(j) *California OBDII compliance option.* For light-duty vehicles, light-duty trucks, and heavy-duty vehicles weighing 14,000 pounds GVWR or less, demonstration of compliance with California OBD II requirements (Title 13 California Code § 1968.2 (13 CCR 1968.2)), as modified pursuant to CARB Mail-Out MSCD #02–11 (internet posting date October 7, 2002), shall satisfy the requirements of this section, except that compliance with 13 CCR 1968.2(e)(4.2.2)(C), pertaining to 0.02 inch evaporative leak detection, and 13 CCR 1968.2(d)(1.4), pertaining to tampering protection, are not required to satisfy the requirements of this section. Also, the deficiency fine provisions of 13 CCR 1968.2(i) does not apply. The deficiency provisions of paragraph (i) of this section and the evaporative leak detection requirement of paragraph (b)(4) of this section apply to manufacturers selecting this paragraph for demonstrating compliance. In addition, demonstration of compliance with 13 CCR 1968.2(e)(16.2.1)(C), to the extent it applies to the verification of proper alignment between the camshaft and crankshaft, applies only to vehicles equipped with variable valve timing.

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■ 6. Section 86.1863–07 is amended by revising paragraphs (a) and (b) to read as follows:

§ 86.1863–07 Optional chassis certification for diesel vehicles.

(a) A manufacturer may optionally certify heavy-duty diesel vehicles weighing 14,000 pounds GVWR or less, to the standards specified in § 86.1816–08. Such vehicles must meet all requirements of Subpart S of this part that are applicable to Otto-cycle vehicles, except for evaporative, refueling, and OBD requirements where the diesel specific OBD requirements would apply.

(b) For OBD, diesel vehicles optionally certified under this section are subject to the OBD requirements of § 86.1806–05.

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[FR Doc. 03–14569 Filed 6–16–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 10 and 15

[USCG 1999–6224]

RIN 1625–AA15

Licensing and Manning for Officers of Towing Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends the rules on licensing and manning for officers of towing vessels. It makes final, minor revisions in response to comments to the several interim rules that preceded it. It will help mariners obtain the appropriate licenses and so it will increase the competence of mariners and the safety of navigation.

DATES: This final rule is effective September 15, 2003.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG 1999–6224 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander Luke Harden, Office of Operating and Environmental Standards (G-MSO), Coast Guard, telephone 202–267–0229. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On November 19, 1999, we published a first interim rule with request for comments (64 FR 63213). It established updates to the licensing and manning for officers of towing vessels and the qualifications of those officers. We had chosen an interim rule to provide the towing industry further opportunity for comment; to answer comments received on the Supplemental Notice of Proposed Rulemaking (SNPRM) (62 FR 55548 (October 27, 1997)); to address concerns received at public meetings; and to provide the public an opportunity to respond to changes reflected in the SNPRM. On October 27, 2000, we published a second interim rule (65 FR 64388), which delayed the implementation of the first interim rule until May 21, 2001. Delaying the rule gave us the opportunity and time to clarify this rule through a third interim rule, which we published on April 26, 2001 (66 FR 20931), and to issue guidelines implementing it.

This final rule constitutes an essential part of a comprehensive initiative to improve navigational safety for towing vessels. (Although the Coast Guard shifted from the Department of Transportation to the Department Of Homeland Security on March 1, 2003, by authority of subsection 103(c) of the Homeland-Security Act of 2002 (Pub. L. 107–296), the current Secretary shares the judgment of the former that this rulemaking constitutes such an essential part.) You can glean the full background of the final rule from the preambles to the notice of proposed rulemaking (NPRM) (61 FR 31332 (June 19, 1996)); to the SNPRM; and to the first and third interim rules (64 FR 63213 (November 19, 1999) and 66 FR 20931 (April 26, 2001), respectively). The following are separate sections on Discussion of Comments for those two interim rules.

We now list and discuss comments from the first interim rule, treated together in groups by alphabetical order of topics:

Discussion of Comments on Interim Rule of November 19, 1999, Advancement Gap

Three comments stated that the interim rule would greatly disrupt the towing industry since steersmen's licenses would not be issued for 18 months and masters' licenses for 48 months after the effective date. The Coast Guard acknowledges a reduction in the number of mariners initially licensed as masters; however, we disagree that a gap will last 48 months. Further, in the third interim rule and in this final rule, we have also reduced these impacts by allowing unlicensed mariners with service on towing vessels before May 21, 2001, to seek licenses under the rules in place before that date.

Apprentice Mate (Steersman)

One comment asked whether we consider an apprentice mate (steersman) to be an officer of a towing vessel. As we stated in previous preambles, we do not.

One comment supported the concept of a steersman license, but recommended reducing the service time from 12 months to 6 months. Even

though some apprentice mates (steersmen) may be able to meet these requirements within 6 months in specific locations, this final rule sets the minimum requirements that apply to all apprentice mates (steersmen), in all locations.

One comment asked that the Coast Guard grandfather time spent in training for steersmen before the implementation date. The Coast Guard sees this as a reasonable request, and has already taken the appropriate action to accommodate it.

One comment suggested reducing the training time for intra-coastal canals, noting that towing on the Western Rivers may require 12 months training but that training on the Intra-Coastal Waterway does not require so much training. It is the Coast Guard's opinion that reducing training would be inconsistent with the spirit and intent of this rule: to ensure its appropriateness to all mariners in all locations.

Assessment

One comment asked whether direct supervision by a licensed master or mate (pilot) required that officer to be physically present. Yes, it means physically present and more directly supervising the apprentice mate (steersman).

One comment stated that it would take significant work to establish the guidance, standards, and procedures necessary to effect an orderly transition to the new system. The Coast Guard recognizes this issue and agrees. We published the second interim rule delaying implementation just so we could develop such guidance, which is available in the form of Navigation and Vessel Inspection Circular (NVIC) 4–01.

Assistance Towing

Two comments recommended limiting the length of disabled vessels to not more than 100 feet for assistance towing. It is beyond the scope of this final rule to redefine ''assistance towing''.

One comment stated that the definition of a ''disabled vessel,'' which excludes a barge or any other vessel not regularly operated under its own power, would cause a hardship on the assistance-towing industry and would eliminate the exemptions on marine-assistance vessels. The comment also recommended a limit on the size of small work-barges used in assistance towing. The Coast Guard disagrees; 46 U.S.C. 8904(b) lays down a specific requirement for us to license those persons involved in towing disabled vessels for consideration. Rules already cover the towing of vessels that are not disabled, and barges are not disabled vessels unless they cannot be used for their intended purpose.

One comment suggested that the rule let the Captain of the Port (COTP) grant exemptions to the towing rules applied to assistance-towing vessels. The COTPs already have this authority in emergencies. It would be inconsistent with extant Federal rules, which for good reason prohibit the practice of the towing of a vessel that is not disabled by an individual licensed for assistance towing.

One comment stated that assistance-towing time should count toward a license as master of towing vessels. The crediting of assistance towing or other service, except as noted in 46 CFR 10.466, toward a license as master or mate (pilot) of towing vessels for commercial towing, has never been contemplated in this rulemaking or discussed in previous forms of this rule.

One comment stated that assistance towing comprises assisting not only pleasure vessels but also commercial vessels and non-self-propelled barges. The Coast Guard agrees that assistance towing is limited to assisting disabled vessels. A disabled vessel can be a commercial vessel; however, the test in this case is whether such a vessel is disabled and is in need of assistance.

One comment stated that the rules on licensure in towing are inappropriate for the work done by the assistance-towing industry. This rule does not revise the rules that apply to assistance towing, it merely clarifies the definition of ''disabled vessel''.

Companies' Responsibility

One comment stated that companies should have to reply to requests for service letters. 46 CFR 10.211 requires the documenting of sea service. This final rule provides another method for mariners' own documenting through a Towing Officers' Assessment Record (TOAR).

One comment read 46 CFR 10.464(f) and 10.465(f) to require that all companies ensure 30 days of observation and training for new hires before releasing them to work under the authority of their licenses as members of the wheelhouse complement. The Coast Guard agrees.

Two comments believed it is the responsibility of companies, only, to make sure that mariners are competent. The Coast Guard disagrees; the responsibility is also incumbent upon the Coast Guard as well as, in the first instance, upon the mariner himself or herself.

One comment asked whether companies should ensure that their vessels are under the direction and control of persons with appropriate experience on the water. The answer to this question is yes, as required under 46 CFR 15.401.

Consistency

One comment asked how the Coast Guard intends to ensure that the training and evaluation of mariners are consistent. The Coast Guard establishes the minimum acceptable standards for assessment, training, and courses. This arrangement allows industry the freedom to develop programs within a wide spectrum, while maintaining at least these standards.

Cost

One comment suggested that the Coast Guard actively and personally solicit the views of smaller towing companies rather than those of the larger companies. That was the purpose of two of the interim rules—to receive comments from all interested parties.

One comment stated that the nominal cost neglects both the loss of licensed mariners who are unwilling to submit to the stringent regimen of this final rule through early retirement and the training of replacements. The Coast Guard disagrees with the comment since current towing-vessel operators are grandfathered and need only meet minimal added requirements.

Definitions

Four comments stated that the definition of ''disabled vessel'' is unduly restrictive to the assistance-towing industry, because it excludes the towing of a barge or any other vessel not regularly operated under its own power of any length, and voids our rules' own exemption for marine-assistance vessels. We disagree, as we stated in our response to the third comment under ''Assistance Towing''. Furthermore, our rules do not provide an exemption for assistance-towing vessels; rather, they cover assistance-towing endorsements under a specific rule, 46 CFR 10.482. And, finally, the definition was developed in concert with Congressional staff members, assistance-towing companies, and the U.S. Coast Guard.

One comment asked whether the term ''Western Rivers'' should apply to pilots of towing vessels. The term applies as intended. Inland routes include Great Lakes and Western Rivers.

Demonstration of Proficiency

Three comments disagreed with a requirement of check rides for persons already doing the job (licensed commercial towing). The Coast Guard

agrees in part. Only those mariners who fail to provide documentation of proficiency, and those who have had their licenses suspended, will need to demonstrate proficiency.

Two comments questioned the duration of the demonstration of proficiency: Whether the demonstration would be a short-term evaluation or conducted over the full period of training. It is the Coast Guard's opinion that the demonstration should extend over the full period of training; except that, in the case of a mariner returning from the suspension of his or her license, that demonstration may be short-term.

One comment sought clarification on what documentation of proficiency the Regional Examination Centers (RECs) would require before license renewal, and on the meaning of ''current license''. The Coast Guard clarified this issue in NVIC 4–01. The ''current license'' mentioned in the preamble refers to the license the mariner held before May 21, 2001.

One comment stated that the check-ride requirement for license renewal might unfairly affect a small business without a Designated Examiner (DE) and might result in increased expense. The Coast Guard disagrees. Check rides are necessary only when a mariner lacks other documentation of training and service at renewal. Although this requirement may affect businesses, the process of developing DEs should allow every company, regardless of size, to have a DE.

One comment asked whether the decision requiring a check ride at the time of renewal would belong to a license evaluator instead of a higher authority. The evaluator should be the person best able to identify whether there is sufficient information within an application package. Although a check ride is available for the REC to use, this process is only for those cases when the mariner is unable to furnish documentary evidence that he or she obtained training and service during the preceding licensed period.

One comment identified a need for objectives and assessment criteria for the DE to use when conducting check rides. The Coast Guard agrees. The objectives should be based upon the TOAR published in NVIC 4–01. The assessment criteria are before the Towing Safety Advisory Committee (TSAC) and will become available in the **Federal Register**.

Designated Examiner (DE)

Three comments stated that the term ''designated examiner'' (DE) needs further clarification in regard to qualifications and expectations. The term and what it entails are fully explained in NVICs 4–01 and 6–97.

One comment stated that any process for developing DEs must be smooth and that the requirements must use common sense. The commenter also suggested that the process contemplated by this rulemaking draws too much from the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW), as amended, and is inconsistent with towing on inland rivers and the Western Rivers. There is no compelling rationale to remove the requirement; however, the Coast Guard eased the process for obtaining the letter of designation as a DE, which it describes in NVIC 4–01.

One comment stated that qualifications for DEs are a point of controversy in the offshore industry, and that the towing industry should expect similar controversy. With or without controversy, the Coast Guard must ensure that DEs are adequately trained and qualified.

One comment asked that the final rule clearly reflect that the same person may both instruct and evaluate a candidate. There is nothing in this rule or previous rules prohibiting a person from both instructing and evaluating a candidate.

One comment asked whether any liability attaches to the DE for his or her recommendations. If evidence exists demonstrating that the DE is not ensuring the proficiency of the candidates, the Coast Guard may withdraw his or her designation. The DE is able to determine only that a candidate is competent at the time of assessment.

One comment stated that mariners, who are already overworked and in short supply, would face an added workload by participating in the program for Qualified Instructors (QIs) and DEs. The commenter also stated that mariners who are retired, disabled, or otherwise inactive, even if not holding licenses, should be eligible to be QIs and DEs. The Coast Guard disagrees. The process establishes that a mariner must hold a valid license to become a DE. If a mariner holding a license chooses to become a DE, he or she may do so; however, he or she must still comply with the watch-hour requirements of 46 CFR 15.705.

One comment stated that the rule overlooks the fact that a DE should expect payment for his services. The commenter also stated that an employer could use coercion to gain a favorable evaluation, ''while the threat of a Coast Guard subpoena could cause stress, anxiety, and embarrassment for the Designated Examiner.'' There are numerous ways a DE could receive payment. Coercion could occur, but we don't believe it is a substantial concern. Although our authority to issue subpoenas might intimidate some, there are too many personalities involved to determine why or when, or to prevent coercion in all cases.

One comment asked why the Coast Guard does not see a DE's administering check rides for his employer as a conflict of interest. Our opinion is that no conflict of interest arises since it is in both the employer's and the DE's best interest to ensure that a mariner receiving certification can safely complete his or her duties.

One comment stated that maritime educators and marine-membership organizations need leeway to effectively deal with rehabilitating mariners and returning them to service. The comment asked whether the Coast Guard had fully considered that a mariner returning from a suspension of a license might be unemployed and not have access to a vessel for his or her testing, and whether the Coast Guard would let a mariner get a job, return to work, and then arrange for his or her check ride. Our rules state that no mariner may return to work in a position requiring a license if his or her license is suspended; yet nothing in those rules or this rule limits his or her ability to work in an unlicensed position.

Equivalents

One comment asked whether tonnage restrictions contained in 46 CFR 15.910 would persist. No. The tonnage restrictions that existed in § 15.910 until May 21, 2001, no longer exist, since this final rule effectively removes the equivalent provision on licensure.

General

Two comments stated that the most critical challenge is implementing the final rule. They suggested that the best way to meet the challenge is through an ongoing consultative process involving the industry, the Coast Guard, and licensed operators. The Coast Guard agrees with this comment and has been working with the TSAC on implementing the rule.

One comment stated that the rule should differentiate between licenses for towing on oceans and near-coastal waters and those for towing on inland waters and Western Rivers, since these two methods of towing are extremely different. That was the rule's main intent—to separate the types of towing. The TOARs fit the methods of towing in the areas of operation and the routes sought.

One comment asked whether mariners currently operating towing vessels would have to obtain towing-vessel endorsements after the final rule became effective but before their licenses expired. No, they would not need the endorsement until their first renewal after the rule became effective.

One comment suggested that the rule allow a mariner to obtain a towing-vessel endorsement on a license as master of steam and motor vessels of not more than 200 gross register tons (GRT). This would allow a mariner to operate towing vessels after only 12 months of sea service. The Coast Guard disagrees. This rule seeks to improve safety through increased service and training. Acceptance of this suggestion would result in decreasing the level of service and training throughout the fleet.

One comment questioned the phrase ''oceans (domestic trade).'' This phrase persists from the current rules. This is due, in part, to restricting operators of uninspected towing vessels (OUTVs) to domestic trade only.

One comment stated that the changes are superficial because they merely codify standard practice. The Coast Guard disagrees. Many companies still lack established training programs.

One comment stated that pilots should not have to be trained just to be in the good graces of a company. The purpose of this rule is to increase safety on towing vessels, not to influence personnel management within a company.

One comment asked whether 46 CFR 15.910 contradicts 46 CFR 15.610. No, it does not. Section 15.910 removes the provision on equivalents in the rules effective before May 21, 2001, and restates the manning requirements in § 15.610.

One comment raised three questions about 100-ton licenses: whether mariners holding such licenses and operating towing vessels could continue that service, whether other mariners could undertake that service, and whether the license would show tonnage under the International Tonnage Convention (ITC). Mariners legally operating towing vessels could continue operating them under the current restrictions of their licenses. Mariners without experience operating towing vessels before May 21, 2001, even if they held licenses authorizing service on vessels of less than 200 GRT, could not get towing endorsements, unless they went through the training outlined in the rules. If mariners want their licenses to show tonnage under the ITC, we will place GT (gross tons) instead of GRT on their licenses.

One comment recommended that we use Table 10.910–2, instead of the list in § 10.465(g), to ensure the adequacy of approved training courses. We agree and will institute that change.

One comment asked whether waters specified by 33 CFR 89.25 are inland waters rather than Western Rivers. Yes, 33 CFR 89.25 prescribes inland rules 9(a)(ii), 14(d), and 15(b) for specific, named waterways. By contrast, 46 CFR 10.103 identifies inland waters in general (with reference to the Boundary Lines described elsewhere).

One comment asked about the scope of limited exams in 46 CFR 10.418(b) and 10.426(a)(2). These exams remain the same as those in place before May 21, 2001.

One comment asked about the scope of the exam for apprentice mate (steersman). It is the same as the scope of the exam required for OUTVs before May 21, 2001. (*See* Table 46 CFR 10.910, columns 11 and 12.)

One comment asked which exam a mariner takes when moving from mate of inspected steam vessels (not more than 200 GRT) to mate of towing vessels. Moving between these vessel types as described is impermissible under this rule.

One comment opposed the two-watch system for offshore towing vessels. The Coast Guard acknowledges the comment, but notes that this standard is statutory and is not the subject of this or any other regulatory process.

One comment wanted the Department of Transportation to clamp down on employers who knowingly hire, and entrust their vessels to, unlicensed personnel. (We take this comment to apply with equal force to the Department of Homeland Security, or DHS.) The Coast Guard and DHS need the assistance of all hands in the industry, both corporate and private, to identify such wrongdoing for appropriate investigation.

One comment questioned ''time-and-a-half'' as it affects straight 12-hour shifts. This issue is a matter of policy and sometimes of collective-bargaining agreements but not a subject of this rule.

One comment wanted to see passenger-vessel combinations, of any type, operated by masters of inspected vessels of appropriate route and tonnage, and passenger-carrying tug-barge combinations, operated by masters of towboats or of passenger barges at the owners' option. The Coast Guard agrees, and has provided guidance to the local Officers in Charge, Marine Inspection, by way of Navigation and Vessel Inspection Circular (NVIC) 4–01, when determining the manning of such vessels.

Grandfathering of Licenses

Five comments asked whether the final rule would affect licensed routes. We do not intend to remove any routes currently on any license. Each mariner would keep any routes he or she holds on his or her license.

Two comments asked for a clearer definition of ''recent towing service.'' The Coast Guard will accept (and expect) evidence of service on towing vessels within the last 90 days, before it will confer the initial towing-vessel endorsement.

One comment suggested that the TSAC determine the procedures for grandfathering mariners. The Coast Guard disagrees, as we established the grandfathering of mariners in the third interim rule.

One comment recommended that the final rule allow the grandfathering of persons licensed as masters of vessels of 100 GRT, mates of vessels of 200 GRT, or first-class pilots whose licenses were issued before the effective date. The Coast Guard disagrees, and maintains that a towing endorsement requires towing experience.

One comment suggested grandfathering persons with current licenses endorsed for assistance towing. The Coast Guard disagrees for the reasons set forth in the fourth paragraph under ''Assistance Towing''.

One comment asked whether a mariner grandfathered as a master of towing vessels could work on an integrated tug and barge (ITB). Yes, that mariner could work on any towing vessel unless his or her license held a limit or a route inconsistent with the operation of the ITB.

Harbor Assist

One comment asked how the license for master (harbor assist) would fit in ports where several different types of towing take place. That license has been merged with the license for master (limited local area) by this rulemaking.

One comment requested that the Coast Guard adjust the service time for master (harbor assist) by reducing the time to 36 months, which would become possible if it reduced the service time for apprentice mate from 30 months to 18 months. Again, the Coast Guard has combined this master's license with the license for master (limited local area) and removed the license as mate (pilot) of towing vessels (limited). The total service time already stands at 36 months.

Inland Waters: Definition

Two comments stated that altering the definition of ''inland waters'' potentially

reaches every license-holder. We have revised the definition to reach only masters and mates (pilots) of towing vessels on the Western Rivers.

One comment stated that inland waters currently comprise the Gulf Intracoastal Waterway and Western Rivers, and that separating those two would create work for the mariner. The Coast Guard agrees; however by request of industry and the public during the comment periods on the NPRM and the SNPRM, the two were separated, and will remain distinct.

One comment stated that the interim rule would affect all mariners with ocean and near-coastal routes when they entered waters designated as Western Rivers. The Coast Guard agrees, but the rule would not affect currently licensed mariners able to document service on the Western Rivers. In this final rule we have taken further action to mitigate the effects.

Integrated Tugs and Barges

Two comments expressed concern that the Coast Guard has neither shown the rationale for changing the manning of ITBs being used as passenger vessels nor shown that the masters of such vessels have different criteria to consider in operating the vessels. The comments asked the Coast Guard to withdraw the portion of the rules that apply to ITBs involving passenger vessels. The Coast Guard acknowledges the comments. This final rule does not change the rules on the manning of inspected passenger vessels; this responsibility still resides with the local OCMI. NVIC 4–01 provides specific information and non-binding guidance to assist the OCMI in determining the manning of towing vessels.

One comment stated that the interim rule imposes added requirements on personnel holding unlimited licenses for masters and mates on Great Lakes with pilotage, and is a needless burden. The Coast Guard deems this burden minor, whether to those with towing experience on the Great Lakes or to those with unlimited licenses.

One comment stated that the rule does not consider the nature of ITBs and their similarity to standard vessels, and that changing the rule would bar, from operating ITBs, those masters currently operating vessels before their conversion to ITBs. The Coast Guard disagrees. Mariners with licenses for vessels greater than 200 GRT may operate such vessels once they have completed 30 days of familiarization and their TOARs. Further, this situation is rare and would be best for the local OCMI to handle case by case.

One comment stated that the preamble said ITBs must be operated by mariners who hold towing-vessel licenses. This rule establishes a wholly independent process for obtaining such licenses and vacates the practice of allowing a superior license to subsume the ''lesser included authority''. The Coast Guard, through this rule, recognizes the special skills required to operate towing vessels and requires a training program for mariners to achieve those skills.

License Evaluations

One comment stated that every evaluator should go through training at Yorktown, Virginia, and that this training should be available to maritime educators. Like the towing industry, the Coast Guard runs on-the-job training for its own evaluators, similar to those for private-sector evaluators under the TOAR program. The training of marine educators is not part of this rulemaking.

License Renewals

Two comments stated that the renewal process should let the employer submit a letter attesting to the competence of a mariner, instead of practical demonstration or a TOAR. The Coast Guard agrees. The letter would need to meet the requirements of 46 CFR 10.211 and contain specific information about the mariner's competence, completed training, drills conducted, and so forth. The intent is to document competence and training over time, and to provide alternative methods for documenting them.

One comment stated that mariners who document service on their license, without incurring administrative action against the license, should be able to renew the license without completing practical demonstrations before DEs. The Coast Guard agrees. The primary purpose of the TOAR is assessing mariners' service between apprentice mate (steersman) and mate (pilot) of towing vessels, or between other adjacent points in their career, as required by these rules.

Limited Local Area

One comment asked whether a geographically limited license had to be renewed where it was issued. The answer is ''yes'', since a limited license is issued to a mariner who does not meet all of the requirements for a ''full'' or non-limited license. A geographically limited license is issued at the discretion of the cognizant OCMI if, in the opinion of that OCMI, the mariner possesses the skills, knowledge, and experience to safely operate within the restrictions of the license. Because this determination requires local knowledge of a particular geographic area, and because conditions in that area may change, we feel the cognizant OCMI should have the opportunity to re-evaluate the candidate when the license is renewed. Geographically limited licenses, whether original or renewal, are best considered and issued by the REC for the area in which the mariner will operate.

One comment stated that 46 CFR 10.464–3 requires enough total service to adversely affect the availability of properly licensed operators of harbor tugs now and for the coming years, as well as impose a significant impact on small entities. The intent of this rule is to increase the training and experience (indicated by service) of mariners operating towing vessels; however, we have reduced the total service required for harbor assist towing vessels and are streamlining the process.

Outer Continental Shelf, Activities

Two comments asked whether the Coast Guard would continue to exempt towing vessels involved in activities on the Outer Continental Shelf from these rules. The Coast Guard notes that 46 U.S.C. 8905(b) remains in effect, and is beyond the scope of this rulemaking.

Pilot vs. Mate

One comment asked why the definition of ''pilot of towing vessels'' is limited to Inland routes. During the development of this project, the Western Rivers towing industry did not like using the term ''mate'', a term commonly used to indicate a deckhand rather than an officer in charge of navigating the towing vessel. The definition of the term ''pilot of towing vessels'' is limited to operating only on inland routes to avoid the confusion with first-class pilot and various state pilot licenses.

One comment asked whether the choice of the title of a mate (pilot) license, as appropriate, would belong to the mariner and also whether any nation-wide guidance would be forthcoming. Yes, the choice would belong to the mariner, although such guidance would state that personnel of RECs should ensure that the mariner understands that changing the title of the license might result in extra fees. The guidance appears in NVIC 4–01.

Public Meetings

Five comments sought public meetings at various locations so affected mariners could provide further comments, including the need for a general meeting on the Upper Mississippi River and another to discuss

recency of towing service. The Coast Guard deemed that mariners have had adequate opportunity for comment during the five public meetings previously held. In addition, the Coast Guard has conducted public outreach on all issues throughout the towing industry since the publication of the first interim rule.

Recency

One comment received showed concern about the loss of licensed routes if a mariner is unable to show recency on a segment of a waterway. There is nothing in this final rule that would remove routes from a license for failure to maintain recency.

One comment asked about the recency requirement for towing service at the time of renewal. This rule has not changed this requirement. A mariner would have to show recency of service on towing vessels and ongoing training at time of renewal.

Regional Examination Centers (RECs)

Three comments stated that this rule, as proposed, would significantly increase the workload at RECs. The Coast Guard acknowledges that it would increase the workload; however, the increased workload is acceptable for the expected gains from this rule.

Responsibility of the Master

Two comments disagreed that the master should be responsible for what occurs when he or she is not on watch. The Coast Guard partly agrees, and points to the SNPRM's preamble, where the issue is discussed. A master is not responsible for the negligence or misconduct of the mate (pilot) of towing vessels on watch.

Route Endorsements

Two comments stated it was unclear whether there would be a Great Lakes inland route and a Western Rivers route. Yes, there will be distinct Great Lakes inland and Western Rivers routes.

One comment sought clarification on the application of route-observation days for the towing endorsements on licenses for vessels over 200 GRT, as those days affect pilotage rules. This rulemaking does not address or revise the pilotage rules. The route-observation days in this rulemaking are specific to observation on a towing vessel while a candidate completes a TOAR.

One comment stated that a towing endorsement on a license over 200 GRT should be based on 30 days of total observation and be inclusive of all subordinate routes without necessitating service on each route. The Coast Guard agrees; however, throughout this rulemaking, the towing industry has emphasized the need to ensure that officers are familiar with the Western Rivers. That route will not be included without 90 days of observation on it.

One comment recommended consolidating two routes—the Western Rivers and the Great Lakes inland—and authorizing those licensed for the latter to operate on the Western Rivers. The Coast Guard acknowledges the comment, but the recommendation is not consistent with either the majority of input received on this issue or with the sounder policy on it.

One comment stated that the requirement of 90 days observation and training for Western Rivers would make it extremely difficult to obtain the proper endorsement for a mariner sailing on periodic ocean voyages but entering Western Rivers. The Coast Guard agrees, and maintains that this endorsement should be based on observation and training on Western Rivers, and not based on convenience. However, a process has been created for such a mariner to obtain an endorsement only for the Lower Mississippi River.

One comment asked whether there would be a fee for removing the restricted endorsement issued under 46 CFR 10.466(b). Yes, there will be a fee imposed under 46 CFR 10.109, since removal constitutes another transaction at a REC.

One comment agrees that geographic endorsements are a good idea, but recommends allowing a company to post a licensed mariner for a reasonable time without the cost of training the mariner. The Coast Guard disagrees. Having a mariner unfamiliar with a waterway operate the vessel, as distinct from having him or her train aboard it under supervision, does not make sense, even if he or she holds a license. A mariner must hold a license endorsed for the appropriate route to operate the vessel. A mariner may also, after completing an exam, hold a restricted endorsement for mate (pilot) of towing vessels and, after completing 90 days of service on the new route, have that route added to his or her license.

Sea-Going Tows

One comment stated that we should distinguish between oceans and near-coastal routes only in the exam, and, in the exam, only on such topics as celestial navigation. The Coast Guard disagrees. The two routes differ in two important respects: the practical assessment of mariners on STCW, and firefighting. This has not changed the exam requirements for the two routes.

Sea Service

Two comments urged that a mariner should be able to make a statement concerning his or her service in regard to his or her experience. For the first renewal after May 21, 2001, there should be some evidence, within the file on the license, describing where a mariner has completed towing service. The Coast Guard would need documentary evidence, provided by the mariner, if nothing existed within the file for certain routes.

One comment asked about the minimum towing service required for renewal within the 12 months of service. The towing service required for renewal remains the same except for added training.

One comment asked how seasonal operators' time would count for vessels visiting multiple limited construction areas over 12 months of service. Service time would count the same as it does under current practices.

One comment argued that, unless an uninspected towing vessel has a separate engine department, all the service should count toward engine or deck, as requested by the mariner. This rule does not modify the treatment of service, whether deck or engineering. Service will continue to count—or not—according to rule and policy.

One comment asked that we identify the civil penalties that apply to violations of these particular rules by either the company or the mariner. The commenter also asked where all current civil-penalty cites pertaining to violations of 46 CFR part 10 are compiled and available for public viewing. A list of these cites is available from: Commandant (G–LMI), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. Actual cases may be requested from the Coast Guard under the Freedom of Information Act (FOIA). Specify cases under 46 U.S.C. 8906 and 46 CFR 15.610.

One comment stated that a company's withholding records would now become critically important to the mariner because these records, now, not only would cover service but also might cover training. The Coast Guard agrees. That is why the TOAR provides another method for documenting training and competency, as well as service.

Simulators

One comment requested that simulators be one method of demonstrating proficiency under 46 CFR 10.209(c)(6)(i). The Coast Guard agrees and notes that full mission simulators, approved by the National

Maritime Center, would meet the intent of the paragraph, within this final rule.

One comment stated that using a simulator would be an expensive way for an unemployed mariner, after a suspension of license, to demonstrate proficiency. The Coast Guard agrees; however, this rule provides many ways to demonstrate proficiency, of which using a simulator is just one.

One comment asked why tonnage calculated under the ITC does not figure in the rule. There is no clear conversion between ITC and domestic tonnage, for licensing. We hold vessels of 200 GRT equivalent to those of 500 GT (ITC).

STCW Endorsements

One comment asked whether we would charge a user's fee for an STCW endorsement. No, the Coast Guard does not intend to charge user fees. Please see Table 10.109 of this title.

Tables

One comment stated that Figure 10.403 does not include licenses for Offshore Supply Vessels. This rule applies only to OUTVs. It revises Figure 10.403 only as necessary for them.

One comment discovered errors in the footnotes to the tables: ''COTP'' in place of ''OCMI'', and ''Training'' in place of ''Towing''. The Coast Guard appreciates the comment and has corrected the errors.

One comment asked whether an exam exists for each route referred to in the footnote regarding routes. Yes, the exams for routes are those where differences arise for ''Rules of the Road'', such as changes to the International Regulations for Preventing Collisions at Sea, or to navigational requirements, such as a requirement of celestial navigation.

Tonnage Restrictions

Two comments argued that we should strike the use of tonnage or any other limiting criteria as they apply to the licenses for officers of towing vessels. The Coast Guard agrees, with the exception of ''inspected vessels''—defined by tonnage—whose officers must meet requirements on licenses, experience, and training beyond the normal requirements for towing vessels.

One comment insisted that tonnage limits on towing-vessel licenses are not appropriate and were not recommended by the TSAC. The third interim rule provided tonnage limitations for those mariners operating towing vessels under the equivalence provision existing before May 21, 2001. That interim rule continues to limit those mariners to the tonnage listed on the face of their license, if it was 200 GRT or less. This rule maintains this provision.

Two comments likewise challenged 46 CFR 10.464(d) and 10.465(b) in the first interim rule regarding the placement of tonnage limits on licenses for oceans and near-coastal waters. The Coast Guard agrees, and has revised those paragraphs by removing the reference to such limits.

Towing Officers' Assessment Record (TOAR)

Two comments stated that there is no reason why a Training Record Book (TRB) for the STCW cannot serve in place of the TOAR, as long as the TRB contains all the information required by the TOAR. The Coast Guard agrees. The use of a TRB will be permissible as long as the mariner accounts for any differences between the TOAR and the TRB, and documents the training beyond the TRB.

One comment stated that the TSAC should draft the NVIC and the TOAR for this rule to ensure uniformity. The TSAC was involved in the process and developed the TOAR incorporated in NVIC 4–01. The TSAC may be likewise involved with the next NVIC.

One comment requested that no mariner's photo appear in the TOAR. The Coast Guard disagrees. It is necessary for both the Coast Guard and the DE to be able to identify the mariner holding the TOAR. The photograph provides the most efficient method of this identification.

One comment asked whether the Coast Guard plans to tell the RECs, but not the mariners, what assessment records to maintain for renewal. The TOAR is not necessary for those mariners first renewing their license between May 21, 2001, and May 21, 2006.

One comment asked where a mariner can obtain a TOAR. An example accompanies NVIC 4–01, which is available on the Internet at *www.uscg.mil/hq/g-m/nvic/4–01/n4–01.pdf.*

One comment asked whether, since 95 percent of mariners affected choose to maintain TOARs, it would not be sensible for the Coast Guard to promote uniformity by making the necessary forms available free of charge. The Coast Guard is publishing an example in NVIC 4–01, which mariners may print from the Internet and use.

One comment stated that the interim rule is not clear whether the TOAR is going to be required at the first renewal after implementation. The TOAR will not be required for those mariners currently operating towing vessels.

One comment stated that the interim rule fails to provide sufficient details regarding the assessment records—including specific objectives and criteria on which to base assessments. NVIC 4–01 provides the details not covered in the rule.

Towing Vessel Limited

One comment asked whether the limit of 200 GRT covers all routes. No, the limit of 200 GRT covers routes over limited local areas.

Training Requirements

One comment recommended that the Coast Guard create the position of course evaluator, who could rule that a course meets a defined minimum standard and approve the course; otherwise, the Coast Guard needs to streamline the process. The Coast Guard agrees, and has course evaluators assigned at the National Maritime Center.

One comment sought clarification on the applicability of the requirement for masters and mates in 46 CFR 10.205(g)(2) to have training in firefighting when they serve on towing vessels over 200 GRT. The comment declared that that requirement would exceed the current one for OUTVs. A requirement for training in firefighting existed for OUTVs operating on oceans routes before May 21, 2001. Another, similar requirement persists in 46 CFR 10.205(g)(3) for certain masters and mates (pilots) of towing vessels. As the comment observed, § 10.205(g)(3) addresses this training. That paragraph expressly notes that its requirement applies only to masters and mates (pilots) of towing vessels in ocean service. However, its requirement would apply to officers of towing vessels if they were operating vessels of over 200 GRT in near-coastal service as well, by virtue of the rules implementing the STCW.

One comment stated that the requirements in 46 CFR 10.465(g), effective on May 21, 2001, for an approved training course go beyond those that are the subject of exams in Table 10.910–2. The commenter added that requirements must be consistent. The Coast Guard disagrees. The approved training course replaces completion of the TOAR, not the exam. All apprentice mates (steersmen) will have taken the exam, and may then choose either to take the approved training course or to complete their TOARs.

One comment alleged that the interim rule presents a problem: That few, if any, towboat operators have received formal training in firefighting. The

comment further alleged that there is good reason to require such training for licensed officers of towing vessels. The Coast Guard agrees in part. Officers who would receive ocean endorsements on their licenses must receive such training.

Transition Period

One comment recommended language to grandfather candidates who anticipate completing training within three months of the interim rule's effective date. The Coast Guard accepts this recommendation.

Western Rivers

One comment stated that the 90-day requirement would make it extremely difficult for a mariner, entering the Western Rivers on periodic ocean voyages, to obtain the proper endorsement. The Coast Guard agrees; and maintains that that endorsement should be based on observation and training on Western Rivers, and not based on convenience. However, a process has been created in this final rule to allow a mariner operating periodically on the Western Rivers to obtain an endorsement for the ''pilotage waters of the Lower Mississippi River'', in less than the 90 days required for a Western Rivers endorsement.

One comment asked whether adding an endorsement for Western Rivers to an existing license would entail an exam. No, all that would be necessary would be proof of service.

One comment saw no need for the Coast Guard to start issuing endorsements for the Western Rivers again. We disagree: the desirability of issuing licenses for the Western Rivers arises precisely from the responses to the SNPRM.

One comment asked what the differences are between the Western Rivers and other rivers. Unlike other waterways, the Western Rivers have huge tows operating on them.

Comments Beyond the Scope of the Rulemaking

There were four comments beyond the scope of this rulemaking. We will not discuss them here.

Comments Specific to the Third Interim Rule

We will, however, discuss here comments on the third interim rule (66 FR 20931 (April 26, 2001)), in alphabetical order. There were seven of them, in three letters.

Definition of Disabled Vessel

One comment challenged our decision not to change the definition of ''disabled vessel'' in 46 CFR 10.103 of the third interim rule. The comment stated that, unchanged, the definition would not clarify confusion caused, and not lessen the burdens imposed, by that rule. The commenter added that the definition would leave a ''tremendous burden on a large number of marine assistance firms,'' and be ''unduly restrictive because towing a barge or any other vessel not regularly operated under its own power of any length'' would void the exemption for marine-assistance vessels. The Coast Guard reiterates that such towing very well should void the exemption. The rule for assistance towing established this license precisely for those mariners providing assistance to pleasure vessels. The rule also addressed head-on both the towing of barges and inter-marina towing, both of which the Coast Guard had found inconsistent with the intent of Congress.

License Stipulations

Two comments expressed concern over the stipulation that the license for officers of towing vessels would not authorize foreign voyages, or even domestic voyages, of towing vessels over 200 GT. The Coast Guard agrees with this concern and, in this final rule, allows mariners licensed under this rule to operate all towing vessels of less than 300 GRT on domestic voyages on oceans and near-coastal waters, and, if they satisfy international requirements, on foreign voyages.

Service on Lower Mississippi River

Two comments suggested that mariners seeking authority to operate on the Lower Mississippi River, above mile 304.1, have to obtain endorsements for Western Rivers by completing the TOAR for those Rivers—but equally that those mariners with endorsements for oceans, near-coastal service, or Great Lakes inland service seeking to operate below mile 304.1 should not have either to obtain the endorsement or to complete the TOAR. The Coast Guard agrees. However, we have chosen to use, instead of mile 304.1, mile 234, which is already established by rule as pilotage waters.

Single Track for Licensing

Two comments stated there should be a single track for licensing, to meet the unique needs of coastal harbor tugs, inland fleet boats, and other craft of such limited operations. They urged us to combine the tracks for ''harbor assist'' and ''limited local area'' in a single ''limited'' licensing-progression: Apprentice mate or steersman (limited) and master (limited). The Coast Guard agrees, and has combined the tracks in this final rule.

Comments Received Outside of the Comment Period

After the comment period closed, on July 25, 2001, the American Waterways Operators (AWO) and other towing-industry representatives identified an apparent inconsistency in the third interim rule. In that rule, mariners who began service and training on towing vessels before May 21, 2001, could continue training under the process in place then and obtain the license as master of towing vessels by May 21, 2004. After May 21, 2004, the requirements of this rule must be met. The apparent inconsistency arises in that such mariners are not also able to obtain the license as mate (pilot) of towing vessels.

In the development of that rule, the Coast Guard determined that the predominant licensing transaction for towing vessels was the obtaining of a license as an OUTV. That license corresponded directly to one as master of towing vessels. The license that corresponded to one as mate (pilot) of towing vessels was the 2nd-class operator's license—a license rarely issued even before May 21, 2001. Because of this rarity, the third interim rule did not include a provision to allow a mariner to obtain a license as mate (pilot) of towing vessels following the requirement for the 2nd-class operator's license. The Coast Guard agrees that an inconsistency exists and, in this final rule, allows a mariner to obtain the license as mate (pilot) of towing vessels, until November 21, 2003, using the process for a 2nd-class operator's license. This provides a more gradual implementation of this rule, as well as aligns the treatment of the licenses for master and mate (pilot) of towing vessels.

Regulatory Evaluation

This final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS)(44 FR 11040 (February 26, 1979)).

There were no comments on this section in response to the third interim rule (66 FR 20931 (April 26, 2001)), though the rule did invite comments.

We expect 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.

Assessment

This rule will amend the licensing and manning for officers of towing vessels by making minor revisions to the third interim rule. This rule will help mariners obtain the appropriate licenses for such officers.

This rule makes changes or updates of technical information and reflects comments to both the first interim rule (64 FR 63213 (November 19, 1999)) and the third interim rule. These changes or updates will not impose any new costs on the towing industry.

There are around 5,400 documented towing vessels in the United States. We presented estimates of the aggregate costs of this set of rulemakings in the third interim rule. Below are the estimates as presented there.

The annual costs—including costs for new entrants into the industry and monetary costs due to industry's paperwork burden—of compliance total $1,310,644. The 10-year present value of cost to industry, from 2001 up to 2010, discounted at 7 percent to 2000, totals $9,205,414.

The annual costs to the Federal Government comprise the time and resources of the Coast Guard to review the documentation of ongoing training and drills such as TOARs for serving mariners, as well as the service records, applications, and check-ride results of entering mariners. We estimated the total costs to the Government at $70,464 a year. The 10-year present value of these costs, discounted at 7 percent to 2000, totals $494,910.

We estimate that the 10-year present value, discounted at 7 percent to 2000, of costs to industry and Government are $9,700,324.

Benefits to Industry

This final rule will improve navigational safety for towing vessels and will clarify the requirements for obtaining appropriate licenses imposed by the amendments of the third interim rule. It will combine the licenses for ''harbor assist'' and ''limited local area'' into a single progression toward a limited license: Apprentice mate (steersman) (limited) and master (limited) for consistency.

This rule will also provide mariners with flexibility when seeking authority for service on the Lower Mississippi River, and when seeking to operate uninspected towing vessels on domestic voyages as long as they meet international requirements on foreign voyages.

We presented estimates of the aggregate benefits of this set of rulemakings in the third interim rule. Below are the estimates as presented there.

The annual benefits from preventing deaths range from $2,430,000 to $5,130,000, while those from preventing property damage range from $1,158,987 to $2,546,694. The 10-year present value of total benefits ranges from $25,207,543 to $53,917,886. Therefore, the 10-year benefit-cost ratio of this rule ranges from 2.60 to 5.56 with the average being 4.08.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises 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. (It does not include individual mariners.) This final rule will not impose any new costs on the towing industry beyond the costs imposed by the intermim rule(s).

There are 1,252 small businesses operating towing vessels, and none will suffer under this rule. We previously presented for public comment the effect of the set of rulemakings on small entities. We received no comments regarding that effect.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rulemaking so that they could better evaluate its effects on them and participate in it. We have consistently provided small entities a point of contact for assistance in understanding this rule. We have also completed a number of outreach activities that provided small entities added opportunities to seek clarification on the rule (from the project officer).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

The first and third interim rules did call for a collection of information. As required by 44 U.S.C. 3507(d), we submitted a copy of those rules to the OMB for its review of the collection of information. The OMB has approved the collection for two parts. The part numbers are 46 CFR parts 10 and 15, and the corresponding approval number is OMB Control Number 2115–0623, which expires on May 31, 2004.

You need not respond to a collection of information unless it displays a currently valid Control Number.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this final rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this final rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (53 FR 8859 (March 15, 1988)).

Reform of Civil Justice

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Consultation and Coordination With Indian Tribal Governments

This final rule will not have tribal implications; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, it is exempt from the consultation requirements of Executive Order 13175. If we had identified tribal implications during the comment period, we would have undertaken appropriate consultations with the affected Indian tribal officials.

Energy Effects

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order, because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs of the OMB as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this final rule and concluded that, under section 6(a) of the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy'' (67 FR 48244 (July 23, 2002)), this rule is categorically excluded from further environmental documentation. Under section 6(a), this exclusion is appropriate for rules that are ''editorial or procedural, such as those updating addresses or establishing application procedures.'' A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 10 and 15 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

■ 1. Revise the authority citation for part 10 to read as follows:

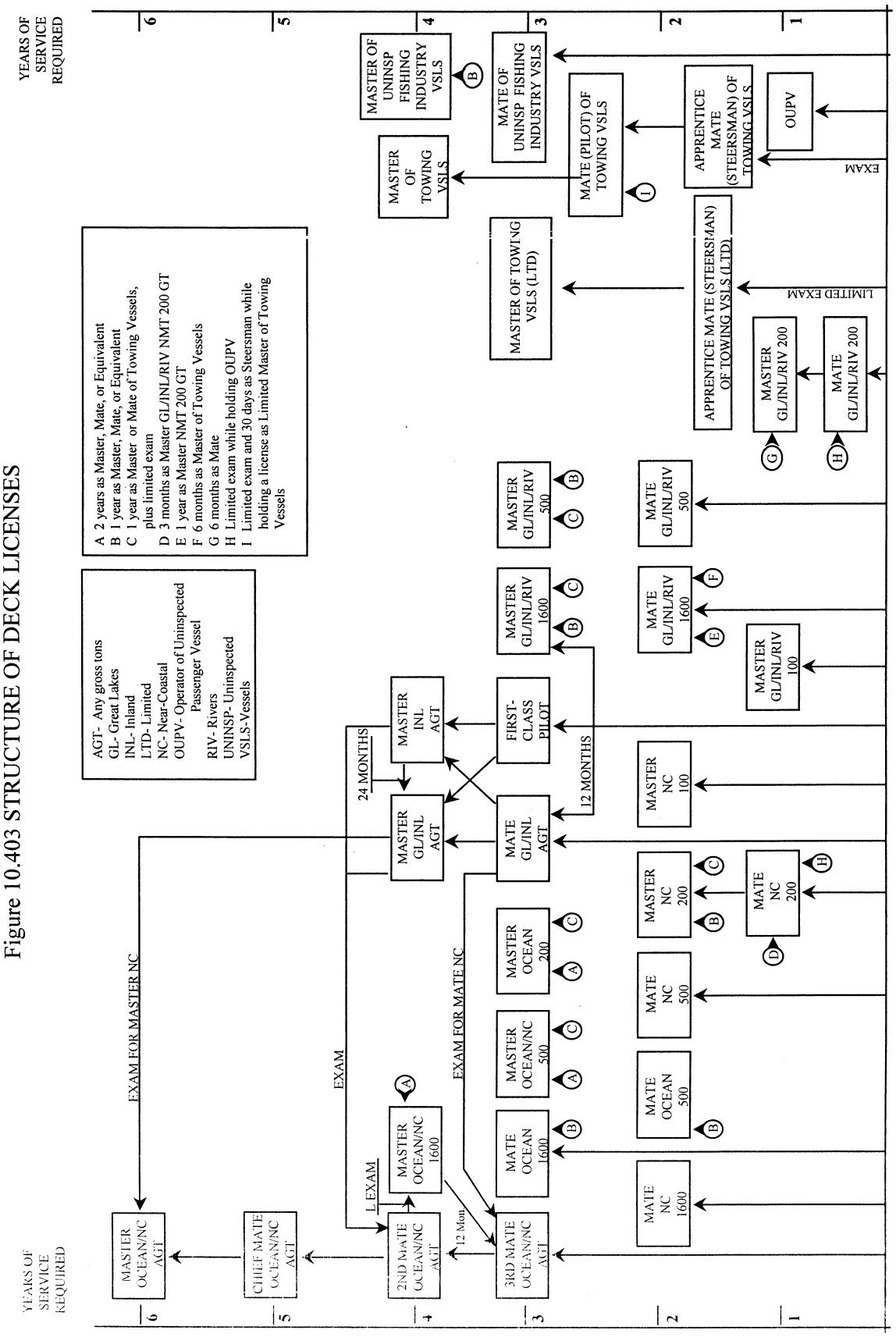
Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, and 8906; Department of Homeland Security Delegation 0170. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 2. In § 10.403, revise Figure 10.403 to read as shown:

§ 10.403 Structure of deck licenses.

* * * * *

Figure 10.403 STRUCTURE OF DECK LICENSES



■ 3. In § 10.463—

■ a. Remove paragraphs (a), (b)(2), and (b)(7);

■ b. Redesignate the introductory language of paragraph (b) and paragraphs (b)(1), (b)(3), (b)(4), (b)(5), (b)(6), (b)(8), (c), and (d) as the introductory language of paragraph (a) and as paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (b), and (c), respectively; and

■ c. In newly redesignated paragraph (b) remove the words ''not restricted to harbor assist and''.

■ 4. In § 10.464—

■ a. Remove paragraph (b) and remove Table 10.464–3;

■ b. Redesignate paragraphs (c), (d), (e), (f), (g), (g)(1), (g)(2), (g)(2)(i), (g)(2)(ii), (h), (h)(1), (h)(1)(i), (h)(1)(ii), (h)(1)(iii), (h)(2), (h)(2)(i), and (h)(2)(ii) as paragraphs (b), (c), (d), (e), (f)(1), (f)(2), (f)(2)(i), (f)(2)(ii), (g), (g)(1), (g)(1)(i), (g)(1)(ii), (g)(1)(iii), (g)(2), (g)(2)(i), and (g)(2)(ii), respectively;

■ c. In newly redesignated paragraph (f)(2)(ii), remove the last sentence; and

■ d. Revise paragraph (a), revise Table 10.464–1, revise newly redesignated paragraph (b), revise Table 10.464–2, and add new paragraph (f)(3) to read as follows:

§ 10.464 Requirements for licenses as master of towing vessels.

(a) If you would like to obtain a license as master of towing vessels endorsed with a route listed in column 1 of Table 10.464–1, then you must complete the service requirements indicated in columns 2 through 5. You may serve on the subordinate routes listed in column 6, without further endorsement.

TABLE 10.464-1--REQUIREMENTS FOR LICENSE AS MASTER OF TOWING VESSELS[1]

1 ROUTE ENDORSED	2 TOTAL SERVICE[2]	3 TOS[3] ON T/V AS MATE (PILOT)	4 TOS[3] ON T/V AS MATE (PILOT) NOT AS HARBOR ASSIST	5 TOS[3] ON PARTICULAR ROUTE	6 SUB-ORDINATE ROUTE AUTHORIZED
(1) OCEANS (O)	48	18 of 48	12 of 18	3 of 18	NC, GL-I,
(2) NEAR-COASTAL (NC)	48	18 of 48	12 of 18	3 of 18	GL-I,
(3) GREAT LAKES-INLAND (GL-I)	48	18 of 48	12 of 18	3 of 18	
(4) WESTERN RIVERS (WR)	48	18 of 48	12 of 18	3 of 18	

1 If you hold a license as master of towing vessels you may have an endorsement--as mate (pilot) of towing vessels for a route superior to your current route on which you have no operating experience--placed on your license after passing an examination for that additional route. After you complete 90 days of experience and complete a TOAR on that route, we will add it to your license as master of towing vessels and remove the one for mate (pilot) of towing vessels.

2 Service is in months.

3 TOS is time of service.

(b) If you would like to obtain a license as master of towing vessels (limited), then you must complete the requirements listed in columns 2 through 5 of Table 10.464–2.

TABLE 10.464-2--REQUIREMENTS FOR LICENSE AS MASTER OF TOWING VESSELS (LIMITED)

1 ROUTE ENDORSEMENT	2 TOTAL SERVICE[1]	3 TOS[2] ON T/V AS LIMITED APPRENTICE MATE (STEERSMAN)	4 TOAR[3] OR AN APPROVED COURSE	5 TOS[2] ON PARTICULAR ROUTE
LIMITED LOCAL AREA (LLA)	36	18 of 36	YES	3 of 18

1 Service is in months.
2 TOS is time of service.
3 Towing Officers' Assessment Record

* * * * *

(f) * * *

(3) Your license does not need a towing endorsement if you hold a TOAR or complete a TOAR.

* * * * *

■ 5. In § 10.465—

■ a. In paragraph (a) remove the words ''harbor assist or'', remove Table 10.465–2 and remove paragraph (d);

■ b. Redesignate paragraphs (e) and (f) as paragraphs (d) and (e), respectively; and

■ c. Revise Table 10.465–1, revise newly redesignated paragraph (e) and add new paragraph (f) to read as follows:

§ 10.465 Requirements for licenses as mate (pilot) of towing vessels.

* * * * *

TABLE 10.465-1--REQUIREMENTS FOR LICENSE AS MATE (PILOT[1]) OF TOWING VESSELS

1 ROUTE ENDORSED	2 TOTAL SERVICE[2]	3 TOS[3] ON T/V AS APPRENTICE MATE (STEERSMAN)	4 TOS[3] ON PARTICULAR ROUTE	5 TOAR[4] OR AN APPROVED COURSE	6 30 DAYS OF OBSERVATION AND TRAINING WHILE HOLDING MASTER (LIMITED) AND PASS A LIMITED EXAMINATION	7 SUBORDINATE ROUTE AUTHORIZED
(1) OCEANS (O)	30	12 of 30	3 of 12	YES	YES	NC, GL-I
(2) NEAR-COASTAL (NC)	30	12 of 30	3 of 12	YES	YES	GL-I,
(3) GREAT LAKES-INLAND (GL-I)	30	12 of 30	3 of 12	YES	YES	
(5) WESTERN RIVERS (WR)	30	12 of 30	3 of 12	YES	NO (90 days service required)	

1 For all inland routes, as well as Western Rivers, the license as pilot of towing vessels is equivalent to that as mate of towing vessels. All qualifications and equivalencies are the same.
2 Service is in months unless otherwise indicated
3 TOS is time of service.
4 TOAR is Towing Officers' Assessment Record.

* * * * *

(e) An approved training course for mate (pilot) of towing vessels must include formal instruction and practical demonstration of proficiency either on board a towing vessel or at a shoreside training facility before a designated examiner, and must cover the material (dependent upon route) required by § 10.910–2 for apprentice mate (steersman), towing vessels on ocean and near coastal routes; apprentice mate (steersman), towing vessels on Great Lakes and inland routes; or, steersman, towing vessels on Western Rivers routes.

(f) If you began your service or training before May 21, 2001, you may

receive a license as mate of towing vessels if before November 21, 2003, you complete the examination required by § 10.903(a)(18)(i) and meet the requirements in either paragraph (f)(1)(i) or (f)(1)(ii) of this section:

(1) You must have served at least 18 months on deck, including 12 months on towing vessels. This service must have included—

(i) At least 3 months of training or duty in the wheelhouse of towing vessels, and 3 months of service in each particular geographic area for which you seek endorsement on the license; and

(ii) At least 6 months on towing vessels while holding a merchant mariner's document endorsed as able seaman unlimited, able seaman limited, or able seaman special, including 3 months in each particular geographic area for which you seek an endorsement; and either—

(A) Two months of training or duty in the wheelhouse; or

(B) One month of training or duty in the wheelhouse combined with completion of a course of training as towboat operator approved by the Commanding Officer, National Maritime Center, under subpart C of this part.

6. In § 10.466, revise Table 10.466–1 to read as follows:

§ 10.466 Requirements for licenses as apprentice mate (steersman) of towing vessels.

* * * * *

TABLE 10.466-1--REQUIREMENTS FOR LICENSE AS APPRENTICE MATE (STEERSMAN) OF TOWING VESSELS

1 LICENSE TYPE	2 ROUTE ENDORSED	3 TOTAL SERVICE[1]	4 TOS[2] ON T/V	5 TOS[2] ON PARTICULAR ROUTE	6 PASS EXAMINATION[3]
(1) APPRENTICE MATE (STEERSMAN)	OCEANS (O)	18	12 of 18	3 of 18	YES
	NEAR-COASTAL (NC)	18	12 of 18	3 of 18	YES
	GREAT LAKES-INLAND (GL-I)	18	12 of 18	3 of 18	YES
	WESTERN RIVERS (WR)	18	12 of 18	3 of 18	YES
(2) APPRENTICE MATE (STEERSMAN) (LIMITED)[4]	NOT APPLICABLE	18	12 of 18	3 of 18	YES

1 Service is in months.
2 TOS is time of service.
3 The examination for apprentice mate is specified in subpart I of this part. The examination for apprentice mate (limited) is a limited examination.
4 For all inland routes, as well as Western Rivers, the license as steersman is equivalent to that as apprentice mate. All qualifications and equivalencies are the same.

* * * * *

■ 7. In § 10.903—

■ a. Remove paragraph (a)(18)(ii) and redesignate paragraph (a)(18)(iii) as paragraph (a)(18)(ii);

■ b. Redesignate paragraphs (c)(7) through (c)(18) as paragraphs (c)(8) through (c)(19), respectively; and

■ c. Add paragraph (c)(7) to read as follows:

§ 10.903 Licenses requiring examinations.

* * * * *

(c) * * *

(7) Master or mate of towing vessels of over 200 gross tons, oceans and near-coastal.

* * * * *

PART 15—MANNING REQUIREMENTS

■ 8. Revise the authority citation for part 15 to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, and 9102; and Department of Homeland Security Delegation 0170.

■ 9. In § 15.610—

■ a. In paragraph (b)(1)(ii) following the words ''of towing vessels'' remove the words ''(Harbor assist) or''; and

■ b. Add paragraph (d) to read as follows:

§ 15.610 Master and mate (pilot) of towing vessels.

* * * * *

(d) Any towing vessel operating in the pilotage waters of the Lower Mississippi River must be under the control of an officer who holds a first-class pilot's license or endorsement for that route, or meets the requirements of either paragraph (d)(1) or paragraph (d)(2) of this section as applicable:

(1) To operate a towing vessel with tank barges, or a tow of barges carrying hazardous materials regulated under part N or O of this subchapter, an officer in charge of the towing vessel must have completed 12 round trips over this route as an observer, with at least 3 of those trips during hours of darkness, and at least 1 round trip of the 12 within the last 5 years.

(2) To operate a towing vessel without barges, or a tow of uninspected barges, an officer in charge of the towing vessel must have completed at least four round trips over this route as an observer, with at least one of those trips during hours of darkness, and at least one round trip of the 12 within the last 5 years.

Dated: April 14, 2003.

Paul J. Pluta,

Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–15225 Filed 6–16–03; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97–80; FCC 03–89]

Commercial Availability of Navigation Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Commission's rules to extend the January 1, 2005 ban on integrated navigation devices until July 1, 2006. This extension is needed since the state of the navigation devices market will be significantly impacted by ongoing industry negotiations for a bidirectional specification for digital cable receivers and products, rendering compliance with the existing January 1, 2005 ban impracticable. This action is taken pursuant to Section 629 of the Communications Act which directs the Commission to adopt regulations to assure the commercial availability of navigation devices equipment used by consumers to access services from multichannel video programming distributors.

DATES: Effective July 17, 2003.

FOR FURTHER INFORMATION CONTACT: Susan Mort, 202–418–1043.

SUPPLEMENTARY INFORMATION:

1. In the Order and Further Notice of Proposed Rulemaking adopted April 14, 2003 and released April 25, 2003, we amend the Commission's Rules to extend the January 1, 2005 ban on integrated navigation devices until July 1, 2006. A synopsis of the Order follows.

Synopsis of the Order

2. Section 629 of the Communications Act directs the Commission to adopt regulations to assure the commercial availability of navigation devices equipment used by consumers to access services from multichannel video programming distributors (''MVPDs''). Pursuant to this directive, the Commission issued the Report and Order in the above-captioned proceeding establishing, inter alia, a January 1, 2005, deadline for MVPDs to cease deploying new navigation devices that perform both conditional access functions and other functions in a single integrated device. The Commission adopted the requirement to separate the conditional access function from the basic navigation device (the ''host device'') in order to permit unaffiliated manufacturers, retailers, and other vendors to commercially market host devices while allowing MVPDs to retain control over their system security. The Commission later issued a Further Notice of Proposed Rulemaking and Declaratory Ruling (''Further Notice and Declaratory Ruling''), 65 FR 58255, September 28, 2000, that sought comment on the effectiveness of the Commission's navigation device rules, including the 2005 prohibition on integrated devices.

3. Since Section 629 and the Commission's rules were adopted, the cable and consumer electronics industries have made, and continue to make, significant progress in the development of technical standards in this area. However, the commercial market for navigation devices used in conjunction with the distribution of digital video programming remains in its infancy. In an effort to spur the transition to digital television, the cable and consumer electronics industry recently reached a Memorandum of Understanding (''MOU'') on a cable compatibility standard for a unidirectional digital cable television receiver with host device functionality, as well as other unidirectional digital cable products. This standard would allow consumers to directly attach their DTV receivers to cable systems using a point of deployment (''POD'') module and receive one-way cable television services without the need for an external navigation device. The Commission issued a Further Notice of Proposed Rulemaking (''FNPRM''), 68 FR 2278, January 16, 2003, seeking public comment on the MOU issued in the above-captioned proceeding and in the Compatibility Between Cable Systems and Consumer Electronics Equipment proceeding.

4. In its earlier Further Notice and Declaratory Ruling, the Commission had already sought comment, inter alia, on whether the 2005 date for the phase-out of integrated boxes remains appropriate, on what, if any, incentives the requirement creates for the development of a commercial retail market for navigation devices, and on the economic impacts and costs associated with the requirement. In response, the cable industry and set-top box manufacturers generally urged that the 2005 deadline should be eliminated in favor of the continued offering of integrated navigation devices for rent to consumers. Other equipment manufacturing and retail interests urged that the date should be advanced to ensure the timely development of a retail market in host devices. Given the equipment ordering and manufacturing cycles involved, it is necessary at this point to provide guidance as to the Commission's expectations with respect to the 2005 date. Other issues raised in the Further Notice and Declaratory Ruling will be addressed separately at a later time.

5. Commission action in response to the FNPRM could have a significant impact upon the development of a commercial market in separate host