

U.S. Department  
of Transportation

United States  
Coast Guard



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16722  
25 September 1998

From: Commander, Eighth Coast Guard District  
To: Distribution

Subj: DETAINMENT OF VESSELS AFTER A SERIOUS MARINE INCIDENT

Ref: (a) CCGD8 (moc) ltr 16722 of 6 April 1998

1. Following a recent marine casualty, a Captain of the Port (COTP) detained a vessel pending receipt of drug and alcohol test results. In this case, a tug boat was pulling ten barges. One barge was equipped with a crane that had its boom fully extended while passing underneath a vehicular bridge. The crane struck the bridge causing damage which required closing the bridge to all vehicular traffic. The COTP issued a verbal order for drug and alcohol testing of all individuals involved and detained the vessel pending the results of the chemical tests. The decision to order chemical testing was lawful and appropriate; however, no guidance is available concerning detaining a vessel pending the receipt of test results. This letter provides such guidance.

2. The regulations regarding operating a vessel while intoxicated (33 CFR 95) specify the conditions under which drug and alcohol testing is required. These regulations allow testing for "reasonable cause" arising from the occurrence of a casualty. As explained in reference (a), this authority is broad and must be used with caution.

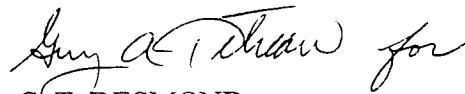
3. The Drug and Alcohol Testing regulations in 46 CFR parts 4 and 16 list specific instances when tests shall be conducted. 46 CFR 4.06-1 requires the marine employer to make a timely, good faith determination as to whether a marine casualty is, or is likely to become, a serious marine incident. It states that all individuals engaged or employed on board a vessel who were directly involved in a serious marine incident shall be chemically tested for evidence of drug and alcohol use. In all cases, 46 CFR 4.06-1 places the burden for conducting tests on the marine employer.

4. If there is evidence to believe that a mariner is impaired due to drugs or alcohol, then professionals should be called upon to evaluate the individual. Based upon the results of that evaluation, appropriate action should be taken. In the case of a single operator who is impaired, detention of the vessel is clearly justifiable and appropriate. Furthermore, until an appropriate

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licensed operator can replace that individual, and until the vessel is manned with the minimum number of licensed and unlicensed personnel as prescribed by law, the vessel should not be permitted to proceed.

5. The Coast Guard's primary responsibilities following a marine casualty are to vigorously pursue required drug and alcohol tests, conduct timely and professional accident investigations, and complete appropriate follow-up actions. There are many instances where chemical testing may be required because an accident meets threshold requirements. When the apparent cause of a casualty may be error in judgment or negligence, detaining a vessel pending the results of chemical testing is inappropriate. This action should only be taken when there is other evidence to support a belief that the operator is impaired or under the influence of drugs or alcohol. If incompetence is suspected, then the mariner should be charged and brought before the Administrative Law Judge as soon as possible. Questions regarding this matter may be directed to LTJG Michelle Watson, Drug and Alcohol Program Inspector New Orleans, at (504) 589-4419 or LTJG Chris O'Neil, Drug and Alcohol Program Inspector St. Louis, at (314) 539-3091 ext 273.



C.T. DESMOND

By direction

Dist: All Eighth District MSOs, MSU, MSDs, and Western Rivers DAPI