

Note: April 2022.

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U.S. Department
of Transportation

United States
Coast Guard



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COMDTINST 16722.4
JUNE 28, 1995

COMMANDANT INSTRUCTION 16722.4

Subj: ENFORCEMENT OF THE CHEMICAL TESTING REGULATIONS

1. PURPOSE. The purpose of this Instruction is to promulgate policy and procedures for enforcement of the Chemical Testing regulations at Title 46 Code of Federal Regulations Part 16 (46 CFR 16).
2. ACTION. The Chief of the Headquarters Office of M, District Commanders, and Commanding Officers of marine safety and marine inspection offices shall insure compliance with the requirements of this Instruction.
3. BACKGROUND. In 1988, the Coast Guard, in concert with other U. S. Department of Transportation (DOT) modal administrations, published regulations in 46 CFR 16 to prescribe the minimum standards, procedures, and means to be used to test for the use of dangerous drugs and alcohol in the marine industry. Those regulations prescribe which commercial vessel crewmembers are required to be chemically tested and under what circumstances the testing must be done. Simultaneously, DOT published regulations at 49 CFR 40 that are referenced by 46 CFR 16 and describe in detail how the Coast Guard-required drug tests are to be conducted. Since their inception, many changes have been made to 46 CFR 16 and 49 CFR 40 as the program matured and the dynamics of drug/alcohol use and methodology for their testing also changed. In 1995, a Coast Guard drug and alcohol program inspector (DAPI) billet was established in each District to enforce the regulations. DAPI billets were established at ports taking into consideration the port's geographic location in the District and the geographical center of the applicable vessel distribution in the District. The ports

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where DAPIs are located are Providence, St. Louis, Baltimore, Miami, New Orleans, Toledo, Los Angeles/Long Beach, Portland (Oregon), Honolulu, and Anchorage.

4. DISCUSSION. The Coast Guard chemical testing regulations are applicable to approximately 132,000 commercial vessel crewmembers working on approximately 44,000 inspected and uninspected vessels. The intent of the 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. In order for any regulations to have a meaningful impact, they must be complied with by the industry affected. Enforcement of the regulations is necessary to ensure that testing is being done by marine employers when required and in the manner required.
5. PROGRAM RESPONSIBILITIES.
 - a. Commandant (G-M) shall continue to work closely with DOT and other modal transportation administrations to ensure cooperation, and where possible consistency, between regulatory agencies.
 - b. Commandant (G-MMI) shall:
 - (1) Act as program manager for the Chemical Testing Regulations, including promulgating changes to 46 CFR 16, providing input to DOT changes to 49 CFR 40, and developing appropriate policy and guidance.
 - (2) Initiate and coordinate training for the DAPIs.
 - (3) Develop and provide checklists of applicable regulations to be used by DAPIs.
 - (4) Maintain and distribute up-to-date Chemical Testing informational material for the marine industry.
 - (5) Administer the Chemical Testing Program budget, including distribution travel funds to Commanding Officers of marine safety offices where DAPIs are billeted for travel purpose to other marine inspection zones.
 - (6) Annually measure the effectiveness of the Chemical Testing Program through the use of the Management Information System (MIS) and requiring annual reports from DAPIs of their activities.
 - (7) Monitor the use of all program resources and tools, and revise and redistribute as appropriate.
 - c. District Commanders are to ensure effective utilization of the District's DAPI among all marine safety/inspection offices to the maximum extent possible given time, budget, distance, and operational constraints.

- d. Commanding Officers of marine safety offices with a DAPI billet shall:
- (1) Upon successful completion of training provided by G-MMI, designate the DAPI as a marine inspector (limited to Chemical Testing regulations) and investigation officer.
 - (2) Ensure the DAPI is not burdened with excessive collateral duties that impinge upon his/her primary duty, which includes Chemical Testing Program responsibilities to other Officers in Charge, Marine Inspection in the District.
 - (3) Foster and coordinate DAPI inspection visits to other District marine inspection zones.
 - (4) Provide administrative, budgetary (as provided by G-MMI), and technical support to the DAPI.
 - (5) Ensure that all inspections for Chemical Testing Compliance are entered into the marine inspection activity report (MIAR) product set in the marine safety information system (MSIS) as per current Commandant policy within 5 working days after the exam takes place. The inspections should be entered as an "admin" case.
 - (6) Continue to include a cursory check of Chemical Testing compliance during applicable vessel inspections for certification and reinspections, even if the DAPI is not present for the inspection.
 - (7) As resources and operations permit, check uninspected vessels within their area of responsibility for evidence of compliance with the Chemical Testing regulations.
- e. Commanding Officers of marine safety/inspection offices without a DAPI billet shall:
- (1) Designate a unit contact point to act as liaison with the DAPI in the same District.
 - (2) Provide input to the corresponding DAPI regarding known information on Chemical Testing compliance and noncompliance in his/her inspection zone to allow the DAPI to prioritize inspection visits.
 - (3) Coordinate inspection visits from the DAPI.
 - (4) Provide the DAPI local jurisdictional authority by designating him/her as a marine inspector (limited to Chemical Testing regulations) and investigating officer.

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- (5) Ensure that all inspections for Chemical Testing compliance are entered into the MIAR product set in MSIS as per current Commandant policy within five working days after the exam takes place. The inspections should be entered as an "admin" case.
- (6) Continue to include as cursory check of Chemical Testing compliance during applicable vessel inspections for certification and reinspections.
- (7) As resources and operations permit, check uninspected vessels within their area of responsibility for evidence of compliance with the Chemical Testing regulations.

f. DAPIs shall:

- (1) Prioritize and conduct vessel inspections and visits to marine employers within the District to ensure compliance with the Chemical Testing regulations. The scope of the inspections should include required record keeping and reporting (including MIS), specimen collection and medical review officer activities, employee assistance programs, proper designation of crewmembers to be tested, and proper conduct of required tests.
- (2) Ensure initiation of appropriate enforcement action against non-compliant marine employers.
- (3) Maintain close liaison with marine employers and drug testing consortiums and/or third-party administrators (C/TPAs) in operation within the District.
- (4) Maintain and distribute up-to-date Chemical Testing information material for the marine industry.
- (5) Maintain statistical records of the number of inspections conducted per marine inspection zone and vessel type (inspected vs. uninspected), number and type of discrepancies discovered, the number of seminars/functions attended for the purpose of disseminating Chemical Testing information to the industry, and other information as may be directed by G-MMI.
- (6) Respond to G-MMI directly for requests for statistical information.
- (7) Ensure that all inspections for Chemical Testing compliance are entered into the MIAR product set in MSIS as per current Commandant policy within 5 working days after the exam takes place. The inspections should be entered as an "admin" case.

6. PROCEDURES.

- a. **Inspections.** Chemical Testing-specific inspections of applicable vessels and marine employers are to be conducted using checklists of applicable regulations provided by G-MMI. Inspections should be prioritized to the maximum extent possible throughout the District in the following descending order of priority: inspected vessels, uninspected vessels indicating total lack of compliance (i.e., not listed as a C/TPA's client on the latest MIS report), and uninspected vessels indicating compliance through a C/TPA.

The Coast Guard has no direct authority to inspect C/TPAs. However, reviews of C/TPA programs are encouraged in order to facilitate compliance by marine employers.

- b. **Inspected Vessel Deficiencies.** The Coast Guard does not yet have civil penalty authority for noncompliance with the Chemical Testing regulations. Chemical Testing-related deficiencies should be documented and corrected by using Coast Guard Form CG-835 in accordance with established directives. Only in extreme cases (i.e., conscious refusal of a marine employer to comply after issuance of a CG-835) should a vessel's Certificate of Inspection be removed. It is not necessary that the DAPI perform the follow-up inspection to clear the deficiency. Any qualified marine inspector may clear the deficiency.
- c. **Uninspected Vessel Deficiencies.** The Coast Guard does not yet have civil penalty authority for noncompliance with the Chemical Testing regulations. Chemical Testing-related deficiencies should be brought to the attention of the licensed operator of the vessel, and that individual should be notified that action could be taken against his/her license for operating a vessel that is not in compliance with the regulations. Only in extreme cases (i.e., conscious refusal of a vessel operator to comply after initial notification of noncompliance) should suspension and revocation proceedings be initiated.

/s/ G. N. NACCARA
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