



# UNITED STATES COAST GUARD

U.S. Department of Homeland Security

## MARINE SAFETY ALERT

Assistant Commandant for Marine Safety, Security and Stewardship

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Washington, DC

Alert 07-09

### **DRUG TESTING REQUIREMENTS FOR CHARTER VESSELS 46 CFR Parts 4 and 16, 49 CFR Part 40, 33 CFR 95**

The Coast Guard is **strongly reminding** the Charter Vessel Industry of their duties and obligations to meet federal drug testing regulations. Requirements for marine employers to have drug testing programs have been in effect since November 21, 1988. These requirements are applicable to all US flagged vessels in commercial service, regardless of vessel size or capacities, including what are commonly known as Six Pack Charter Vessels. The rule requires chemical testing of all crewmembers working in safety-sensitive positions whether or not those crewmembers possess merchant mariner credentials. The consequences for failing to comply with these requirements can be substantial and may involve the loss of a license or document, loss of a vessel or civil penalties at a rate of \$5,500 per day per violation.

The rule applies to all commercial service vessels required to be operated by a US Coast Guard issued licensed individual, onboard any US flagged inspected and uninspected vessel on any route, commercial fishing vessels 200 GT or greater, and towing vessels 26 feet in length or longer. All crewmembers responsible for the safe operation and navigation of the vessel or those responsible for the safe handling of passengers in the event of an emergency must be tested.

Pre-employment drug testing is required prior to a person being placed in a safety sensitive position. Crewmembers are also subject to random drug testing at a minimum rate of 50% annually. Drug testing must also take place following a Serious Marine Incident. In these cases, anyone involved with the incident must be tested for evidence of drug and alcohol use. Additionally, testing may take place when a supervisor has reasonable cause of drug and alcohol use. Drug testing may also occur periodically when a USCG credentialed individual submits an original merchant mariner credential application, a reissuance, upgrade or endorsement. Please see the following attachment for additional basic information.

Detailed information about the Coast Guard's Drug and Alcohol Program and responsibilities of marine employers is available online and may be accessed at <http://marineinvestigations.us> > Drug and Alcohol Program. Questions regarding testing requirements may be directed to your Coast Guard District Drug and Alcohol Program Inspector or the Headquarters Drug and Alcohol Program Manager, Mr. Robert Schoening at 202.372.1033 or [Robert.C.Schoening@uscg.mil](mailto:Robert.C.Schoening@uscg.mil).

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## **Marine Employers Drug Test Program Basic Regulatory Requirements**

46 CFR Parts 4 & Part 16, 49 CFR Part 40, 33 CFR 95

**Background:** On November 21, 1988, a new regulation requiring chemical testing for all U.S. flagged vessels in commercial service was published in the Federal Register. This rule required chemical testing on all crewmembers working in a safety-sensitive positions. A crewmember is a documented or undocumented individual.

**Applicability:** Applies to all commercial service vessels required to be operated by a US Coast Guard issued licensed individual: All United States flagged inspected and uninspected vessels in commercial service on any route; Commercial fishing vessels 200 GT or greater; Towing vessels 26 ft length or longer.

**Who must be tested?** All crewmembers responsible for the safe operation and navigation of the vessel and those responsible for the safe handling of passengers in the event of an emergency.

**When is Drug testing required?** *Pre-employment:* Must take and pass a drug test prior to being placed in a safety-sensitive position. *Random:* All crewmembers are subject to random unannounced drug testing at a minimum rate of 50%. *Serious Marine Incident:* Marine employer shall take all practicable steps to have each individual engaged or employed on board the vessel who is directly involved in the incident chemically tested for evidence of drug and alcohol use. *Reasonable Cause:* To be conducted when there is a reasonable and articulable belief that 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. *Periodic:* Testing conducted when an individual is required to take a drug test for a USCG credential transaction (i.e., original application, reissuance, upgrade or endorsement).

**How to do testing?** All tests have to be conducted in accordance 49 CFR 40 (Dept. of Transportation (DOT) procedures) Employers may manage your own program, or use the services of a drug test consortium or third party administrator.

**Drugs that are tested for:** Marijuana; Cocaine, Amphetamines, Opiates, and PCP.

**Where does the testing take place?** Testing takes place at laboratories accredited by Dept of Health and Human Services.

**What type of specimen is provided for testing?** Urine is the only accepted test specimen for drugs.

**Who collects the specimen?** Only Dept. of Transportation qualified collectors can collect the specimen and ship it to the testing laboratory.

**What happens at the laboratory?** The specimen will be analyzed using a two step testing process and will also do testing to make sure it is a valid urine specimen. If the specimen is not an acceptable specimen, it will be reported to the Medical Review Officer (MRO) as substituted, adulterated or invalid test result. The first test is an initial screen test and if negative, testing stops with the test result

reported to the MRO as negative. If the screen test is positive for one or more drugs, the specimen is tested using a confirmation test called GC/MS. This final test result is reported to the MRO.

**Who is the MRO?** A licensed physician (MD or DO) that is qualified to review drug test results from the laboratory. The MRO will contact and talk to the specimen donor for all non-negative drug test results and will report to the employer all negative and positive drug test results.

**What does the marine employer do with the test results?** If negative test result is obtained that person can be hired and no other action is required. If non-negative test result, the employer is required to immediately remove from safety-sensitive position. If a credentialed mariner, the employer must report the non-negative test result to Coast Guard.

**Can I return this person to work?** Only after the return-to-work requirements have been complied with.

**Other requirements:** Employee Assistance Program (EAP). This consists of an EAP Education Program and a Training Program. Several requirements contained here for education of the dangers of drug use; Distribution of informational materials; Display of a community hot-line assistance telephone number; Company Policy; Employee Drug Awareness; and Supervisor Training.

**Records and Reporting:** Program records are required to be maintained. The annual report includes the number of tests conducted annually by an employer. A Consortium or Third Party Administrator may perform these functions on behalf of a marine employer.

**Potential Consequences:** Potential consequences for failure to comply are: Letter of Warning; Do Not Sail Order; Civil Penalty \$5,500 per day per violation; Loss of license or document; Loss of vessel.

#### **Additional Questions:**

Contact your District Drug and Alcohol Program Inspector or the Program Manager at Coast Guard Headquarters:

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