



Ship Type: All

Trade Area: USA

Bulletin 156 - 09/00 - Mandatory drug and alcohol testing requirements after an incident - USA

In a recent case, the US Court of Appeals for the Fifth Circuit has ruled in favor of the US Coast Guard and against a shipowner who failed to conduct drug and alcohol testing on a crewmember following a serious marine incident. In this case, a crewmember was severely injured. The shipowner did not conduct drug and alcohol testing because of the traumatic nature of the injuries and Coast Guard instituted administrative proceedings against the shipowner for failure to comply with the post-incident drug and alcohol testing regulations. As a result of the case, the Coast Guard is in the process of assessing civil penalties against the company for violating the chemical testing requirements [In re Transport Marine, Inc., F.3d (5th Cir., July 13, 2000)].

We would remind Members that USCG regulations mandate that the marine employer take all practical steps to have each individual engaged or employed on board a vessel who is directly involved in a serious marine incident chemically tested for drugs and alcohol [USCG 46 CFR Part 4, Subpart 4.06, Section 4.06-1(b)].

Collection of Samples:

The regulations do not set a specific time limit but require collection of specimens "as soon as possible." Although the USCG treats each incident differently, Members should note that since alcohol is metabolized quite quickly, breath-alcohol testing must be completed within a reasonable period of time [USCG Authorization Act incorporates a change to 46 USC Section 2115 which increases the civil penalty to **\$ 5000** for failing to comply with this testing requirement].

Specimen Collection Equipment:

Specimen collection kits and chain-of-custody forms must be maintained aboard the ship. Inspected ships certified for unrestricted ocean routes must have a breath-alcohol device for alcohol testing purposes. QED saliva test strips are also available for **EVIDENTIARY SCREENING ONLY** and cannot be used as a replacement for breath alcohol testing.

Reporting Requirements:

A Chemical Drug and Alcohol Report (Form 2692B) must be submitted to the appropriate Officer in Charge, Marine Inspection following a serious marine incident. If the drug test results are not available when the report is submitted, the marine employer must report the test results to the US Coast Guard when they receive them. **THE US COAST GUARD MAY ASSESS CIVIL PENALTIES AGAINST THE MARINE EMPLOYER FOR FAILING TO COMPLY WITH THIS REPORTING REQUIREMENT.**

Source of Information : American Maritime Safety Inc through David Grammas (New Jersey)