

MEMORANDUM CIRCULAR NO. 191
Series of 2003

TO : ALL DOMESTIC SHIPOWNERS / OPERATORS / SEAFARERS / OTHER PERSONNEL AND ALL CONCERNED

SUBJECT : RULES IN THE CONDUCT OF DRUG AND ALCOHOL TESTING OF ALL SEAFARERS AND OTHER PERSONNEL SERVING ONBOARD SHIPS ENGAGED IN THE DOMESTIC TRADE

Pursuant to Presidential Decree No. 474 and Executive Order 125, as amended, and in compliance with Flag State Administration Advisory No. 42, the Maritime Industry Authority (MARINA) Board, hereby prescribes the following rules:

I. OBJECTIVES:

1. To minimize the occurrence of incidents/accidents at sea;
2. To further promote maritime safety by conducting random drug and alcohol testing on all seafarers and other personnel serving onboard domestic ships; and,
3. To promote a Drug and Alcohol-Free Workplace in support of the Drug Free Philippines 2010 Program.

II. COVERAGE:

These rules shall apply to all seafarers and other personnel employed or to be employed onboard Philippine-registered ships of at least 3 GT engaged in the domestic trade.

III. DEFINITION OF TERMS

1. **Alcohol** - refers to a most commonly abused substance in liquid form produced by fermentation that depresses the nervous system and removes partly or fully a person's inhibitions.
2. **Analyst** – refers to the individual who performs examination, certifies results and is responsible for the chain of custody of tests conducted.
3. **Seafarer** – refers to a ship's complement consisting of officers and ratings, and other crew such as deck/engine cadets, ordinary seamen, wipers, messmen, cooks, etc.

4. **Cut-off** - refers to the concentration used to establish and report a specimen as negative or positive.
5. **Dangerous Drugs** – are substances that modify and alter a person’s judgment, disposition and behavior when taken indiscriminately and without proper supervision.
6. **DOH** – refers to the Department of Health or official representative of the Secretary of Health.
7. **DOH-licensed and accredited Instrument Screening Drug Testing Laboratory (ISDTL)** – refers to a laboratory in a permanent location that conducts drug and testing using validated Test Kits and Alcohol Testing.
8. **DOH-licensed and accredited Laboratory (LAL)** – refers to a laboratory where confirmatory drug and alcohol testing are performed (if necessary) under the supervision of the head of the laboratory and where analysts perform the final review and release of test results.
9. **Laboratory** – refers to a private or government facility that is capable of testing a specimen to determine the presence of dangerous drugs therein.
10. **National Reference Laboratory (NRL)** – refers to the National Reference Laboratory for Environmental and Occupational Health, Toxicology & Micronutrients assay designated by the Secretary of Health. It is a laboratory capable of doing screening and confirmatory laboratory services, training of surveillance and external quality assurance program for laboratory tests. Whenever the drug testing laboratory result is challenged, the NRL shall make the final decision.
11. **Screening Test** – refers to a test to eliminate negative specimen from further consideration and to identify the presumptively positive specimen that requires confirmatory testing.
12. **Confirmatory Testing** – refers to the analytical procedure to identify and quantify the presence of a specific drug or metabolite, which is independent of the initial test which uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy.
13. **Specimen** – refers to the fluid or material derived from the body subjected for testing.

14. **Sample** – refers to a representative portion of a specimen or quality control material used for testing.
15. **Negative Result** – refers to the result reported by the DOH-licensed and accredited laboratory analyst to the Head of the Laboratory when a specimen contains no drugs or the concentration of the drugs/alcohol is less than the cut-off concentration.
16. **Positive Result** – refers to the result reported by a laboratory when a specimen contains drugs or drug metabolite/alcohol greater than or equal to the cut-off concentration.
17. **Random Testing** – refers to a test performed on a specimen collected from a client/donor/subject who is selected at random from a group of individuals.
18. **Other Personnel** – refers to a person or group of persons providing personal and/or direct services to passengers on board like hotel-restaurant, housekeeping managers, supervisors and personnel like cabin attendants, waiters/waitresses, barmaids, bartenders, entertainers, beauticians, ship's security officers/guard, shops/store's staff, including front desk officers, etc.
19. **Ship In-Port** – refers to ship/s at berth to its port of call/destination.
20. **Ship In-transit** – refers to ship/s underway/enroute to its port of call/destination.
21. **Act** – refers to Republic Act No. 9165 otherwise known as "The Comprehensive Dangerous Drug Act of 2002."
22. **Seafarer's Identification and Record Book (SIRB)** – refers to a document issued by the Maritime Industry Authority to all Filipino seafarers and others including cadets to provide the holders with identity papers and record of their sea service.

IV. GENERAL PROVISIONS:

1. The intake of dangerous drugs by any seafarer and other personnel is strictly prohibited.
2. The drinking of alcohol, or any beverage or drink containing alcohol, by any seafarer and other personnel while on board whether on duty/watch or not, is likewise strictly prohibited.

3. All shipowners/ship operators are hereby directed to submit, within sixty (60) days from effectivity of this Circular, to the Maritime Safety Office or the concerned Maritime Regional Office (MRO), their drug and alcohol policy as part of their Safety Management System.
4. An audit or re-audit, in accordance with International Safety Management (ISM) Code or the National Safety Management (NSM) Code, as appropriate, shall be conducted taking into consideration the shipowner's/ ship operator's drug and alcohol policy.
5. The NSM/ISM Manual pertaining to the prohibition of drug/alcohol intake at the workplace shall be strictly observed and enforced.
6. The testing for drug and/or alcohol use shall be conducted on a random basis, while the ship is at port or in transit, and the expense/s incurred therein shall be borne by the shipowner/ship operator.
7. In case of a maritime incident or accident, the testing for drug and/or alcohol use shall be mandatory and shall be immediately conducted on all seafarers and other personnel of the ship/s involved therein but not later than twenty four (24) hours after the occurrence of such accident or incident.
8. The results of all drug and alcohol tests conducted for each seafarer or other personnel shall be reflected in his Seafarer's Identification and Record Book (SIRB) without prejudice to any administrative, civil or criminal action or proceeding which may be instituted against him.

V. SPECIFIC PROVISIONS:

1. A Medical Team of a DOH-ISDTL, together with the MARINA-PCG Inspection Team, shall go on board the ship to conduct a random testing on drugs and alcohol based on the MARINA-determined schedule and random sample design. The Teams shall be in proper uniform and with proper identification at all times.
2. The Medical Team and the MARINA-PCG Inspection Team shall be responsible in the transport of the screened specimen from the ship to the DOH-LAL for confirmatory testing.
3. Any seafarer or other personnel found positive for drug and alcohol screening test shall not be allowed to perform his duties as a seafarer or other personnel onboard pending the results of the confirmatory testing.

VI. TESTING PROCEDURE:

1. The Medical Team shall board the ship and shall hold a pre-inspection meeting with the Master and/or any of his duly authorized representative/s regarding the purpose and procedures of the inspection.
2. The Medical Team shall then proceed to conduct the drug and alcohol testing on seafarers and other personnel whom they randomly selected during the pre-inspection meeting.
3. A post-inspection meeting shall immediately follow to inform the Master or any of his duly authorized representative/s on the results thereof.
4. The results of the medical examination of those who have been initially found positive for drugs and alcohol shall be confirmed by a DOH-LAL.
5. Any seafarer or other personnel found to be positive in the screening/confirmatory testing may challenge said result within fifteen (15) days from receipt thereof.
6. The MARINA, the shipowner/ship operator and the DOH-ISDTL shall be furnished copies of the final result of the drug and alcohol testing by the DOH-LAL within fifteen (15) days from the day the testing was conducted. Such result/s of testing shall serve as basis for the issuance of the appropriate Show Cause Order and/or Cease and Desist Order by the MARINA against the seafarer or other personnel and the shipowner/ship operator, as appropriate.

VII. ADMINISTRATIVE SANCTIONS:

1. A seafarer or other personnel who shall be found positive from drugs and/or alcohol shall be liable, after due process, to the following fines/penalties:

First Offense	Suspension of SIRB and/or QDC
Second and succeeding Offenses	Cancellation of SIRB and/or QDC with recommendation to PRC to revoke his/her license

2. Any shipping company/operator which shall allow a seafarer or other personnel found positive from drug/alcohol to go on board/join a ship shall be liable, after due process, to the following fines/penalties:

First Offense	Suspension of PA/CPC
Second and succeeding Offenses	Cancellation of PA/CPC

3. Any shipowner/operator covered by this Circular that fails to submit its drug and alcohol policy shall be imposed a penalty of Fifty Thousand Pesos (P50,000.00) without prejudice to suspension of operation.
4. Any deliberate misrepresentation/submission of false reports/findings by a DOH-ISDTL shall, after due process, be imposed a penalty of P 50,000.00 without prejudice to any administrative, civil or criminal action or proceeding which may be instituted against them.

VIII. REPEALING CLAUSE:

All MARINA Memorandum Circulars, rules and regulations, orders and issuances inconsistent herewith shall be deemed repealed or amended accordingly.

IX. EFFECTIVITY:

This Memorandum Circular shall take effect immediately after its publication once in a newspaper of general circulation.

11 August 2003 at Manila, Philippines.

BY AUTHORITY OF THE BOARD:

(Sgd.) Atty. OSCAR M. SEVILLA
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. **191** has been approved during the Special Meeting of the MARINA Board held on 11 August 2003.

(Sgd.) ATTY. GLORIA J. VICTORIA-BAÑAS
Director II/CESO V
Franchising Office
Corporate Board Secretary

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