



Marine Safety Information Bulletin

Commandant
U.S. Coast Guard
Inspections and Compliance Directorate
2703 Martin Luther King Jr Ave SE, STOP 7501
Washington, DC 20593-7501

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E-Mail: DAPI@uscg.mil

Marine Employer Required Drug Testing and 46 CFR Part 16 Drug Testing

Employers are reminded that drug tests required by [Title 46, Code of Federal Regulations \(CFR\), Part 16](#) and those ordered by company policy are not interchangeable. All Part 16 drug testing procedures, including the basis and documentation, must be completely separate from non-Part 16 drug tests. A crucial aspect of keeping the basis for the tests separate is the use of the drug testing custody and control forms. A Federal Drug Testing Custody and Control Form may ***ONLY*** be used for Part 16 drug testing and must ***NOT*** be used for non-DOT, including non-Part 16, drug testing. See [49 CFR § 40.13\(f\)](#).

Part 16 Testing

When an employer orders a Part 16 drug test, they are ordering a search of a mariner's urine under the Coast Guard's authority. Because of the protections built into Part 16, it is vital that any drug test ordered by an employer, under the authority of Part 16, be done in compliance with Part 16 and only on one or more of the specified four occasions: pre-employment, random, serious marine incident, or reasonable cause. For these tests, a Federal Drug Testing Custody and Control Form must be utilized. If a drug test is properly ordered in compliance with Part 16, and properly conducted in accordance with [49 CFR Part 40](#), the Coast Guard is afforded a presumption of drug use by the mariner such that remedial action is much more likely.

Non-DOT/Non-Part 16 Testing

When an employer orders a non-Part 16 required drug test, the basis must be independent of those required by Part 16. Because the test is not ordered under the Coast Guard's authority, it should be documented on a Non-Federal Drug Testing Custody and Control Form. This ensures less confusion and a greater likelihood of admissibility at an administrative hearing.

Additionally, violating 49 CFR § 40.13(f) may put the company at risk for civil penalties. If the company uses the proper form for drug tests ordered in accordance with their company policy, the marine employer will avoid that liability risk.

Conclusion

Employers are reminded to: (1) clearly separate Part 16 drug testing (i.e. Coast Guard mandated) from non-Part 16 drug testing (e.g. company policy), (2) have the ability to articulate a valid basis for using the Coast Guard's authority to require drug testing in accordance with Part 16, (3) always use a Federal Drug Testing Custody and Control Form for Part 16 mandated drug tests, and (4) never use Federal Drug Testing Custody and Control Form for non-DOT or non-Part 16 drug testing.

Questions or comments may be sent to DAPI@uscg.mil.

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