



D5INST 16722.4A

FIFTH DISTRICT INSTRUCTION 16722.4A

Subj: ENFORCEMENT OF THE CHEMICAL TESTING REGULATIONS

- Ref: (a) 46 Code of Federal Regulations Part 16  
 (b) 49 Code of Federal Regulations Part 40  
 (c) Enforcement of the Chemical Testing Regulations, COMDTINST 16722.4  
 (d) 33 Code of Federal Regulations Part 95  
 (e) 46 Code of Federal Regulations Part 4

1. **PURPOSE.** The purpose of this instruction is to clarify policy and improve/streamline procedures for education on and enforcement of chemical testing regulations on applicable commercial vessels within the Fifth Coast Guard District (D5). This will promote a safer, drug-free workplace within the marine transportation community and develop consistent enforcement policies throughout the District.
2. **ACTION.** Commanding Officers of Marine Safety Offices (MSOs), Activity and Group Commanders, and Officers-in-Charge (OICs) shall ensure compliance with the requirements of this instruction.
3. **DIRECTIVES AFFECTED.** None.
4. **BACKGROUND.** In 1988, the Coast Guard, in concert with other U. S. Department of Transportation (DOT) modal administrations, published chemical testing regulations in reference (a) that prescribed the minimum standards and procedures used to test for the use of dangerous drugs in the marine industry. These regulations identify which commercial vessel crewmembers are required to be chemically tested and under what circumstances the testing must be done. Simultaneously, DOT published regulations in reference (b) that describe in detail how the Coast Guard required drug tests are to be conducted.

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Since their inception, many changes have been made to both references (a) and (b) as the program matured and the dynamics of the drug/alcohol use and methodology for testing also changed. In 1995, reference (c) established a Coast Guard Drug and Alcohol Program Inspector (DAPI) billet in each District to assist in the training, promotion, and enforcement of this program throughout the marine industry. For the Fifth District, DAPI functions and program oversight responsibility reside within the Marine Safety Division.

5. **DISCUSSION.** The intent of the chemical testing regulations is to provide a means to minimize the use of intoxicants by merchant marine personnel and to promote a drug free and safe work environment. Compliance with the regulations is key to achieving these goals; therefore enforcement of the regulations is necessary to ensure that marine employers are in compliance. To achieve this, the Fifth Coast Guard District's goal is to educate, visit, and inspect marine employers subject to the applicable chemical testing regulations to ensure that they are in full compliance. Marine Safety Office, Activity, Group, and Station personnel should review references (a) through (e) to become familiar with the fundamentals of this program. Issues beyond this level should be referred to the D5 DAPI.
  
6. **PROGRAM RESPONSIBILITIES.**
  - a. Chief, Marine Safety Division shall:
    - (1) Work with the Chief, Fifth District Operations Branch to facilitate efforts to attain our compliance/drug free goals.
    - (2) Ensure effective utilization of the D5 DAPI.
    - (3) Ensure the Chemical Testing Program is consistently enforced throughout the District.
  
  - b. Chief, Fifth District Operations Branch shall:
    - (1) Work with Chief, Marine Safety Division to facilitate efforts to attain our compliance/drug free goals.
  
  - c. Group Commanders shall:
    - (1) Designate an individual to establish a liaison with the D5 DAPI. The liaison will identify opportunities for educating operators of the uninspected commercial vessels in their area of responsibility and report possible non-compliant operations to the D5 DAPI.
    - (2) Utilize the D5 DAPI to provide orientation/training to personnel on the Chemical Testing Program.
    - (3) During routine boardings, ensure an abbreviated check of chemical testing requirements is conducted.

- d. Commanding Officers of Marine Safety Offices and Activity Commanders shall:
- (1) Designate an individual to establish a liaison with the D5 DAPI. The liaison will work with the DAPI to implement the Chemical Testing Program within the unit's area of responsibility.
  - (2) Establish and maintain a list of marine employers subject to chemical testing requirements.
  - (3) Conduct abbreviated checks to ensure compliance with chemical testing requirements during applicable vessel inspections or examinations. For Marine Safety functions, administrative audits may also be conducted in lieu of the required abbreviated checks (enclosure 1).
  - (4) Incorporate Drug and Alcohol Program education into regularly scheduled industry days. Provide information to the D5 DAPI regarding meetings, seminars and events of interest and coordinate D5 DAPI attendance and participation if needed.
  - (5) Prepare and submit quarterly reports (enclosure 2) to the D5 DAPI no later than the 15<sup>th</sup> day of the month following the end of each quarter.
  - (6) Establish a working relationship with the designated Group liaison.
- e. Drug and Alcohol Program Inspector (DAPI) shall:
- (1) Provide training to inspectors and investigators who conduct chemical testing program audits/abbreviated checks.
  - (2) Provide training to Group assets/units on DAPI program requirements, as requested.
  - (3) Review Chemical Testing Programs of marine employers and consortiums to ensure compliance with the regulations.
  - (4) Initiate appropriate enforcement action against non-compliant employers through the appropriate Marine Safety Office or Activity.
  - (5) Maintain and distribute up-to-date chemical testing information and material to field units and the marine industry.
  - (6) Collect and maintain drug compliance and enforcement statistics.
  - (7) Submit quarterly reports to Commandant (G-MOA) not later than the 30<sup>th</sup> of the month following the end of each quarter. Provide a copy of this report to D5 field units.
  - (8) Identify and establish a list of all Fifth Coast Guard District marine employers.

- (9) Act as primary point of contact for drug testing consortiums, third party administrators, collection sites, and medical review officers operating within the Fifth Coast Guard District. Review their services to the marine industry and forward recommendations to Commandant (G-MOA) regarding their compliance with the federal regulations as needed.

## 7. **PROCEDURES**

- a. **Inspections.** Inspections and examinations of vessels and/or marine employers subject to the chemical testing regulations shall be conducted using the checklist in enclosure (3). Inspections should be prioritized to the maximum extent possible in the following order: inspected vessels; uninspected towing vessels; and uninspected passenger vessels. Inspectors, investigators, and Group/Station boarding team members should review the marine employers chemical testing program for the following:
  - (1) Current contract with a maritime Consortium/Third Party Administrator
  - (2) Current list of covered employees; and
  - (3) Latest Management Information System Report (MIS)
- b. **Deficiencies.** Chemical testing-related deficiencies shall be documented in writing. If a Group/Station boarding team suspects a vessel is not in compliance, they shall advise the cognizant MSO or Activity.
- c. **Penalties.** 46 United States Code 2115 states that any person who fails to implement, conduct, or comply with the chemical testing requirements is liable for a civil penalty of not more than \$5,000 for each violation. If a marine employer fails to comply with chemical testing requirements, the cognizant MSO or Activity shall initiate appropriate enforcement action. Enforcement options include civil penalty action, withholding or suspending the vessel's Certificate of Inspection, or suspension and revocation of a mariner's Coast Guard credentials. Each day of a continuing violation constitutes a separate violation. When in doubt, contact the D5 DAPI.

T. C. PAAR  
Chief of Staff

Encl: (1) [Administrative Audit Letter](#)  
(2) [Quarterly Drug and Alcohol Audit Form](#)  
(3) [Abbreviated Examination Checklist](#)

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