

## § 10.211

requirements for the specific endorsement sought, as established in parts 11, 12 or 13 of this subchapter; and

(8) An open-book exercise, in accordance with §10.227(e)(1) of this part.

(e) The following requirements must be satisfied before an original or renewal MMC, or new endorsement or a raise of grade added to a previously issued MMC, will be issued. These materials will be added to the individual's record by the Coast Guard:

(1) *Determination of safety and suitability.* No MMC will be issued as an original or reissued with a new expiration date, and no new officer endorsement will be issued if the applicant fails the criminal record review as set forth in §10.211 of this part.

(2) *NDR review.* No MMC will be issued as an original or reissued with a new expiration date, and no new officer endorsement will be issued if the applicant fails the NDR review as set forth in §10.213 of this part.

(3) *Information supplied by the Transportation Security Administration (TSA).* No MMC or endorsement will be issued until the Coast Guard receives the following information from the applicant's TWIC enrollment: the applicant's fingerprints, FBI number and criminal record (if applicable), photograph, proof of citizenship, or Nationality with proof of legal resident status (if applicable). If the information is not available from TSA, the mariner may be required to visit a Regional Exam Center or a TWIC enrollment center to provide this information.

(f) Upon determining that the applicant satisfactorily meets all requirements for an MMC or an endorsement thereon, the Coast Guard will issue the properly endorsed MMC to the applicant. The Coast Guard will not issue an MMC until it has received proof that the mariner holds a valid TWIC.

(g) When a new MMC is issued, the mariner must return any previously issued and unexpired MMC, license, MMD, COR, or STCW endorsement to the Coast Guard, unless the new MMC is being issued to replace a lost or stolen credential.

(h) No MMC will be issued if the applicant fails a chemical test for dangerous drugs as required in

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§§10.225(b)(5), 10.227(d)(5), and 10.231(c)(6).

(i) *Ceremonial licenses.* A mariner may obtain a ceremonial license when applying for his or her credential or Document of Continuity.

[USCG–2004–17914, 78 FR 77888, Dec. 24, 2013]

### § 10.211 Criminal record review.

(a) The Coast Guard may conduct a criminal record review to determine the safety and suitability of an applicant for an MMC and any endorsements. An applicant conducting simultaneous MMC transactions will undergo a single criminal record review. At the time of application, each applicant must provide written disclosure of all prior convictions not previously disclosed to the Coast Guard on an application.

(b) A criminal record review is not required for applicants seeking a duplicate MMC under §10.229.

(c) *Fingerprints.* The Transportation Security Administration (TSA) will provide to the Coast Guard the applicant's fingerprints submitted by the applicant with his or her TWIC application and, if applicable, the applicant's FBI number and criminal record generated in the TWIC review process. This information, or the fingerprints taken by the Coast Guard at an REC, will be used by the Coast Guard to determine whether the applicant has a record of any criminal convictions.

(d) When a criminal record review leads the Coast Guard to determine that an applicant is not a safe and suitable person or cannot be entrusted with the duties and responsibilities of the MMC or endorsement applied for, the application may be denied.

(e) If an application is denied, the applicant will be notified in writing of that fact, the reason or reasons for denial, and advised that the appeal procedures in subpart 1.03 of part 1 of this chapter apply. No examination will be given pending decision on appeal.

(f) No person who has been convicted of a violation of the dangerous drug laws of the United States, the District of Columbia, any State, territory, or possession of the United States, or a

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foreign country, by any military or civilian court, is eligible for an MMC, except as provided elsewhere in this section. No person who has ever been the user of, or addicted to the use of a dangerous drug, or has ever been convicted of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304) because of addiction to or abuse of alcohol is eligible for an MMC, unless he or she furnishes satisfactory evidence of suitability for service in the merchant marine as provided in paragraph (l) of this section. A conviction for a drug offense more than 10 years before the date of application will not alone be grounds for denial.

(g) The Coast Guard will use table 1 to §10.211 of this section to evaluate applicants who have criminal convictions. The table lists major categories of criminal activity and is not to be construed as an all-inclusive list. If an applicant is convicted of an offense that does not appear on the list, the Coast Guard will establish an appropriate assessment period using the list as a guide. The assessment period commences when an applicant is no longer incarcerated. The applicant must establish proof of the time incarcerated and periods of probation and parole to the satisfaction of the Coast Guard. The assessment period may include supervised or unsupervised probation or parole.

**TABLE 1 TO 10.211—GUIDELINES FOR EVALUATING APPLICANTS FOR MMCS WHO HAVE CRIMINAL CONVICTIONS**

Crime <sup>1</sup>	Assessment periods	
	Minimum	Maximum
<b>Assessment Periods for Officer and Rating Endorsements</b>		
<b>Crimes Against Persons:</b>		
Homicide (intentional) .....	7 years .....	20 years.
Homicide (unintentional) .....	5 years .....	10 years.
Assault (aggravated) .....	5 years .....	10 years.
Assault (simple) .....	1 year .....	5 years.
Sexual Assault (rape, child molestation) .....	5 years .....	10 years.
Robbery .....	5 years .....	10 years.
Other crimes against persons <sup>2</sup>		
<b>Vehicular Crimes</b>		
Conviction involving fatality .....	1 year .....	5 years.
Reckless Driving .....	1 year .....	2 years.
Racing on the Highways .....	1 year .....	2 years.
Other vehicular crimes <sup>2</sup>		
<b>Crimes Against Public Safety</b>		
Destruction of Property .....	5 years .....	10 years.
Other crimes against public safety <sup>2</sup>		
<b>Dangerous Drug Offenses <sup>3 4 5</sup></b>		
Trafficking (sale, distribution, transfer) .....	5 years .....	10 years.
Dangerous drugs (Use or possession) .....	1 year .....	10 years.
Other dangerous drug convictions <sup>6</sup>		
<b>Assessment Periods for Officer Endorsements Only</b>		
<b>Criminal Violations of Environmental Laws</b>		
Criminal violations of environmental laws involving improper handling of pollutants or hazardous materials.	1 year .....	10 years.
<b>Crimes Against Property</b>		
Burglary .....	3 years .....	10 years.
Larceny (embezzlement) .....	3 years .....	5 years.
Other crimes against property <sup>2</sup>		

<sup>1</sup> Conviction of attempts, solicitations, aiding and abetting, accessory after the fact, and conspiracies to commit the criminal conduct listed in this table carry the same minimum and maximum assessment periods provided in the table.

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<sup>2</sup>Other crimes will be reviewed by the Coast Guard to determine the minimum and maximum assessment periods depending on the nature of the crime.

<sup>3</sup>Applicable to original applications only. Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements of paragraph (f) of this section. Note: Applicants for reissue of an MMC with a new expiration date including a renewal or additional endorsement(s), who have been convicted of a dangerous drug offense while holding a license, MMC, MMD, STCW endorsement or COR, may have their application withheld until appropriate action has been completed by the Coast Guard under the regulations which appear in 46 CFR part 5 governing the administrative actions against merchant mariner credentials.

<sup>4</sup>The Coast Guard may consider dangerous drug convictions more than 10 years old only if there has been another dangerous drug conviction within the past 10 years.

<sup>5</sup>Applicants must demonstrate rehabilitation under paragraph (l) of this section, including applicants with dangerous drug use convictions more than 10 years old.

<sup>6</sup>Other dangerous drug convictions will be reviewed by the Coast Guard on a case by case basis to determine the appropriate assessment period depending on the nature of the offense.

(h) When an applicant has convictions for more than one offense, the minimum assessment period will be the longest minimum in table 1 to §10.211 of this section and table 10.213(c) in §10.213 based upon the applicant's convictions; the maximum assessment period will be the longest shown in table 1 to §10.211 of this section and table 10.213(c) of §10.213 based upon the applicant's convictions.

(i) If a person with a criminal conviction applies before the minimum assessment period shown in table 1 to §10.211 of this section or established by the Coast Guard under paragraph (g) of this section has elapsed, then the applicant must provide, as part of the application package, evidence of suitability for service in the merchant marine. Factors that are evidence of suitability for service in the merchant marine are listed in paragraph (l) of this section. The Coast Guard will consider the applicant's evidence submitted with the application and may issue the MMC and/or endorsement in less than the listed minimum assessment period if the Coast Guard is satisfied that the applicant is suitable to hold the MMC and/or endorsement for which he or she has applied. If an application filed before the minimum assessment period has elapsed does not include evidence of suitability for service in the merchant marine, then the application will be considered incomplete and will not be processed by the Coast Guard.

(j) If a person with a criminal conviction submits his or her MMC application during the time between the minimum and maximum assessment periods shown in table 1 to §10.211 or established by the Coast Guard under paragraph (g) of this section, then the Coast Guard will consider the conviction and, unless there are offsetting

factors, will grant the applicant the MMC and/or endorsement for which he or she has applied. Offsetting factors include such factors as multiple convictions, failure to comply with court orders (e.g., child support orders), previous failures at rehabilitation or reform, inability to maintain steady employment, or any connection between the crime and the safe operation of a vessel. If the Coast Guard considers the applicant unsuitable for service in the merchant marine at the time of application, the Coast Guard may deny the application.

(k) If a person with a criminal conviction submits his or her MMC application after the maximum assessment period shown in table 1 to §10.211 of this section or established by the Coast Guard under paragraph (g) of this section has elapsed, then the Coast Guard will grant the applicant the MMC or endorsement for which he or she has applied unless the Coast Guard considers the applicant still unsuitable for service in the merchant marine. If the Coast Guard disapproves an applicant with a conviction older than the maximum assessment period listed in table 1 to §10.211 of this section, the Coast Guard will notify the applicant in writing of the reason(s) for the disapproval. The Coast Guard will also inform the applicant, in writing, that the reconsideration and appeal procedures contained in subpart 1.03 of this chapter apply.

(l) If an applicant has one or more alcohol or dangerous drug related criminal or NDR-listed convictions, if the applicant has ever been the user of, or addicted to the use of, a dangerous drug, or if the applicant applies before the minimum assessment period has elapsed for his or her conviction, the

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Coast Guard may consider the following factors, as applicable, in assessing the applicant's suitability to hold an MMC. This list is intended as a guide for the Coast Guard. The Coast Guard may consider other factors appropriate to a particular applicant, such as:

- (1) Proof of completion of an accredited alcohol or drug abuse rehabilitation program;
- (2) Active membership in a rehabilitation or counseling group, such as Alcoholics Anonymous or Narcotics Anonymous;
- (3) Character references from persons who can attest to the applicant's sobriety, reliability, and suitability for employment in the merchant marine including parole or probation officers;
- (4) Steady employment; and
- (5) Successful completion of all conditions of parole or probation.

[USCG-2006-24371, 74 FR 11216, Mar. 16, 2009, as amended by USCG-2006-24371, 74 FR 39218, Aug. 6, 2009; USCG-2004-17914, 78 FR 77889, Dec. 24, 2013; USCG-2014-0688, 79 FR 58275, Sept. 29, 2014]

**§ 10.213 National Driver Register.**

(a) No MMC will be issued as an original or reissued with a new expiration date, and no new officer endorsement will be issued, unless the applicant consents to a check of the NDR for offenses described in section 205(a)(3)(A)

or (B) of the NDR Act (i.e., operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; and any traffic violations arising in connection with a fatal traffic accident, reckless driving, or racing on the highways).

(b) The Coast Guard will not consider NDR-listed civil convictions that are more than 3 years old from the date of request unless that information relates to a current suspension or revocation of the applicant's license to operate a motor vehicle. The Coast Guard may determine minimum and maximum assessment periods for NDR-listed criminal convictions using table 10.213(c) of this section. An applicant conducting simultaneous MMC transactions is subject to only one NDR check.

(c) The guidelines in table 1 to paragraph (c) will be used by the Coast Guard in evaluating applicants who have drug or alcohol related NDR-listed convictions. Non-drug or alcohol related NDR-listed convictions will be evaluated by the Coast Guard under table 1 to §10.211 of this part as applicable. The Coast Guard may consider non-drug or alcohol related NDR-listed convictions that are more than 3 years old from the date of the request when the information relates to a current suspension or revocation of the applicant's license to operate a motor vehicle.

**TABLE 1 TO § 10.213(c)—GUIDELINES FOR EVALUATING APPLICANTS FOR MMCs WHO HAVE NDR MOTOR VEHICLE CONVICTIONS INVOLVING DANGEROUS DRUGS OR ALCOHOL <sup>1</sup>**

Number of convictions	Date of conviction	Assessment period
1 .....	Less than 1 year .....	1 year from date of conviction.
1 .....	More than 1, less than 3 years	Application will be processed, unless suspension, or revocation <sup>2</sup> is still in effect. Applicant will be advised that additional conviction(s) may jeopardize merchant mariner credentials.
1 .....	More than 3 years old .....	Application will be processed.
2 or more ...	Any less than 3 years old .....	1 year since last conviction and at least 3 years from 2nd most recent conviction, unless suspension or revocation is still in effect.
2 or more ...	All more than 3 years old .....	Application will be processed unless suspension or revocation is still in effect.

<sup>1</sup> Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug must meet the requirements of paragraph (f) of this section.

<sup>2</sup> Suspension or revocation, when referred to in table 10.213, means a State suspension or revocation of a motor vehicle operator's license.

(d) Any application may be denied if information from the NDR check leads the Coast Guard to determine that the applicant cannot be entrusted with the duties and responsibilities of the endorsement for which the application is

made. If an application is denied, the Coast Guard will notify the applicant in writing of the reason(s) for denial and advise the applicant that the appeal procedures in subpart 1.03 of part 1 of this chapter apply. No examination