

New Requirements for Chemical Testing Following Serious Marine Incidents

On December 22, 2005, the Coast Guard published a Final Rule in the Federal Register (Vol. 70, No. 245, Pages 75954-75961) that revises requirements for mandatory chemical testing following serious marine incidents involving vessels in commercial service, including commercial fishing industry vessels. The new requirements change or add to the regulations found in Title 46 Code of Federal Regulations (CFR) Part 4, Subpart 4.06. **The Final Rule is effective June 20, 2006.**

A serious marine incident (SMI) is any reportable marine casualty or accident involving a vessel in commercial service which results in:

- One or more deaths;
- An injury to a non-crewmember which requires professional medical treatment beyond first aid;
- An injury to a crewmember which requires professional medical treatment beyond first aid, and renders the individual unfit to perform routine duties;
- Damage to property in excess of \$100,000;
- Actual or constructive loss of any inspected vessel;
- Actual or constructive total loss of any uninspected self-propelled vessel of 100 gross tons or more;
- A discharge of oil of 10,000 gallons or more into the navigable waters of the United States; or
- A discharge of a reportable quantity of a hazardous substance into the navigable waters of the U.S., or a release of a reportable quantity of a hazardous substance into the environment of the U.S.

The changes to the regulations set time limits for marine employers to ensure individuals are tested for alcohol use, and specimens for drug testing are collected from individuals following a SMI, when it is determined those individuals were directly involved in the SMI. The rule also requires that most commercial vessels have alcohol testing devices on board, and authorizes the use of saliva as an acceptable specimen for alcohol testing.

Failure to comply with the chemical testing requirements may result in the assessment of a civil penalty of up to \$5,500 for each violation. Also, mariners holding credentials issued by the U.S. Coast Guard may face suspension or revocation proceedings if they do not comply with the testing requirements.

The following is a summary of the new requirements:

1. **Alcohol testing** must be conducted on each individual engaged or employed on board the vessel who is directly involved in the SMI. The testing must be conducted **within 2 hours** of when the SMI occurred, unless precluded by safety concerns directly related to the incident. If safety concerns cannot be addressed and testing conducted within 8 hours after the occurrence of the SMI, it is not required. In this situation, the marine employer must document on form CG-2692B the reason why testing was not conducted.

2. **Drug testing** must be conducted on each individual engaged or employed on board the vessel who is directly involved in the SMI. Collection of drug-test specimens must be conducted **within 32 hours** of when the SMI occurred, unless precluded by safety concerns directly related to the incident. If safety concerns prevent the collection of specimens within 32 hours, then specimens must be collected as soon as possible thereafter. If drug-test specimens are not collected, or the individual refuses to provide a specimen, the marine employer must document the reasons why on form CG-2692B. Individuals refusing to provide a specimen must be removed as soon as practical from duties that affect the safe operation of the vessel.

3. **Alcohol testing devices** must be readily available on board the vessel unless obtaining the devices and conducting the required testing can be accomplished within 2 hours from the time of occurrence of the SMI. **Saliva** is an acceptable specimen for alcohol testing.

Approved Evidential Breath Testing devices or Alcohol Screening Devices are on the National Highway Traffic Safety Administration's Conforming Products List. The lists can be viewed or downloaded from NHTSA's website at: <http://www.nhtsa.dot.gov/people/injury/alcohol/blood.htm>

Relatively inexpensive saliva Alcohol Screening Devices that meet minimum requirements are available in packages that could be separated to accommodate several vessels. Packages of 25 testing devices of some brands can be purchased for approximately \$125.

Become familiar with the new requirements. Contact your local Coast Guard office if you have questions.

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