: Telephone Number: | | 18. Laboratory conducting blood alcohol test(s) or individual conducting saliva or breath alcohol test(s) Name: Address: Telephone Number: | |
| 19. Person Making This Report (<i>Please Print</i>) Name: Address: Telephone Number: | | 20. Signature Title: | 21. Date |
| 22. Remarks (<i>See Instructions on Reverse</i>) | | | |

SN 7530-01-GF3-2380

Reset

**INSTRUCTIONS FOR COMPLETION OF FORM CG-2692B
REPORT OF REQUIRED CHEMICAL DRUG AND ALCOHOL TESTING
FOLLOWING A SERIOUS MARINE INCIDENT**

NOTE: When this form is being submitted along with a REPORT OF MARINE ACCIDENT, INJURY OR DEATH (Form CG-2692), Blocks 3-10 and Blocks 12-14 on Form CG-2692B need not be completed.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The Coast Guard estimates that the average burden for this report is .5 hours. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-PCA-1), U.S. Coast Guard, 2100 2nd St, SW, Washington D.C. 20593-0001 or Office of Management and Budget, Paperwork Reduction Project (1625-0001), Washington, DC 20503.

WHEN TO USE THIS FORM

1. This form satisfies the requirements in the Code of Federal Regulations for written reports of chemical drug and alcohol testing of individuals directly involved in serious marine incidents. Alcohol tests are to be conducted not later than 2 hours (unless there are casualty directly related safety concerns) and drug test specimens collected not later than 32 hours after a Serious Marine Incident. Public vessels and recreational vessels are excepted from these reporting requirements.

SERIOUS MARINE INCIDENTS

2. The term "serious marine incident" includes the following events involving a vessel in commercial service:

- A. Any marine casualty or accident that occurs upon the navigable waters of the U.S., its territories or possessions, or that involves a U.S. vessel anywhere, and that results in any of the following:
 - 1. One or more deaths;
 - 2. Any injury to a crewmember, passenger, or other person which requires professional medical treatment beyond first aid; and, in the case of a person employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties;
 - 3. Damage to property, as defined in 46 CFR 4.05-1(f), in excess of \$100,000;
 - 4. Actual or constructive total loss of any vessel subject to inspection under 46 U.S.C. 3301; or
 - 5. Actual or constructive total loss of any self-propelled vessel, not subject to inspection under 46 U.S.C. 3301, of 100 gross tons or more.
- B. A discharge of oil of 10,000 gallons or more into the navigable waters of the United States, as defined in 33 U.S.C. 1321, whether or not resulting from a marine casualty.
- C. A discharge of a reportable quantity of a hazardous substance into the navigable waters of the United States, whether or not resulting from a marine casualty.
- D. A release of a reportable quantity of a hazardous substance into the environment of the United States, whether or not resulting from a marine casualty.

INDIVIDUAL DIRECTLY INVOLVED IN A SERIOUS MARINE INCIDENT

3. Term "individual directly involved in a serious marine incident" is an individual whose order, action or failure to act is determined to be, or cannot be ruled out as, a causative factor in the events leading to or causing a serious marine incident.

COMPLETION OF THIS FORM

4. This form should be filled out as completely and accurately as possible. Please type or print clearly. Fill in all blanks that apply to the kind of incident that has occurred. If a question is not applicable, the abbreviation "NA" should be entered in that space. If an answer is unknown and cannot be obtained, the abbreviation "UNK" should be entered in that space. If "NONE" is the correct response, then enter it in that space.

5. When this form has been completed, deliver or mail it as soon as practicable to the Coast Guard Marine Safety or Marine Inspection Office nearest to the location of the incident or, if at sea, nearest to the port of first arrival.

6. Upon receipt of a report of chemical test results, the marine employer shall submit a copy of the test results for each person listed in block 15(a) of this form to the Coast Guard Officer in Charge, Marine Inspection where the CG-2692B was submitted. (Ref. 46 CFR 4.06-60(d)).

7. Amplifying information for completing the form:

- A. Block 11—"TYPE OF SERIOUS MARINE INCIDENT" Check each appropriate box. If box a, b, c, d, or e is checked, or append this form to the required form CG-2692, "REPORT OF MARINE ACCIDENT, INJURY OR DEATH", and submit both forms as indicated in 5. above.
- B. Block 16c—"ALCOHOL TEST BREATH SPECIMEN PROVIDED?" When breath test results are available alcohol concentration shall be expressed numerically in percent by weight (i.e., .04, .10 etc...).
- C. Block 22—"REMARKS" Describe the duties of each individual listed in 15a, at the time of incident (i.e., master, pilot, chief engineer...). If an individual refuses to provide the required specimens, if specimens are not timely obtained, or not obtained, describe the circumstances completely.

NOTICE: The information collected on this form is routinely available for public inspection. It is needed by the Coast Guard to carry out its responsibility to investigate marine casualties, to identify hazardous conditions or situations and to conduct statistical analysis. The information is used to determine whether new or revised safety initiatives are necessary for the protection of life or property in the marine environment.

22. REMARKS (Continued)

Reset

INSTRUCTIONS: This form MAY be used to satisfy the requirements for "Periodic Drug Testing" in accordance with Title 46 CFR 16.220. If you participate in a USCG "random or pre-employment drug test program," this form may not be necessary. (See page 2 for details).

NOTE: The cost of the drug test is the sole responsibility of the applicant, not the Coast Guard.

Section I – Applicant Consent

I certify that I am the described applicant and that I have provided the specimen(s) described below in accordance with Department of Transportation procedures given in 49 CFR 40. I also understand that making in any way, a false or fraudulent statement, entry, or evidence is a violation of the U.S Criminal Code at Title 18 U.S.C. 1001 which subjects the violator to federal prosecution and possible incarceration, fine, or both.

| | |
|---|-------------------------------|
| Name: (Last, First, Middle) of Applicant (Print or Type) | Social Security Number |
| <input checked="" type="checkbox"/> Signature of Applicant | Date |

Section II – Name of SAMHSA Accredited Laboratory (Type or Print)

| Name | Address |
|------|---------|
| | |

Section III – Medical Review Officer

| | |
|---|--|
| DATE SPECIMEN COLLECTED: _____ | <p>The laboratory report has been reviewed in accordance with procedures given in 49 CFR Part 40, Subpart G, and the verified test results are: (CIRCLE ONE)</p> <p style="font-size: 1.2em; margin: 10px 0;">NEGATIVE</p> <p>POSITIVE/SUBSTITUTED/ADULTERATED or INVALID TEST (Test Cancelled)</p> <p>(Please complete the next block for all non-negative results)</p> |
| Specimen Analyzed For (DOT 5 Panel): <ul style="list-style-type: none"> • Marijuana metabolite • Cocaine metabolites • Opiates metabolites • Phencyclidine • Amphetamines | |

FOR POSITIVE/ADULTERATED/CANCELLED DRUG TESTS ONLY: (To be reported to the nearest USCG Marine Safety Office).

This specimen is verified **POSITIVE** for _____.

The specimen was identified as being **SUBSTITUTED** or containing the **ADULTERANT**: _____.

The test was **CANCELLED** because (insert reason): _____.

I certify that I meet the qualifications for a Medical Review Officer as outlined in Title 49 CFR 40.121. I have reviewed the results and determined that the applicant's verified test result is in accordance with Title 49 CFR 40 Subpart G.

| | |
|---|--|
| MEDICAL REVIEW OFFICER CONTACT INFORMATION: Name: _____ Address: _____ _____ Phone: _____ | MEDICAL REVIEW OFFICER AUTHORITY: Name: (Printed) _____ Signature: _____ <i>(MRO signature stamp is authorized for <u>negative</u> results only)</i> Name of MRO Qualifying Organization: _____ Registration Number Issued by Qualifying Organization: _____ |
|---|--|

"An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number." "The Coast Guard estimates that the average burden for this report is 5 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-CIM), U. S. Coast Guard, 2100 2nd Street, SW, Washington, DC 20593-0001 or Office of Management and Budget, Paperwork Reduction Project (2115-0514), Washington, DC 20503."

| | |
|--|--|
| <p>REQUIREMENTS</p> | <ul style="list-style-type: none"> • A drug test is required for all transactions EXCEPT endorsements, duplicates and STCW certificates. • ONLY a DOT 5 Panel (SAMHSA 5 Panel, formerly NIDA 5), testing for Marijuana, Cocaine, Opiates, Phencyclidine, and Amphetamines will be accepted. |
| <p>OPTION I PERIODIC TESTING PROGRAM</p> | <ul style="list-style-type: none"> • A USCG drug test conducted within the past 185 days by a laboratory accredited by Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services. • COLLECTION of a urine sample may be conducted by an independent medical facility, private physician or at an employer-designated site as long as the collection agent meets the qualification requirements to be a collection agent given Title 49 CFR Part 40.31. It is CRITICAL that the sample is sent to an accredited SAMHSA laboratory for ANALYSIS or the drug test is <u>invalid</u>. The SAMHSA approved laboratory list can be obtained at http://workplace.samhsa.gov/resourcecenter/lablist.htm. A list of service agents that can assist in meeting these requirements is included or a list of service agents can be obtained at www.uscg.mil/hq/g-m/moa/dapip.htm. • The ORIGINAL results are required. A FACSIMILE is acceptable, if it is originated from the Medical Review Officer (MRO) or the Service Agent assisting the mariner, and sent directly to our office. The drug test result must be signed and dated by the MRO or by a representative of the service agent who assisted you in meeting this requirement. |
| <p>OPTION II RANDOM TESTING</p> | <ul style="list-style-type: none"> • An ORIGINAL DATED letter on marine employer stationary or, for ACTIVE DUTY MILITARY MEMBERS, an ORIGINAL DATED letter from your command on command letterhead attesting to participation in random drug testing programs. EXAMPLE (From Marine Employers): <i>APPLICANT'S NAME / SSN</i> has been subject to a random testing program meeting the criteria of Title 46 CFR 16.230 for at least 60 days during the previous 185 days and has not failed nor refused to participate in a chemical test for dangerous drugs. EXAMPLE (Active Duty Military/Military Sealift Command/N.O.A.A./ Army Corps of Engineers): <i>APPLICANT'S NAME / SSN</i> has been subject to a random testing program and has never refused to participate in or failed a chemical drug test for dangerous drugs. |
| <p>OPTION III PRE-EMPLOYMENT TESTING</p> | <ul style="list-style-type: none"> • An ORIGINAL DATED letter on marine employer stationary signed by a company official, stating that you have passed a pre-employment chemical test for dangerous drugs within the past 185 days. EXAMPLE: <i>APPLICANT'S NAME / SSN</i> passed a chemical test for dangerous drugs, required under Title 46 CFR 16.210 within the previous six months of the date of this letter with no subsequent positive drug test results during the remainder of the six month period. |
| <p style="text-align: center;">PRIVACY ACT STATEMENT</p> <p>IN ACCORDANCE WITH 5 U. S. C. 552a(e)(3), THE FOLLOWING INFORMATION IS PROVIDED TO YOU WHEN SUPPLYING PERSONAL INFORMATION TO THE U.S. COAST GUARD.</p> <ol style="list-style-type: none"> 1. AUTHORITY WHICH AUTHORIZED THE SOLICITATION OF INFORMATION 46 U. S. C. 7302, 7305, 7314, 7316, 7319, AND 7502 (SEE 46 CFR PARTS 10, 12, 13, AND 16). 2. PRINCIPLE PURPOSES FOR WHICH INFORMATION IS INTENDED TO BE USED: <ol style="list-style-type: none"> A. TO ESTABLISH ELIGIBILITY FOR A MERCHANT MARINER'S LICENSE AND DOCUMENT ISSUED BY THE COAST GUARD. B. TO ESTABLISH AND MAINTAIN A CONTINUOUS RECORD OF THE PERSON'S DOCUMENTATION TRANSACTIONS. C. PART OF THE INFORMATION IS TRANSFERRED TO A FILE MANAGEMENT COMPUTER SYSTEM FOR A PERMANENT RECORD. 3. THE ROUTINE USES WHICH MAY BE MADE OF THE INFORMATION: <ol style="list-style-type: none"> A. TO MAINTAIN RECORDS REQUIRED BY 46 U. S. C. 7319 AND 7502. B. TO ENABLE ELIGIBLE PARTIES (<i>i.e. the mariner's heirs or properly designated representative</i>) TO OBTAIN INFORMATION. C. TO PROVIDE INFORMATION TO THE U.S. MARITIME ADMINISTRATION FOR USE IN DEVELOPING MANPOWER STUDIES AND TRAINING BUDGET NEEDS. D. TO DEVELOP INFORMATION AT THE REQUEST OF COMMITTEES OF CONGRESS. E. TO PROJECT BILLET ASSIGNMENTS AT COAST GUARD MARINE INSPECTION/SAFETY OFFICES. F. TO PROVIDE INFORMATION TO LAW ENFORCEMENT AGENCIES FOR CRIMINAL OR CIVIL LAW ENFORCEMENT PURPOSES. G. TO ASSIST U.S. COAST GUARD INVESTIGATING OFFICERS AND ADMINISTRATIVE LAW JUDGES IN DETERMINING MISCONDUCT, CAUSES OF CASUALTIES, AND APPROPRIATE SUSPENSION AND REVOCATION ACTIONS. 4. WHETHER OR NOT DISCLOSURE OF SUCH INFORMATION IS MANDATORY OR VOLUNTARY (<i>Required by law or optional</i>) AND THE EFFECTS ON THE INDIVIDUAL, IF ANY, OF NOT PROVIDING ALL OR PART OF THE REQUESTED INFORMATION IS VOLUNTARY, DISCLOSURE OF THIS INFORMATION IS VOLUNTARY, BUT FAILURE TO PROVIDE MAY RESULT IN NON-ISSUANCE OF THE REQUESTED DOCUMENT(S). | |



CHEMICAL TESTING PROGRAM COMPLIANCE AUDIT

Name/Official Number of Vsl: _____ Audit Date: _____
(Note: If you have more vessels than can fit, attach a separate sheet.)

Marine Employer: _____ Consortium: _____
Address _____ Lab: _____
DER Name: _____ Collection Site: _____

I. _____ GENERAL PROGRAM REVIEW

Company program in place (Y/N) _____ Acceptable proof of five-panel testing (Y/N) _____
MRO drug free determination before returning to work (Y/N/NA) _____
Security of Records maintained: (Y/N) _____
Positive Test Records kept for 5 years (Y/N) _____ All non-negative reports to Coast Guard (Y/N) _____
Negatives for 1 year (Y/N) _____

II. _____ PRE-EMPLOYMENT TESTING-- 46 CFR 16.210/ 49 CFR 40.25

Result/exemptions received prior to work in a safety sensitive position (Y/N) _____
Documentation kept for entire employment period (Y/N) _____
Drug testing background checks completed (49 CFR part 40.25) (Y/N) _____

III. _____ RANDOM TESTING – 46 CFR 16.230

Testing rate greater than or equal to 50% annually (Y/N) _____ Statistically based method (Y/N) _____
Testing spread equally throughout the year (Y/N) _____ All required personnel in testing pool (Y/N) _____

IV. _____ SERIOUS MARINE INCIDENT TESTING – 46 CFR 16.240 or 46 CFR 4.06

Arrangements made for post-casualty testing (Y/N) _____ Drug/ alcohol testing devices onboard (Y/N) _____

V. _____ REASONABLE CAUSE TESTING – 46 CFR 16.250/33 CFR 95

Arrangements made for testing as required (Y/N) _____

VI. _____ EAP REQUIREMENTS – 46 CFR 16.401

Following Items Displayed: EAP (Y/N) _____ Policy/ Statement (Y/N) _____ Hotline Number (Y/N) _____
Crewmembers properly trained before assuming safety sensitive position (Y/N) _____
Supervisor(s) received 1 hour EAP training (Y/N) _____
Employer has Substance Abuse Professional (SAP) name and contact information (Y/N) _____

VII. _____ MIS SUBMISSION -- 46 CFR 16.500

Report submitted by March 15 (Y/N) _____
Copy of latest MIS form, or Consortium letter stating report filed for employer (Y/N) _____

VIII. _____ CONSORTIUM INFORMATION (IF APPLICABLE) --46 CFR 16

Copy of Contract or Proof of Enrollment in Consortium (Y/N) _____ Covered employees list (Y/N) _____
Consortium has received a Letter of Regulatory Compliance (LORC) (Y/N) _____

Based on the results of a USCG audit on _____, your chemical testing program IS/ IS NOT found in compliance with 46 CFR Parts 4 and 16, 49 CFR 40 and 33 CFR 95. If found not in full compliance you have _____ days to resolve the above discrepancies with your chemical testing program.

ACKNOWLEDGED BY: _____ TITLE/POSITION: _____
NAME OF INSPECTOR: _____ UNIT/COMMAND: _____

Company Copy

ACCEPTABLE STANDARDS OF COMPLIANCE

| I. GENERAL PROGRAM REVIEW | | | |
|--|-----|----|-----|
| Audit Item | Yes | No | N/A |
| Company program in place | | | |
| Certificate of enrollment in a C/TPA managed program | | | |
| Evidence of self-managed program – (contracts with service providers) | | | |
| Acceptable proof of five-panel testing | | | |
| Chain-of-custody forms present (Should have the word “Federal” in the top line going across the form) | | | |
| MRO drug free determination before returning to work | | | |
| If no positive or non-negative tests, will not be present; If positive tests, is there a determination? | | | |
| Name of qualified MRO | | | |
| Positive Test Records kept for 5 years | | | |
| For any positives, check previous MIS reports going back five years, then ask to see positive test results | | | |
| Negatives for 1 year | | | |
| For negatives, check test results for past year, there should be at least one random for each company per year | | | |
| II. PRE-EMPLOYMENT TESTING-- 46 CFR 16.210/ 49 CFR 40.25 | | | |
| Result/exemptions received prior to work in safety sensitive position | | | |
| Check date of pre-employment drug tests against start date on ship’s log | | | |
| Documentation kept for one year from date of test and date of placement into safety-sensitive position | | | |
| Randomly check some crewmembers history of employment files | | | |
| Drug testing background checks completed | | | |
| Records of compliance with 40.25 should be in each employee personnel file | | | |
| Check for individual signature for release of information | | | |
| III. RANDOM TESTING – 46 CFR 16.230 | | | |
| Testing rate greater than or equal to 50% annually | | | |
| Count number of tests completed against number of employees | | | |
| Statistically based method | | | |
| What type of selection is used, computer random program, number table generator, etc.? | | | |
| Testing spread equally throughout the year | | | |
| Check test dates and numbers to ensure spread evenly. No concentration of test dates, etc. | | | |
| All required personnel in testing pool | | | |
| Verification that all personnel are in testing pool. | | | |
| Does C/TPA perform that service? | | | |
| IV. SERIOUS MARINE INCIDENT TESTING – 46 CFR 16.240 or 46 CFR 4.06 | | | |
| Arrangements made for post-casualty testing | | | |
| Does the employer know what to do for this testing? | | | |
| Is there point of contact for the C/TPA? | | | |
| Drug/ alcohol testing devices onboard | | | |
| Kits should be on board and secure from casual use | | | |
| Are there sufficient number of kits on board ? | | | |
| V. REASONABLE CAUSE TESTING – 46 CFR 16.250/33 CFR 95 | | | |
| Arrangements made for testing as required | | | |
| Marine employer should have protocol to have this testing done. | | | |
| VI. EAP REQUIREMENTS – 46 CFR 16.401 and 49 CFR 40, subpart O | | | |
| The following items are to be displayed | | | |
| EAP informational material | | | |
| Policy/Statement | | | |
| Hotline Number | | | |
| Crewmembers properly trained before assuming safety sensitive position | | | |
| Documentation of compliance prior to starting safety-sensitive functions? | | | |
| Supervisor(s) received 1 hour EAP training | | | |
| Compliance documentation of completion for each supervisor (required one time for each supervisor) | | | |
| Employer has Substance Abuse Professional (SAP) name and contact information | | | |
| Evidence this contact information is passed out with each drug test violation? | | | |
| VII. MIS SUBMISSION -- 46 CFR 16.500 | | | |
| Report submitted by March 15 | | | |
| Copy of latest MIS form, or Consortium letter stating report filed for employer | | | |
| VIII. CONSORTIUM INFORMATION (IF APPLICABLE) --46 CFR 16 | | | |
| Copy of Contract or Proof of Enrollment in Consortium | | | |
| Covered employees list available | | | |
| NOTES: | | | |

