

§ 15.1020

(i) *San Luis Obispo Bay, CA.* The waters including the Unocal Corporation Avila Terminal and the approaches thereto, lying in an area bounded by a line beginning at latitude 35°09'42"N, longitude 120°46'00"W, thence southerly to latitude 35°07'00"N, longitude 120°46'00"W, thence easterly to latitude 35°07'00"N, longitude 120°43'00"W, thence northerly to latitude 35°10'24"N, longitude 120°43'00"W, thence westerly along the shoreline to latitude 35°09'42"N, longitude 120°46'00"W.

§ 15.1020 **Hawaii.**

The following offshore marine oil terminals located within U.S. navigable waters of the State of Hawaii: *Barbers Point, Island of Oahu.* The waters including the Hawaiian Independent Refinery, Inc. and the Chevron moorings lying within an area bounded by a line bearing 180 degrees true from Barbers Point Light to latitude 21°14.8'N, longitude 158°06.4'W, thence easterly to latitude 21°14.8'N, longitude 158°03.3'W, thence northeasterly to latitude 21°15.6'N, longitude 158°01.1'W, thence northwesterly to latitude 21°18.5'N, longitude 158°02.0'W, thence westerly along the shoreline to latitude 21°17.8'N, longitude 158°06.4'W.

§ 15.1030 **New York and New Jersey.**

The following U.S. navigable waters located within the States of New York and New Jersey when the vessel is making an intra-port transit, to include, but not limited to, a movement from a dock to a dock, from a dock to an anchorage, from an anchorage to a dock, or from an anchorage to an anchorage, within the following listed operating areas:

- (a) East River from Execution Rocks to New York Harbor, Upper Bay;
- (b) Hudson River from Yonkers, New York to New York Harbor, Upper Bay;
- (c) Raritan River from Grossman Dock/Arsenal to New York Harbor, Lower Bay;
- (d) Arthur Kill Channel;
- (e) Kill Van Kull Channel;
- (f) Newark Bay;
- (g) Passaic River from Point No Point to Newark Bay;
- (h) Hackensack River from the turning basin to Newark Bay; and

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(i) New York Harbor, Upper and Lower Bay.

§ 15.1040 **Massachusetts.**

The following U.S. navigable waters located within the State of Massachusetts when the vessel is in transit, but not bound to or departing from a port within the following listed operating areas:

- (a) Cape Cod Bay south of latitude 41°48'54"N;
- (b) The Cape Cod Canal; and
- (c) Buzzards Bay east of a line extending from the southernmost point of Wilbur Point (latitude 41°34'55"N longitude 70°51'15"W) to the easternmost point of Pasque Island (latitude 41°26'55"N longitude 70°50'30"W).

PART 16—CHEMICAL TESTING

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APPENDIX A [RESERVED]

APPENDIX B DRUG AND ALCOHOL TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

AUTHORITY: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

SOURCE: CGD 86-067, 53 FR 47079, Nov. 21, 1988, unless otherwise noted.

Subpart A—General

§ 16.101 Purpose of regulations.

(a) The regulations in this part provide a means to minimize the use of intoxicants by merchant marine personnel and to promote a drug free and safe work environment.

(b) These regulations prescribe the minimum standards, procedures, and means to be used to test for the use of dangerous drugs.

(c) As part of a reasonable cause drug testing program established pursuant to this part, employers may test for drugs in addition to those specified in this part only with approval granted by the Coast Guard under 49 CFR part 40 and for substances for which the Department of Health and Human Services has established an approved testing protocol and positive threshold.

§ 16.105 Definitions of terms used in this part.

Chemical test means a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of dangerous drug or alcohol use.

Crewmember means an individual who is:

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

(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 doc-

ument issued under this subchapter, except the following:

(1) Individuals on fish processing vessels who are primarily employed in the preparation of fish or fish products, or in a support position, and who have no duties that directly affect the safe operation of the vessel;

(2) Scientific personnel on an oceanographic research vessel;

(3) Individuals on industrial vessels who are industrial personnel, as defined in this chapter; and

(4) Individuals not required under part 15 of this subchapter who have no duties that directly affect the safe operation of the vessel.

Dangerous drug means 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 (21 U.S.C. 802)).

Dangerous drug level means the amount of traces of dangerous drugs or drug metabolites in an individual's breath, blood, urine, saliva, or body fluids or tissues.

Drug test means a chemical test of an individual's urine for evidence of dangerous drug use.

Employer means a marine employer or sponsoring organization.

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as "positive" for the presence of dangerous drugs or drug metabolites in an individual's system by a Medical Review Officer in accordance with that part.

Intoxicant means any form of alcohol, dangerous drug, or combination thereof.

Marine employer means the owner, managing operator, charterer, agent, master, or person in charge of a vessel, other than a recreational vessel.

Medical Review Officer means an individual designated by the employer to carry out the duties specified in § 16.370 of this part.

Operation means to navigate, steer, direct, manage, or sail a vessel, or to control, monitor, or maintain the vessel's main or auxiliary equipment or systems. Operation includes:

(a) Determining the vessel's position, piloting, directing the vessel along a

desired trackline, keeping account of the vessel's progress through the water, ordering or executing changes in course, rudder position, or speed, and maintaining a lookout;

(b) Controlling, operating, monitoring, maintaining, or testing: the vessel's propulsion and steering systems; electric power generators; bilge, ballast, fire, and cargo pumps; deck machinery including winches, windlasses, and lifting equipment; lifesaving equipment and appliances; firefighting systems and equipment; and navigation and communication equipment; and

(c) Mooring, anchoring, and line handling; loading or discharging of cargo or fuel; assembling or disassembling of tows; and maintaining the vessel's stability and watertight integrity.

Passes a chemical test for dangerous drugs means the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as "negative" by a Medical Review Officer in accordance with that part.

Positive rate means the number of positive results for random drug tests conducted under this part plus the number of refusals to take random tests required by this part, divided by the total number of random drug tests conducted under this part plus the number of refusals to take random tests required by this part.

Refuse to submit means that 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.

Serious marine incident means an event defined in 46 CFR 4.03–2.

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.

Vessel owned in the United States means any vessel documented or numbered under the laws of the United States; and any vessel owned by a citizen of the United States that is not

documented or numbered by any nation.

[CGD 86–067, 53 FR 47079, Nov. 21, 1988; 53 FR 48367, Nov. 30, 1988, as amended by CGD 90–014, 56 FR 31033, July 8, 1991; CGD 90–053, 58 FR 31107, May 28, 1993; CGD 93–051, 59 FR 28792, June 3, 1994; 59 FR 62226, Dec. 2, 1994; CGD 91–223, 60 FR 4525, Jan. 23, 1995]

Subpart B—Required Chemical Testing

§ 16.201 Application.

(a) Chemical testing of personnel must be conducted as required by this subpart.

(b) If an individual fails a chemical test for dangerous drugs under this part, the individual will be presumed to be a user of dangerous drugs.

(c) If an individual holding a license, certificate of registry, or merchant mariner's document fails a chemical test for dangerous drugs, the individual's employer or prospective employer shall report the test results in writing to the nearest Coast Guard Officer in Charge, Marine Inspection (OCMI). The individual shall be denied employment as a crewmember or removed from duties which directly affect the safe operation of the vessel as soon as practicable and shall be subject to suspension and revocation proceedings against his or her license, certificate of registry, or merchant mariner's document under 46 CFR part 5.

(d) If an individual who does not hold a license, certificate of registry, or merchant mariner's document fails a chemical test for dangerous drugs, the individual shall be denied employment as a crewmember or removed from duties which directly affect the safe operation of the vessel as soon as possible.

(e) An individual who has failed a required chemical test for dangerous drugs may not be reemployed aboard a vessel until the requirements of § 16.370(d) of this part and 46 CFR part 5, if applicable, have been satisfied.

[CGD 86–607, 53 FR 47049, November 11, 1988, as amended by CGD 90–014, 56 FR 31034, July 8, 1991]

§ 16.205 Implementation of chemical testing programs.

(a) Each employer who employs more than 50 employees required to be tested

under this part was required to implement the pre-employment testing program required by this part not later than July 21, 1989, and the serious marine incident and reasonable cause testing programs required by this part not later than December 21, 1989. The random testing program required by this part shall be implemented not later than October 1, 1991.

(b) Each employer who employs from 11 to 50 employees required to be tested under this part was required to implement the pre-employment, serious marine incident and reasonable cause testing programs required by this part not later than December 21, 1989. The random testing program required by this part shall be implemented not later than October 1, 1991.

(c) Each employer who employs 10 or fewer employees required to be tested under this part was required to implement the pre-employment, serious marine incident and reasonable cause testing programs required by this part not later than December 21, 1990. The random testing program required by this part shall be implemented not later than October 1, 1991.

(d) [Reserved]

(e) The periodic testing requirements of § 16.220 apply to physical examinations performed after December 21, 1990.

(f) When a vessel owned in the United States is operating in waters that are not subject to the jurisdiction of the United States, the testing requirements of §§ 16.210 and 16.230 do not apply to a citizen of a foreign country engaged or employed as pilot in accordance with the laws or customs of that foreign country.

(g) Upon written request of an employer, Commandant (G-MOA) will review the employer's chemical testing program to determine compliance with the provisions of this part.

[CGD 90-014, 56 FR 60930, Nov. 30, 1991, as amended by 59 FR 62226, Dec. 2, 1994; CGD 95-072, 60 FR 50461, Sept. 29, 1995; CGD 96-041, 61 FR 50726, Sept. 27, 1996]

§ 16.207 Conflict with foreign laws.

(a) This part shall not apply to any person for whom compliance with this part would violate the domestic laws or policies of another country.

(b) This part is not effective until January 2, 1997, with respect to any person onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government. On or before December 1, 1996, the Commandant shall issue any necessary amendment resolving the applicability of this part to such person on and after January 2, 1997.

[CGD 86-067, 53 FR 47079, Nov. 21, 1988, as amended by CGD 86-067e, 56 FR 18983, Apr. 24, 1991; CGD 86-067f, 57 FR 31275, July 14, 1992; CGD 94-106, 59 FR 65501, Dec. 20, 1994; CGD 95-090, 60 FR 67063, Dec. 28, 1995]

§ 16.210 Pre-employment testing requirements.

(a) No marine employer shall engage or employ any individual to serve as a crewmember unless the individual passes a chemical test for dangerous drugs for that employer.

(b) An employer may waive a pre-employment test required for a job applicant by paragraph (a) of this section if the individual provides satisfactory evidence that he or she has:

(1) Passed a chemical test for dangerous drugs, required by this part, within the previous six months with no subsequent positive drug tests during the remainder of the six-month period; or

(2) During the previous 185 days been subject to a random testing program required by § 16.230 for at least 60 days and did not fail or refuse to participate in a chemical test for dangerous drugs required by this part.

[CGD 90-053, 58 FR 31107, May 28, 1993, as amended by CGD 93-051, 59 FR 28792, June 3, 1994]

§ 16.220 Periodic testing requirements.

(a) Except as provided by paragraph (c) of this section, and §§ 10.209(h) and 12.02-9(f) of this subchapter, an applicant for an original issuance or a renewal of a license or a certificate of registry (COR), a raise in grade of a license, a higher grade of COR, an original issuance of a merchant mariner's document (MMD), the first endorsement as an able seaman, lifeboatman, qualified member of the engine department, or tankerman, or a reissuance of an MMD with a new expiration date shall be required to pass a chemical

test for dangerous drugs. The applicant shall provide the results of the test to the Coast Guard Regional Examination Center (REC) at the time of submitting an application. The test results must be completed and dated not more than 185 days prior to submission of the application.

(b) Unless excepted under paragraph (c) of this section, each pilot required by this subchapter to receive an annual physical examination must pass a chemical test for dangerous drugs as a part of that examination. The individual shall provide the results of each test required by this section to the REC when the pilot applies for a license renewal or when requested by the Coast Guard.

(c) An applicant need not submit evidence of passing a chemical test for dangerous drugs required by paragraph (a) or (b) of this section if he or she provides satisfactory evidence that he or she has—

(1) Passed a chemical test for dangerous drugs required by this part within the previous six months with no subsequent positive chemical tests during the remainder of the 6-month period; or

(2) During the previous 185 days been subject to a random testing program required by § 16.230 for at least 60 days and did not fail or refuse to participate in a chemical test for dangerous drugs required by this part.

(d) Except as provided by paragraph (b) of this section, an applicant is required to provide the results of only one chemical test for dangerous drugs when multiple transactions are covered by or requested in a single application.

[CGD 91–223, 60 FR 4525, Jan. 23, 1995]

§ 16.230 Random testing requirements.

(a) Marine employers shall establish programs for the chemical testing for dangerous drugs on a random basis of crewmembers on inspected vessels who:

(1) Occupy a position, or perform the duties and functions of a position, required by the vessel's Certificate of Inspection;

(2) Perform the duties and functions of patrolmen or watchmen required by this chapter; or,

(3) Are specifically assigned the duties of warning, mustering, assembling,

assisting, or controlling the movement of passengers during emergencies.

(b) Marine employers shall establish programs for the chemical testing for dangerous drugs on a random basis of crewmembers on uninspected vessels who:

(1) Are required by law or regulation to hold a license issued by the Coast Guard in order to perform their duties on the vessel;

(2) Perform duties and functions directly related to the safe operation of the vessel;

(3) Perform the duties and functions of patrolmen or watchmen required by this chapter; or,

(4) Are specifically assigned the duties of warning, mustering, assembling, assisting, or controlling the movement of passengers during emergencies.

(c) 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, payroll identification numbers, or other comparable identifying numbers. 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. As an alternative, random selection may be accomplished by periodically selecting one or more vessels and testing all crewmembers covered by this section, provided that each vessel subject to the marine employer's test program remains equally subject to selection.

(d) Marine employers may form or otherwise use sponsoring organizations, or may use contractors, to conduct the random chemical testing programs required by this part.

(e) Except as provided in paragraph (f) of this section, the minimum annual percentage rate for random drug testing shall be 50 percent of covered crewmembers.

(f) The annual rate for random drug testing may be adjusted in accordance with this paragraph.

(1) The Commandant's decision to increase or decrease the minimum annual percentage rate for random drug testing is based on the reported random positive rate for the entire industry. All information used for this determination is drawn from the drug MIS reports required by this part. In order to ensure reliability of the data, the Commandant considers the quality and completeness of the reported data, may obtain additional information or reports from marine employers, and may make appropriate modifications in calculating the industry random positive rate. Each year, the Commandant will publish in the FEDERAL REGISTER the minimum annual percentage rate for random drug testing of covered crewmembers. The new minimum annual percentage rate for random drug testing will be applicable starting January 1 of the calendar year following publication.

(2) When the minimum annual percentage rate for random drug testing is 50 percent, the Commandant may lower this rate to 25 percent of all covered crewmembers if the Commandant determines that the data received under the reporting requirements of 46 CFR 16.500 for two consecutive calendar years indicate that the positive rate is less than 1.0 percent.

(3) When the minimum annual percentage rate for random drug testing is 25 percent, and the data received under the reporting requirements of 46 CFR 16.500 for any calendar year indicate that the positive rate is equal to or greater than 1.0 percent, the Commandant will increase the minimum annual percentage rate for random drug testing to 50 percent of all covered crewmembers.

(g) Marine employers shall randomly select a sufficient number of covered crewmembers for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random drug testing determined by the Commandant. If the marine employer conducts random drug testing through a consortium, the number of crewmembers to be tested may be calculated for each individual marine employer or may be based on the total number of covered crewmembers covered by the consortium

who are subject to random drug testing at the same minimum annual percentage rate under this part or any DOT drug testing rule.

(h) 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.

(i) If a given covered crewmember is subject to random drug testing under the drug testing rules of more than one DOT agency for the same marine employer, the crewmember shall be subject to random drug testing at the percentage rate established for the calendar year by the DOT agency regulating more than 50 percent of the crewmember's function.

(j) If a marine employer is required to conduct random drug testing under the drug testing rules of more than one DOT agency, the marine employer may—

(1) Establish separate pools for random selection, with each pool containing the covered crewmembers who are subject to testing at the same required rate; or

(2) Randomly select such crewmembers for testing at the highest percentage rate established for the calendar year by any DOT agency to which the marine employer is subject.

(k) An individual may not be engaged or employed, including self-employment, on a vessel in a position as master, operator, or person in charge for which a license or merchant mariner's document is required by law or regulation unless all crewmembers covered by this section are subject to the random testing requirements of this section.

[CGD 90-014, 56 FR 31034, July 8, 1991, as amended by 59 FR 62227, Dec. 2, 1994]

§ 16.240 Serious marine incident testing requirements.

The marine employer shall ensure that all persons directly involved in a serious marine incident are chemically tested for evidence of dangerous drugs and alcohol in accordance with the requirements of 46 CFR 4.06.

§ 16.250 Reasonable cause testing requirements.

(a) The marine employer shall require any crewmember 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, who is reasonably suspected of using a dangerous drug to be chemically tested for dangerous drugs.

(b) 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.

(c) 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 log book, if one is required.

(d) If an individual refuses to provide a urine specimen when directed to do so by the employer under the provisions of this section, this fact shall be entered in the vessel's official log book, if one is required.

§ 16.260 Records.

(a) Employers shall maintain records of chemical tests which the Medical Review Officer reports as *positive* for a period of at least 5 years and shall make these records available to Coast Guard officials upon request. Records of tests reported as *negative* shall be retained for one year.

(b) The records shall be sufficient to:

(1) Satisfy the requirements of §§ 16.210(b) and 16.220(c) of this part.

(2) 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.

[CGD 86-067, 53 FR 47079, Nov. 21, 1988, as amended by CGD 91-223, 60 FR 4526, Jan. 23, 1995]

Subpart C—Standards for Chemical Testing for Dangerous Drugs

§ 16.301 Procedures for Transportation Workplace Drug Testing Programs.

Drug testing programs subject to this part shall be conducted in accordance with 49 CFR part 40, Procedures for Transportation Workplace Drug Testing Programs. This subpart summarizes requirements for drug testing programs contained in those regulations. Those regulations should be consulted to determine the specific procedures which must be established and utilized. Drug testing programs required by this part shall use only drug testing laboratories certified by the Department of Health and Human Services (DHHS).

§ 16.310 General.

(a) *Collection site.* The employer shall ensure that the collection site is adequate to provide for the collection, security, temporary storage, and shipping of specimens to a certified drug testing laboratory.

(b) *Security.* Procedures shall provide for the collection site to be secure. Collection sites dedicated solely for specimen collection must be secure at all times. Collection sites which are not dedicated solely for specimen collection must be secured during specimen collection.

(c) *Access to authorized personnel only.* No unauthorized personnel shall be permitted in any part of a collection site when specimens are collected nor shall unauthorized personnel be allowed access to stored specimens.

(d) *Privacy.* Procedures for collecting urine specimens shall allow for individual privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided.

(e) *Integrity of specimens.* Collection site personnel shall take precautions to

ensure that each specimen is not adulterated or diluted during the collection process.

§ 16.320 Chain of custody.

(a) A chain of custody for each specimen to be chemically tested shall be established and maintained from the time of specimen collection through the testing of the specimen.

(b) If a specimen is not immediately prepared for shipment, it shall be safeguarded during temporary storage.

(c) Every effort shall be made to minimize the number of persons handling specimens.

§ 16.330 Specimen handling and shipping.

(a) The employer shall obtain a specimen collection and shipping kit to be used to collect specimens and ship them to the certified drug testing laboratory.

(b) The specimen collection and shipping kit, as required by 49 CFR part 40, shall contain:

(1) Plastic urine specimen bottles in a sufficient quantity to accommodate the people to be tested;

(2) Means for sealing and identifying specimen bottles;

(3) Chain of custody forms;

(4) A set of step-by-step instructions which describe the proper procedures to be followed during specimen collection, handling, and shipping; and

(5) Shipping materials.

(c) The marine employer shall ensure that specimens are promptly shipped to a certified testing laboratory meeting the requirements of § 16.340. Chain of custody documents must accompany each specimen from the time of specimen collection through shipment to and testing by the laboratory.

(d) Specimens shall be shipped by an expeditious means.

§ 16.340 Test laboratory requirements.

(a) The employer shall ensure that all chemical testing for dangerous drugs required by this part is conducted by a DHHS certified laboratory.

(b) The laboratory shall meet the requirements of 49 CFR part 40.

§ 16.350 Specimen analysis.

(a) Each specimen shall be analyzed in accordance with 49 CFR 40.29, which requires testing for—

(1) Marijuana;

(2) Cocaine;

(3) Opiates;

(4) Phencyclidine (PCP); and

(5) Amphetamines.

(b) A specimen which indicates the presence of a dangerous drug at a level equal to or exceeding the levels established in 49 CFR 40.29 is reported to the Medical Review Officer as positive.

[CGD 90-053, 58 FR 31107, May 28, 1993]

§ 16.360 Specimen analysis reports.

(a) The laboratory shall report all test results as required by 49 CFR 40.29(g). Reports are made within an average of five days after receipt of a specimen by the laboratory.

(b) The laboratory reports as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive are reported positive to the Medical Review Officer for a specific drug or drug metabolite.

[CGD 86-067, 53 FR 47079, Nov. 21, 1988, as amended by CGD 90-053, 58 FR 31107, May 28, 1993]

§ 16.370 Medical Review Officer.

(a) The employer shall designate or appoint a Medical Review Officer (MRO) meeting the qualifications of 49 CFR 40.33. If the employer does not have a qualified individual on staff to serve as MRO, the employer may contract for the provision of MRO services as part of its drug testing program.

(b) The MRO shall review and interpret each confirmed positive test result in accordance with 49 CFR 40.33.

(c) If the MRO verifies a laboratory confirmed positive report, the MRO shall report the positive test result to the employer or the employer's designated agent.

(d) Before an individual who has failed a required chemical test for dangerous drugs may return to work aboard a vessel, the MRO shall determine that the individual is drug-free and the risk of subsequent use of dangerous drugs by that person is sufficiently low to justify his or her return

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to work. In addition, the individual shall agree to be subject to increased, unannounced testing for a period as determined by the MRO of up to 60 months.

[CGD 86-067, 53 FR 47079, Nov. 21, 1988; 53 FR 48367, Nov. 30, 1988, as amended by CGD 90-053, 58 FR 31107, May 28, 1993]

§ 16.380 Release of information.

(a) Except as provided for in this part and in §4.06-60 of this chapter, an employer shall not release individual test results or other personal information for anti-drug program records.

(b) Individual results from drug tests required by this part may be released if the individual tested signs a specific authorization for the release of the results to an identified person.

(c) Nothing in this section shall prevent an individual tested under this part from obtaining the results of that test.

Subpart D—Employee Assistance Programs

§ 16.401 Employee Assistance Program (EAP).

The employer shall provide an Employee Assistance Program (EAP) for all crewmembers. The employer may establish the EAP as a part of its internal personnel services or the employer may contract with an entity that will provide EAP services to a crewmember. Each EAP must include education and training on drug use for crewmembers and the employer's supervisory personnel as provided below:

(a) *EAP education program:* Each EAP education program must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for crewmember assistance, and display and distribution of the employer's policy regarding drug and alcohol use in the workplace.

(b) *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: the effects and consequences of drug and alcohol use on personal health, safety, and work envi-

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ronment; the manifestations and behavioral cues that may indicate drug and alcohol use and abuse; and documentation of training given to crewmembers and the employer's supervisory personnel. Supervisory personnel must receive at least 60 minutes of training.

Subpart E—Management Information System

§ 16.500 Management Information System requirements.

(a) All marine employers shall collect the drug and alcohol testing program data identified in this section for each calendar year, January 1 to December 31. Marine employers shall submit this data to the Coast Guard by March 15 of the following year. The data shall be submitted to Commandant (G-MOA), 2100 Second Street, SW, Washington, DC, 20593-0001.

(b) All marine employers shall collect the following drug and alcohol testing program data:

(1) Number of covered employees.

(2) Number of covered employees subject to testing under the anti-drug rules of more than one DOT agency because of the nature of their assigned duties, identified by each agency.

(3) Number of drug and alcohol tests by test type. The drug test types are pre-employment, random, post-accident and reasonable cause. The alcohol test types are post-accident and reasonable cause.

(4) Number of positive drug test results verified by a Medical Review Officer (MRO) by test type and type of drug(s). Number of alcohol tests resulting in a blood alcohol concentration of .04 percent by weight or more by test type.

(5) Number of negatives reported by a MRO by type of test.

(6) Number of applicants denied employment based on a positive drug test result verified by an MRO.

(7) Number of marine employees with a positive drug test result verified by an MRO, who were returned to duty in a covered position, having met the requirements of §16.370(d) and part 5 of this chapter.

(8) Number of marine employee drug test results that MROs verify positive

for more than one drug or combination of drugs.

(9) Number of covered employees who refused to submit to a drug test required under this part.

(10) Marine employee training and education information.

(c) The data listed in paragraph (b) of this section must be submitted on Form CG-5573, which is reproduced in appendix B to this part and may be obtained at any Officer in Charge, Marine Inspection. All items on the form must be completed. Data may be submitted by consortia or other employer representatives on behalf of a marine employer. Reports submitted in this manner may be on one form, but must also be accompanied by a list of marine employers for whom the report is submitted. Unless submitting the report on

their own behalf, each marine employer must notify the Coast Guard (Commandant (G-MOA)) in writing of the consortium or representative that will submit the employer's data, and remains responsible for ensuring that the data is submitted and is accurate.

(d) Marine employers that conduct operations regulated by another Department of Transportation Operating Administration must submit appropriate data to that Operating Administration for those employees covered by that Operating Administration's regulations.

[CGD 91-019, 58 FR 68277, Dec. 23, 1993, as amended by CGD 95-072, 60 FR 50461, Sept. 29, 1995; CGD 96-041, 61 FR 50726, Sept. 27, 1996]

Appendix A—[Reserved]

**APPENDIX B - DRUG AND ALCOHOL TESTING MANAGEMENT INFORMATION SYSTEM
(MIS) DATA COLLECTION FORM**

INSTRUCTIONS

This reporting form includes four parts. Collectively, these parts address the data elements required in the United States Coast Guard (USCG) and the U.S. Department of Transportation (DOT) drug and alcohol testing regulations. The form is preceded by instructions which outline and explain the information requested and indicate the probable sources for this information. The four sections, the page number for the instructions, and the page location on the reporting form are:

<u>Section</u>	<u>Instructions Page</u>	<u>Reporting Form Page</u>
A. MARINE EMPLOYER INFORMATION	i	1
B. COVERED EMPLOYEES	i	1
C. MARINE EMPLOYEE DRUG TESTING INFORMATION	ii-iv	2
D. MARINE EMPLOYEE ALCOHOL TESTING INFORMATION	iv-v	2

Page 1 **MARINE EMPLOYER INFORMATION** (Section A) requires the company name for which the report is done and a current address. Below this, a signature, typed or printed name, title, date, and current telephone number (including the area code) are required from the person certifying the correctness and completeness of the form.

Page 1 **COVERED EMPLOYEES** (Section B) requires a count of employees (including prospective employees who were pre-employment tested) who were subject to testing under the USCG/DOT drug testing regulations. The most likely source for this information is the employer's personnel department. The count should include all covered employees working for the company during the reported year.

Additional information must be completed if your company employs personnel who perform duties covered by the drug and alcohol rules of more than one DOT operating administration. **NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION**, requires that you identify the number of employees under the appropriate additional operating administration(s).

The following instructions are to be used as a guide for completing the drug testing information in the USCG/DOT Drug and Alcohol Testing MIS Data Collection Form. A sample testing results table with a narrative explanation is provided on pages ii-iii as an example to facilitate the process of completing the form correctly.

Section C is used to summarize the drug testing results for applicants and covered employees. There are four categories of testing to be completed. Items necessary to complete this table include:

- 1) the number of specimens collected in each testing category;
- 2) the number of specimens tested which were reported negative and verified positive for any drug(s); and
- 3) individual counts of those specimens which were verified positive for each of the five drugs.

Do not include results of quality control samples submitted to the testing laboratory in the table.

A sample table with detailed instructions is provided.

Page 2 **MARINE EMPLOYEE DRUG TESTING INFORMATION** (Section C) requires information for drug testing by category of testing. Each part of this table must be completed for each category of testing. These numbers **do not** include refusals for testing. A sample of the table with example numbers is presented on page iii.

Three types of information are necessary to complete the left side of this table. The first blank column with the heading "NUMBER OF SPECIMENS COLLECTED," requires a count for all collected specimens by testing category. It **should not** include refusals to test. The second blank column with the heading "NUMBER OF SPECIMENS REPORTED NEGATIVE," requires a count for all completed tests by testing category that were reported negative by your Medical Review Officer (MRO).

The third blank column with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS," refers to the number of specimens provided by job applicants or employees that were verified positive. "Verified positive" means the results were verified by your MRO.

The right hand portion of this table, with the heading "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG," requires counts of positive tests for **each** of the five drugs for which tests were done, i.e., marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines. The number of specimens verified positive for each drug should be entered in the appropriate column for that drug type. Again, "verified positive" refers to test results verified by your MRO.

If an applicant or employee tested positive for more than one drug; for example, both marijuana and cocaine, that person's positive results would be included once in each of the appropriate columns (marijuana and cocaine).

SAMPLE MARINE EMPLOYEE TEST RESULTS TABLE

The following example is for Section C, **MARINE EMPLOYEE DRUG TESTING INFORMATION**, and summarizes pre-employment testing results. The procedures detailed here also apply to the

other categories of testing in Section C which require you to summarize testing results for employees.

- A** Urine specimens were collected for 157 job applicants for covered positions during the reporting year. This information is entered in the first blank column of the table in the row marked "PRE-EMPLOYMENT".
- B** The MRO for your company reported that 153 of those 157 specimens from applicants were negative (i.e., no drugs were detected). Enter this information in the second blank column of the table in the row marked "PRE-EMPLOYMENT".
- C** The MRO for your company reported that 4 of those 157 specimens from applicants were positive (i.e., a drug or drugs were detected). Enter this information in the third blank column of the table in the row marked "PRE-EMPLOYMENT".
- D** With the 4 specimens that tested positive, the following drugs were detected:

<u>Specimen</u>	<u>Drugs</u>
#1	Marijuana
#2	Amphetamines
#3	Marijuana and Cocaine (Multi-drug specimen)
#4	Marijuana

Marijuana was detected in three (3) specimens, cocaine in one (1), and amphetamines in one (1). This information is entered in the columns on the right hand side of the table under each of these drugs. Two different drugs were detected in specimen #3 (multi-drug) so an entry is made in both the marijuana and the cocaine column for this specimen.

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS REPORTED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT	157	153	4	3	1	0	0	1

A
B
C
D

Note that adding up the numbers for each type of drug in a row ("NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG") will not always match the number entered in the third column, "NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS". The total for the numbers on the right hand side of the table may differ from the number of specimens testing positive since some specimens may contain more than one drug.

- Page 2 Below the table for **MARINE EMPLOYEE DRUG TESTING INFORMATION** is a box with the heading "Number of persons denied a position as a covered employee following a verified positive drug test". This is simply a count of those persons who were not placed in a covered position because they tested positive for one or more drugs.
- Page 2 Also following the table for **MARINE EMPLOYEE DRUG TESTING INFORMATION**, you must provide counts for employees who have tested positive and have returned to work in a covered position during the reported period. This information should be available from the personnel office and/or drug program manager.
- Page 2 **SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG** requires information on specimens that contained more than one drug. First, indicate the **NUMBER OF VERIFIED POSITIVES**. Then specify the combination of drugs reported as positive by placing the same number in the appropriate columns. For example, if marijuana and cocaine were detected in 3 specimens, then you would write "3" as the number of verified positives and "3" in the columns for "Marijuana" and "Cocaine". If marijuana and opiates were detected in 2 specimens, then you would write "2" as the number of verified positives and "2" in the columns for "Marijuana" and "Opiates".
- Page 2 **EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST** requires a count of the **NUMBER OF COVERED EMPLOYEES** who refused to submit to a **random** or **non-random** (pre-employment, post-accident, or reasonable cause) drug test required under the USCG regulation.
- Page 2 **DRUG AND ALCOHOL TRAINING** requires information on the number of covered employees and supervisory personnel who have received the required drug and alcohol training during the current reporting period.

The following instructions are to be used as a guide for completing the alcohol testing information for the USCG/DOT **Drug and Alcohol Testing MIS Data Collection Form**. A sample testing results table with a narrative explanation is provided on page v as an example to facilitate the process of completing the form correctly.

Section D is used to summarize the alcohol testing results for covered employees. There are two categories of testing to be completed in this table. Items necessary to complete this table includes:

- 1) the number of alcohol tests performed for each testing category; and
- 2) the number of test results which were equal to or greater than 0.04.

A sample table with detailed instructions is provided.

- Page 2 **MARINE EMPLOYEE ALCOHOL TESTING INFORMATION** (Section D) requires information for post-accident and reasonable cause alcohol testing. These numbers **do not** include refusals for testing. A sample table with example numbers is presented on page v.

Two types of information are necessary to complete this table. The first blank column with the heading "NUMBER OF TESTS" requires a count of all alcohol tests performed for each testing category.

The second blank column with the heading "NUMBER OF TEST RESULTS EQUAL TO OR GREATER THAN 0.04" requires a count of positive tests.

SAMPLE MARINE EMPLOYEE TEST RESULTS TABLE

The following example is for Section D, **MARINE EMPLOYEE ALCOHOL TESTING INFORMATION**, which summarizes post-accident and reasonable cause testing results.

A Tests were conducted on 6 employees in covered positions during the reporting year. This information is entered in the first blank column of the table in the row marked "POST-ACCIDENT". The test results for these 6 employees were the following:

<u>Employee</u>	<u>Results</u>
#1	0.06
#2	0.00
#3	0.00
#4	0.04
#5	0.00
#6	0.02

B The test results for 2 of the employees in covered positions were equal to or greater than 0.04. Enter this information in the second blank column of the table in the row marked "POST-ACCIDENT".

TYPE OF TEST	NUMBER OF TESTS	NUMBER OF TEST RESULTS EQUAL TO OR GREATER THAN 0.04
POST-ACCIDENT	6	2
REASONABLE CAUSE	10	1

A
B

Please note that the sample data collection form also has information for REASONABLE CAUSE testing on line two. For REASONABLE CAUSE testing, 10 tests were conducted and 1 was equal to or greater than 0.04.

USCG DRUG AND ALCOHOL TESTING MIS DATA COLLECTION FORM OMB No. 2115-0003

YEAR COVERED BY THIS REPORT: 19__

A. MARINE EMPLOYER INFORMATION

Company _____
 Address _____

I, the undersigned, certify that the information provided on this United States Coast Guard Drug and Alcohol Testing Management Information System Data Collection Form is, to the best of my knowledge and belief, true, correct, and complete for the period stated.

Signature _____ Printed Name _____ Date _____
 Title _____ Phone Number _____

Title 18, U.S.C. Section 1001, makes it a criminal offense subject to a maximum fine of \$10,000, or imprisonment for not more than 5 years, or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States.

B. COVERED EMPLOYEES

COVERED EMPLOYEES						
EMPLOYEE CATEGORY	NUMBER OF USCG COVERED EMPLOYEES	NUMBER OF EMPLOYEES COVERED BY MORE THAN ONE DOT OPERATING ADMINISTRATION				
		FAA	FHWA	FRA	FTA	RSPA
Crewmembers						

READ BEFORE COMPLETING THE REMAINDER OF THIS FORM:

- All items refer to the **current** reporting period **only** (for example, January 1, 1994 - December 31, 1994).
- This report is only for testing **REQUIRED BY THE UNITED STATES COAST GUARD (USCG)**:
 - Results should be reported only for employees in **COVERED POSITIONS** as defined by the USCG drug and alcohol testing regulations.
 - The information requested should only include testing for: marijuana (THC), cocaine, phencyclidine (PCP), opiates, and amphetamines using the standard procedures required by DOT regulation 49 CFR Part 40; and alcohol using the standard procedures required by USCG regulations 33 CFR Part 95 and 46 CFR Parts 4 and 16.
- Information on **refusals** for testing should only be reported in the table entitled "EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST". Do **not** include refusals for testing in other sections of this report.
- Do **not** include the results of any quality control samples submitted to the testing laboratory in any of the tables.
- Complete all items; **DO NOT LEAVE ANY ITEM BLANK**. If the value for an item is zero (0), place a zero (0) on the form.

The United States Coast Guard estimates that the average burden for this report form is 31 minutes. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant, U.S. Coast Guard Headquarters (G-MM1); 2100 2nd St., S.W.; Washington, D.C. 20593-0001; OR Office of Management and Budget, Paperwork Reduction Project (2115-0003); Washington, D.C. 20503.

REVERSE OF CG-5573 (11-93)

This part of the form requires information on VERIFIED POSITIVE and REPORTED NEGATIVE drug tests. These are the results that are reported to you by your Medical Review Officer (MRO).

C. MARINE EMPLOYEE DRUG TESTING INFORMATION

TYPE OF TEST	NUMBER OF SPECIMENS COLLECTED	NUMBER OF SPECIMENS REPORTED NEGATIVE	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR ONE OR MORE OF THE FIVE DRUGS	NUMBER OF SPECIMENS VERIFIED POSITIVE FOR EACH TYPE OF DRUG				
				Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines
PRE-EMPLOYMENT								
RANDOM								
POST-ACCIDENT								
REASONABLE CAUSE								
Number of persons denied a position as a covered employee following a verified positive drug test:								
Number of marine employees with a positive drug test result verified by an MRO, who were returned to duty in a covered position, having met the requirements of 46 CFR 16.370 (c) and 46 CFR Part 5:								
SPECIMENS VERIFIED POSITIVE FOR MORE THAN ONE DRUG								
NUMBER OF VERIFIED POSITIVES	Marijuana (THC)	Cocaine	Phencyclidine (PCP)	Opiates	Amphetamines			
EMPLOYEES WHO REFUSED TO SUBMIT TO A DRUG TEST								Number
Covered employees who refused to submit to a random drug test required under USCG regulations:								
Covered employees who refused to submit to a non-random drug test required under USCG regulations:								
DRUG AND ALCOHOL TRAINING								Number
Covered employees who have received initial training on the consequences, manifestations, and behavioral cues of drug and alcohol use as required by USCG drug and alcohol testing regulations:								
Supervisory personnel who have received initial training on the specific contemporaneous physical, behavioral, and performance indicators of probable drug and alcohol use as required by USCG drug and alcohol testing regulations:								

D. MARINE EMPLOYEE ALCOHOL TESTING INFORMATION

TYPE OF TEST	NUMBER OF TESTS	NUMBER OF TEST RESULTS EQUAL TO OR GREATER THAN 0.04
POST-ACCIDENT		
REASONABLE CAUSE		

[CGD 91-019, 58 FR 68279, Dec. 23, 1993]

[CGD 91-019, 58 FR 68279, Dec. 23, 1993]

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EDITORIAL NOTE: This listing is provided for informational purposes only. It is compiled and kept current by the Coast Guard, Department of Transportation.

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