(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Issued: January 21, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–2432 Filed 2–1–99; 8:45 am]

BILLING CODE 6718–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 1 and 10

[USCG–1998–3824]

RIN 2115–AF58

Maritime Course Approval Procedures

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard issues a final rule revising the regulations that govern Maritime Course Approval Procedures. The rule streamlines the process by which courses are submitted to and reviewed by the Coast Guard. The rule also adds a mechanism to allow us to suspend or withdraw approvals for courses. Although the current regulations govern training schools with approved courses, only a methodology for course approval is provided. Revising the regulations to include suspension and withdrawal procedures will motivate schools to maintain a uniformly high standard, improve compliance with course approval regulations, and ultimately promote public safety.

DATES: This final rule is effective on March 4, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Docket Management Facility, (USCG–1998–3824), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, contact James Cavo, National Maritime Center (NMC), 703–235–0018. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 13, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Maritime Course Approval Procedures'' in the **Federal Register** (63 FR 26566). The Coast Guard received eight comments in response to the proposed rulemaking.

Background and Purpose

Regulations for merchant mariner course approvals have been in place for several years and are found in 46 CFR part 10. Courses were first approved for education mandated by regulation such as radar observer, fire-fighting, and first aid. Courses were then approved for formal training instead of required sea service for both renewal and raise in grade of a license or an endorsement, and to substitute for a Coast Guard examination.

With the publication of a Focus Group Study, *Licensing 2000 and Beyond* in 1993, the Coast Guard began approving courses to substitute for certain modules of examination, especially for lower level licenses. Now, with the implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) of the International Maritime Organization (IMO), requirements for basic entry-level education, structured shipboard training programs, and specific assessment protocols, the course approval burden has increased considerably.

Presently, the Coast Guard has approved in excess of 700 courses presented by over 225 schools and the number is growing weekly. As part of a Quality Standard System (QSS), Coast Guard Regional Examination Centers (RECs) are charged with oversight of these widespread training institutions.

The majority of schools consistently operate according to the regulations governing course approvals. There are times, however, when audits of a particular school show evidence of infractions ranging from incomplete recordkeeping to major deficiencies dealing with examination tampering, operating outside the conditions of the course approval, and outright misrepresentation of course material. Some primary reasons for suspending or withdrawing a course approval include (but are not limited to):

- Failure to comply with the provisions of the course approval.
- Failure to comply with the provisions of parts 10, 12, 13 or 15 of Title 46, Code of Federal Regulations (46 CFR) especially Part 10, Subpart C.
- Scheduling and teaching an approved course at a location other than the site requested in the application for approval and authorized in the approval letter unless prior site approval is requested of and granted by the Officer in Charge, Marine Inspection (OCMI) of the Regional Exam Center in whose area of responsibility the ''remote site'' is located.
- Not adhering to the approved length of the course; cutting short instructional time on a daily or weekly basis. Substituting ''homework'' or ''preparation time,'' either on computer-based questions or artificially drawn-out plotting exercises for quality classroom instructional contact hours.
- Using unqualified instructors, substandard facilities or otherwise presenting the course in a manner that is not sufficient for or conducive to achieving the learning objectives of the course.
- Not giving a final (end-of-course) exam equal in scope and difficulty to the Coast Guard exam for that particular license or endorsement. Also, for not giving a final exam or a ''re-take'' exam which is totally different than any homework, classroom ''practice exercise'' or exam previously viewed by the student.
- Issuing certificates of course completion to students who have not demonstrated competency or who have not otherwise met the course requirements.
- Advertising, holding a course, or issuing certificates of course completion to students as having passed a course of instruction for which the school does not hold a valid Coast Guard approval.
- Assisting a student in passing the final (end-of-course) exam by either directly or indirectly providing any assistance including, but not limited to, supplying answers, hinting at the correct answer, grading and returning the exam for completion and indicating that certain answers or choices are incorrect prior to grading.
- Giving a student a final (end-of-course) exam orally. The authority to give an oral examination rests with the OCMI per 46 CFR 10.205.
- Allowing a student to enroll or join the course after the beginning of course instruction.

In order to prevent these infractions, and ensure the integrity of Coast Guard approved courses, the Coast Guard is issuing this rule to establish suspension, withdrawal, and appeal provisions in our regulations.

Discussion of Comments and Changes

The Coast Guard is substituting the words ''withdraw,'' ''withdrawn,'' and ''withdrawal'' wherever the words ''revoke,'' ''revoked,'' and ''revocation'' were used in the NPRM and in the regulatory text of sections 1.03–15, 1.03–45, and 10.302. This is being done for clarity and to avoid any confusion with the suspension and revocation

provisions of 46 CFR 1.10–20, which are not applicable to maritime course approvals. This does not substantively change the regulatory text.

The Coast Guard received a total of eight comment letters responding to the NPRM, of these, two letters were identical in content and filed by the same entity and were considered as a single comment letter. Two comments recommended public meetings citing potential impact on maritime educators. As only four maritime educators commented on the NPRM, no public meetings were held. Following is a discussion of comments received.

1. General Comments

The majority of the comments supported the NPRM and did not recommend major changes. Two comments expressed strong support and felt that the ''suspension and revocation'' provisions (now labeled withdrawal) were necessary to ensure the quality and integrity of mariner training. One comment felt the Coast Guard should use this rulemaking to change the way in which it administers Merchant Marine license examinations. Such an undertaking is beyond the scope of this rulemaking.

2. Course Expiration

Four comments expressed confusion or concern regarding the expiration of a course approval when the school no longer offers the course. Two comments suggested that this apply only when the training organization informs the Coast Guard that it would no longer be offering the course or that the school be provided an opportunity to confirm that it no longer will offer the course. The Coast Guard agrees that the proposed language was potentially confusing and has revised section 10.302, paragraphs (c) and (d), to indicate that a course approval will terminate when the school notifies the Coast Guard that it will no longer offer the course.

One comment suggested that section 10.302, paragraphs (c) and (d), be amended to provide for revocation when a school is acquired by another school, but continues to offer its courses using the same facilities and instructors. Because Section 10.302, paragraphs (c) and (d), already provide that a course approval or renewal of approval expire upon any change in ownership of the school, no changes were made in response to this comment.

One comment suggested the rulemaking be expanded to specifically address procedures to be followed when adding instructors and facilities to a course approval, selling approved courses, or franchising approved courses. These issues are beyond the scope of this rulemaking.

3. Suspension and Withdrawal of Course Approvals

One comment suggested deleting the provision in the proposed rule that a course approval be suspended for failure to comply with applicable portions of the Code of Federal Regulations if the Coast Guard fails to ensure that the course meets parts 10, 12, 13 or 15 of Title 46, Code of Federal Regulations (46 CFR) prior to approval, noting that the school would not be able to bring the course into compliance without violating the terms of the course approval. The Coast Guard disagrees. If a training organization wishes to make changes to an approved course, for any reason, it must obtain written approval from the National Maritime Center to do so. If the Coast Guard becomes aware that a course that does not meet applicable regulations was erroneously approved, the approval holder will be given a reasonable time period to make any required changes before the approval is suspended. If changes to regulations impact on an already approved course, the approval holder would also be given a reasonable period in which to modify the course to bring it into compliance with the regulations.

One comment suggested that section 10.302, paragraph (e), identify the specific office of the Coast Guard that will determine whether a course is not in compliance with applicable regulations. The Coast Guard disagrees. Such a determination may be made by a number of Coast Guard offices, including an OCMI, the National Maritime Center or their representatives. Whether or not suspension or withdrawal action will be taken will be determined by the cognizant OCMI or the National Maritime Center, as provided for by this rule.

Two comments stated that the determination that a course is being presented in a manner that is insufficient to achieve learning objectives be made by person(s) with expertise in the subject area. The Coast Guard agrees, but does not feel a change to the proposed rule is necessary. The decision to suspend or withdraw a course approval will be made with input from subject matter experts at the National Maritime Center.

Three comments stated that a training organization should be given an opportunity to correct any deficiencies prior to suspension. The Coast Guard agrees, but does not believe that a change to the proposed rule is needed. The rule clearly provides that an approval holder will be given an opportunity to correct deficiencies before suspension by the OCMI. Upon suspension by the OCMI, the NMC may also grant the approval holder an opportunity to correct the problem(s).

Three comments felt the OCMI should only have the authority to issue warnings or to place a school on probation. The Coast Guard disagrees. As previously discussed, a warning and the opportunity to correct deficiencies will be given before the OCMI suspends a course approval. Two of the comments expressed concern over the ''nationwide'' impact a suspension by an OCMI would have on an approval holder. This is a necessary safeguard to ensure the integrity of training. The authority to suspend a course approval should not be confined only to the OCMI's zone.

One comment stated that the specific examples given in the NPRM that might result in a suspension or withdrawal of a course approval were misleading as the examples were all different examples of not following the course curriculum. The Coast Guard disagrees. The examples given are intended to provide guidance on what action by a training organization would be considered grounds for suspension. The Coast Guard does not believe a change to the proposed rule is necessary and considers the cited examples to be indicative of, but not exclusive of, the conduct that might result in a suspension or withdrawal of course approval.

One comment suggested that students be permitted to join a course in progress if they will make up the lost hours. The Coast Guard may permit this for ''modular'' courses if doing so will not compromise the achievement of learning objectives. However, this is a determination that must be made after a review of the specific course. Such a provision may be proposed by a training organization in its original course approval request or by a request to modify an existing approved course.

One comment stated that a course approval should not be suspended or withdrawn for scheduling and teaching a course at an unapproved location as this does not effect the content of the course. The Coast Guard disagrees. Site approvals are given after an inspection of the proposed facility and only if the proposed facility is adequate for the proposed use and the achievement of a course's learning objectives. Schools are required to obtain written approval for any change in facilities or to conduct the course at a new or remote location as a requirement of the course approval. Failure to follow any condition

specified in the course approval may lead to suspension.

One comment felt that withdrawal of all of a school's course approvals when there is a demonstrated history of failing to comply with course approval requirements is a necessary safeguard to protect the quality of mariner training, while another felt this authority had too much potential abuse. The Coast Guard believes that the appeal mechanism provides adequate safeguards against abuse. The Coast Guard considers this an appropriate action when an approval holder has consistently failed to comply with requirements. As another comment noted, this action is only for extraordinary circumstances. The situations in which this action would be used will be specified in National Maritime Center Policy Letters and/or the Coast Guard *Marine Safety Manual*.

4. Changes to Approved Course Curriculum

One comment suggested that a request to modify the curriculum of an approved course be deemed approved if the National Maritime Center fails to respond to the request within 3 weeks. The Coast Guard disagrees. The National Maritime Center has established a program goal of responding to all requests for course approval, renewal of approval or modifications to an approved course in a timely manner. A training organization may not change its approved curriculum, facilities or instructors without written approval from the Commanding Officer, National Maritime Center.

5. Suspensions and Withdrawal Procedures and Appeals

Two comments suggested that the suspension and withdrawal process be amended to include an impartial arbiter such as a district hearing officer or administrative law judge. The Coast Guard disagrees. The rule gives the cognizant OCMI the authority to suspend a course approval, and the Commanding Officer of the National Maritime Center the authority to withdraw a course approval. The National Maritime Center provides oversight, establishes guidelines and determines policy for Coast Guard approved courses, and the OCMI monitors the various courses offered by the schools. The National Maritime Center and the OCMI are in the best position to determine when a school is failing to meet its obligations and can work with a school to ensure the highest standards are maintained. Most schools operate within our regulations, and suspension and withdrawal procedures are initiated only in those rare instances when a school deviates from the norm. No changes were made to the rule in response to these comments.

One comment suggested that appeals of course approval decisions to the Commandant be addressed to the Commandant (G–MO) so that the Commanding Officer, National Maritime Center is not the recipient for these appeals. The Coast Guard does not feel a change to the proposed rule is necessary. This rule provides that appeals of course approval issues are to be made *to* the Commandant (G–MO) *via* the Commanding Officer, National Maritime Center. The recipient of appeals under this section is the Commandant (G–MO). As addressee, National Maritime Center will forward the appeal and all relevant documents from its files, and provide other assistance as requested.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, l979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Course approval suspensions, withdrawals, or expirations do not impose specific requirements on any course holder. Rather, this rule establishes a standard enforcement method for the rare number of course approval holders who do not comply with applicable statutes, regulations, and the terms of course approval.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this rule, if adopted, would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The small entities affected by this rule are privately owned and operated schools with one to several employees, community colleges, and maritime labor union owned and operated schools. Suspension or withdrawal of an approval for a course or courses depends on the nature and severity of the infraction.

We realize that most schools operate within the confines of course approval regulations, guidelines and letters. This rule would provide a standard mechanism, in regulation, for the rare instances when a school might deviate from those course approval regulations, guidelines and letters. Also, this rule would provide an opportunity for the approval holder to correct any deficiencies prior to revocation.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard will provide assistance to small entities to determine how this rule applies to them. If you are a small business and need assistance understanding the provisions of this rule, please contact James Cavo, 703–235–0018.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no new collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraph (a), concerning regulations

that are procedural. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 1 and 10 as follows:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 49 CFR 1.45, 1.46; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

2. In § 1.03–15, revise paragraph (h)(3) to read as follows:

§ 1.03–15 General.

* * * * *

(h) * * *

(3) Commanding Officer, National Maritime Center, for appeals involving vessel documentation issues, tonnage issues, and suspension or withdrawal of course approvals.

* * * * *

3. Revise § 1.03–45 to read as follows:

§ 1.03–45 Appeals from decisions or actions involving documentation of vessels and suspension or withdrawal of course approvals.

Any person directly affected by a decision or action of an officer or employee of the Coast Guard acting on or in regard to the documentation of a vessel under part 67 or suspension or withdrawal of course approvals under part 10 of this chapter, may make a formal appeal of that decision or action to the Commandant (G–MO) via the Commanding Officer, National Maritime Center, in accordance with procedures contained in §§ 1.03–15 through 1.03–25 of this subpart.

PART 10—LICENSING OF MARITIME PERSONNEL

4. The authority citation for part 10 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, 7701; 49 CFR 1.45, 1.46; Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

5. In § 10.302, in paragraphs (c) and (d), remove the word ''revoked'' and add, in its place, the word ''withdrawn''; immediately preceding the words ''or on the date of'', add the words ''when the school closes, when the school gives notice that it will no longer offer the course,''; revise paragraph (a) introductory text; and add paragraphs (e), (f), and (g) to read as follows:

§ 10.302 Course approval.

(a) The Coast Guard approves courses satisfying regulatory requirements and those that substitute for a Coast Guard examination or a portion of a sea service requirement. The owner or operator of a training school desiring to have a course approved by the Coast Guard shall submit a written request to the Commanding Officer, National Maritime Center, NMC–4B, 4200 Wilson Boulevard, Suite 510, Arlington, VA 22203–1804, that contains:

* * * * *

(e) *Suspension of approval.* If the Coast Guard determines that a specific course does not comply with the provisions of 46 CFR parts 10, 12, 13 or 15, or the requirements specified in the course approval; or substantially deviates from the course curriculum package as submitted for approval; or if the course is being presented in a manner that is insufficient to achieve learning objectives; the cognizant OCMI may suspend the approval, may require the holder to surrender the certificate of approval, if any, and may direct the holder to cease claiming the course is Coast Guard approved. The Cognizant OCMI will notify the approval holder in writing of its intention to suspend the approval and the reasons for suspension. If the approval holder fails to correct the reasons for suspension, the course will be suspended and the matter referred to the Commanding Officer, National Maritime Center. The Commanding Officer, National Maritime Center, will notify the approval holder that the specific course fails to meet applicable requirements, and explain how those deficiencies can be corrected. The Commanding Officer, National Maritime Center, may grant the approval holder up to 60 days in which to correct the deficiencies.

(f) *Withdrawal of approval.* (1) The Commanding Officer, National Maritime Center, may withdraw approval for any course when the approval holder fails to correct the deficiency(ies) of a suspended course within a time period allowed under paragraph (e) of this section.

(2) The Commanding Officer, National Maritime Center, may withdraw approval of any or all courses by an approval holder upon a determination that the approval holder has demonstrated a pattern or history of:

(i) Failing to comply with the applicable regulations or the requirements of course approvals;

(ii) Substantial deviations from their approved course curricula; or

(iii) Presenting courses in a manner that is insufficient to achieve learning objectives.

(g) *Appeals of suspension or withdrawal of approval.* Anyone directly affected by a decision to suspend or withdraw an approval may appeal the decision to the Commandant via the Commanding Officer, National Maritime Center, as provided in § 1.03–45 of this chapter.

6. In § 10.303, revise paragraph (e) to read as follows:

§ 10.303 General standards.

* * * * *

(e) Not change its approved curriculum unless approved, in writing, after the request for change has been submitted in writing to the Commanding Officer, National Maritime Center (NMC–4B).

* * * * *

Dated: January 20, 1999.

Robert C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–2359 Filed 2–1–99; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 2, 15, 25, and 68

[GEN Docket No. 98–68; FCC 98–338]

Streamlining the Equipment Authorization Process; Implementation of Mutual Recognition Agreements and the GMPCS MOU

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending the rules to provide the option of private sector approval of equipment that currently requires an approval by the Commission. It is also adopting rule changes to implement a Mutual Recognition Agreement (MRA) for product approvals with the European Community (EC), the Asia Pacific Economic Cooperation (APEC) and to allow for similar agreements with other foreign trade partners. These actions will eliminate the need for