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(2) The first issuance, raise of grade, or renewal of an officer endorsement on a merchant mariner credential;

(3) A raise of grade of a license or COR;

(4) The first endorsement as an able seaman, lifeboatman, qualified member of the engine department, or tankerman; or

(5) A reissuance of a credential with a new expiration date. The applicant must provide the results of the test to the Coast Guard Regional Examination Center (REC) at the time of submitting an application. The test results must be completed and dated not more than 185 days before submission of the application.

(b) Unless excepted under paragraph (c) of this section, each pilot required by this subchapter to receive an annual physical examination must pass a chemical test for dangerous drugs as a part of that examination, and provide the results to the Coast Guard. Applicants need not submit additional copies of their annual chemical test for dangerous drugs pursuant to paragraph (a) of this section if the applicant submitted passing results of a chemical test for dangerous drugs to the Coast Guard within 12 months of the date of application.

(c) An applicant need not submit evidence of passing a chemical test for dangerous drugs pursuant to paragraph (a) of this section if he or she provides satisfactory evidence that he or she has—

(1) Passed a chemical test for dangerous drugs required by this part within the previous six months with no subsequent positive chemical tests during the remainder of the 6-month period; or

(2) During the previous 185 days been subject to a random testing program required by §16.230 for at least 60 days and did not fail or refuse to participate in a chemical test for dangerous drugs required by this part.

(d) Except as provided by paragraph (b) of this section, an applicant is required to provide the results of only one chemical test for dangerous drugs when multiple transactions are covered by or requested in a single application.


§ 16.230 Random testing requirements.

(a) Marine employers shall establish programs for the chemical testing for dangerous drugs on a random basis of crewmembers on inspected vessels who:

(1) Occupy a position, or perform the duties and functions of a position, required by the vessel’s Certificate of Inspection;

(2) Perform the duties and functions of patrolmen or watchmen required by this chapter; or,

(3) Are specifically assigned the duties of warning, mustering, assembling, assisting, or controlling the movement of passengers during emergencies.

(b) Marine employers shall establish programs for the chemical testing for dangerous drugs on a random basis of crewmembers on uninspected vessels who:

(1) Are required by law or regulation to hold a license issued by the Coast Guard in order to perform their duties on the vessel;

(2) Perform duties and functions directly related to the safe operation of the vessel;

(3) Perform the duties and functions of patrolmen or watchmen required by this chapter; or,

(4) Are specifically assigned the duties of warning, mustering, assembling, assisting, or controlling the movement of passengers during emergencies.

(c) The selection of crewmembers for random drug testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with crewmembers’ Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the testing frequency and selection process used, each covered crewmember shall have an equal chance of being tested each time selections are made and an employee’s chance of selection shall continue to exist throughout his or her employment. As an alternative, random selection may be accomplished by periodically selecting one or more vessels and
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testing all crewmembers covered by
this section, provided that each vessel
subject to the marine employer’s test
program remains equally subject to se-
lection.

(d) Marine employers may form or
otherwise use sponsoring organiza-
tions, or may use contractors, to con-
duct the random chemical testing pro-
grams required by this part.

(e) Except as provided in paragraph
(f) of this section, the minimum annual
percentage rate for random drug test-
ing shall be 50 percent of covered crew-
members.

(f) The annual rate for random drug
testing may be adjusted in accordance
with this paragraph.

(1) The Commandant’s decision to in-
crease or decrease the minimum an-
nual percentage rate for random drug
testing is based on the reported ran-
dom positive rate for the entire indus-
try. All information used for this de-
termination is drawn from the drug
MIS reports required by this part. In
order to ensure reliability of the data,
the Commandant considers the quality
and completeness of the reported data,
may obtain additional information or
reports from marine employers, and
may make appropriate modifications
in calculating the industry random
positive rate. Each year, the Com-
mandant will publish in the FEDERAL
REGISTER the minimum annual per-
centage rate for random drug testing
of covered crewmembers. The new min-
imum annual percentage rate for ran-
dom drug testing will be applicable
starting January 1 of the calendar year
following publication.

(2) When the minimum annual per-
centage rate for random drug testing is
50 percent, the Commandant may lower
this rate to 25 percent of all covered
crewmembers if the Commandant de-
termines that the data received under
the reporting requirements of 46 CFR
16.500 for two consecutive calendar
years indicate that the positive rate is
less than 1.0 percent.

(3) When the minimum annual per-
centage rate for random drug testing is
25 percent, and the data received under
the reporting requirements of 46 CFR
16.500 for any calendar year indicate
that the positive rate is equal to or
greater than 1.0 percent, the Com-
mandant will increase the minimum
annual percentage rate for random
drug testing to 50 percent of all covered
crewmembers.

(g) Marine employers shall randomly
select a sufficient number of covered
crewmembers for testing during each
calendar year to equal an annual rate
not less than the minimum annual per-
centage rate for random drug testing
determined by the Commandant. If the
marine employer conducts random
drug testing through a consortium, the
number of crewmembers to be tested
may be calculated for each individual
marine employer or may be based on
the total number of covered crew-
members covered by the consortium
who are subject to random drug testing
at the same minimum annual percent-
age rate under this part or any DOT
drug testing rule.

(h) Each marine employer shall en-
sure that random drug tests conducted
under this part are unannounced and
that the dates for administering ran-
dom tests are spread reasonably
throughout the calendar year.

(i) If a given covered crewmember is
subject to random drug testing under
the drug testing rules of more than one
DOT agency for the same marine em-
ployer, the crewmember shall be sub-
ject to random drug testing at the per-
centage rate established for the cal-
endar year by the DOT agency regu-
ling more than 50 percent of the
crewmember’s function.

(j) If a marine employer is required
to conduct random drug testing under
the drug testing rules of more than one
DOT agency, the marine employer
may—

(1) Establish separate pools for ran-
dom selection, with each pool con-
taining the covered crewmembers who
are subject to testing at the same re-
quired rate; or

(2) Randomly select such crew-
members for testing at the highest per-
centage rate established for the cal-
endar year by any DOT agency to
which the marine employer is subject.

(k) An individual may not be engaged
or employed, including self-employ-
ment, on a vessel in a position as mas-
ter, operator, or person in charge for
which a credential is required by law or
§ 16.240 Serious marine incident testing requirements.

The marine employer shall ensure that all persons directly involved in a serious marine incident are chemically tested for evidence of dangerous drugs and alcohol in accordance with the requirements of 46 CFR 4.06.

§ 16.250 Reasonable cause testing requirements.

(a) The marine employer shall require any crewmember engaged or employed on board a vessel owned in the United States that is required by law or regulation to engage, employ or be operated by an individual holding a credential issued under this subchapter, who is reasonably suspected of using a dangerous drug to be chemically tested for dangerous drugs.

(b) The marine employer’s decision to test must be based on a reasonable and articulable belief that the individual has used a dangerous drug based on direct observation of specific, contemporaneous physical, behavioral, or performance indicators of probable use. Where practicable, this belief should be based on the observation of the individual by two persons in supervisory positions.

(c) When the marine employer requires testing of an individual under the provisions of this section, the individual must be informed of that fact and directed to provide a urine specimen as soon as practicable. This fact shall be entered in the vessel’s official log book, if one is required.


Subpart C [Reserved]

Subpart D—Employee Assistance Programs

§ 16.401 Employee Assistance Program (EAP).

The employer shall provide an Employee Assistance Program (EAP) for all crewmembers. The employer may establish the EAP as a part of its internal personnel services or the employer may contract with an entity that will provide EAP services to a crewmember. Each EAP must include education and training on drug use for crewmembers and the employer’s supervisory personnel as provided below:

(a) **EAP education program:** Each EAP education program must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for crewmember assistance, and display and distribution of the employer’s policy regarding drug and alcohol use in the workplace.

(b) **EAP training program:** An EAP training program must be conducted...