

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add new § 165.1710 to read as follows:

### § 165.1710 Port Valdez and Valdez Narrows, Valdez, Alaska—security zones.

(a) *Location.* The following areas are security zones:

(1) *Trans-Alaska Pipeline (TAPS) Valdez Terminal complex (Terminal), Valdez, Alaska and TAPS tank vessels.* All waters enclosed within a line beginning on the southern shoreline of Port Valdez at 61°05'03.6" N, 146°25'42" W; thence northerly to yellow buoy at 61°06'00" N, 146°25'42" W; thence east to the yellow buoy at 61°06'00" N, 146°21'30" W; thence south to 61°05'06" N, 146°21'30" W; thence west along the shoreline and including the area 2000 yards inland along the shoreline to the beginning point.

(2) *Tank vessel moving security zone.* All waters within 200 yards of any TAPS tank vessel maneuvering to approach, moor, unmoor or depart the TAPS Terminal or transiting, maneuvering, laying to or anchored within the boundaries of the Captain of the Port, Prince William Sound Zone described in 33 CFR 3.85–20 (b).

(3) *Valdez Narrows, Port Valdez, Valdez, Alaska.* All waters 200 yards either side of the Valdez Narrows Tanker Optimum Track line bounded by a line beginning at 61°05'15" N, 146°37'18" W; thence south west to 61°04'00" N, 146°39'52" W; thence southerly to 61°02'32.5" N, 146°41'25" W; thence north west to 61°02'40.5" N, 146°41'47" W; thence north east to 61°04'07.5" N, 146°40'15" W; thence north east to 61°05'22" N, 146°37'38" W; thence south east back to the starting point at 61°05'15" N, 146°37'18" W.

(b) *Regulations.* (1) The general regulations in 33 CFR 165.33 apply to the security zones described in paragraph (a) of this section.

(2) Tank vessels transiting directly to the TAPS terminal complex, engaged in the movement of oil from the terminal or fuel to the terminal, and vessels used to provide assistance or support to the tank vessels directly transiting to the terminal, or to the terminal itself, and that have reported their movements to the Vessel Traffic Service, as required under 33 CFR part 161 and § 165.1704, may operate as necessary to ensure safe

passage of tank vessels to and from the terminal.

(3) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port and the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a vessel displaying a U.S. Coast Guard ensign by siren, radio, flashing light, or other means, the operator of the vessel must proceed as directed. Coast Guard Auxiliary and local or state agencies may be present to inform vessel operators of the requirements of this section and other applicable laws.

Dated: December 16, 2005.

**M.S. Gardiner,**

*Commander, United States Coast Guard, Coast Guard, Captain of the Port, Prince William Sound, Alaska.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 10

[USCG–2004–17455]

RIN 1625–AA85

### Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Licenses and Certificates of Registry

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard is amending the maritime personnel licensing rules to include new security requirements when mariners apply for original, renewal, and raise of grade licenses and certificates of registry. This interim rule corrects omissions and ambiguities in the Coast Guard's preexisting maritime personnel licensing regulations. This interim rule will require all applicants for licenses and certificates of registry to have their identity checked and their fingerprints taken for a criminal record review by the Coast Guard. The new requirements are similar to those that apply to applicants for merchant mariner's documents.

**DATES:** This interim rule is effective January 13, 2006 and is applicable for applications received by the Coast Guard on or after that date. Comments and related material must reach the

Docket Management Facility on or before April 13, 2006. Comments sent to the Office of Management and Budget on collection of information must reach OMB on or before March 14, 2006.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2004–17455 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web site: <http://dms.dot.gov>.

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

(3) Fax: 202–493–2251.

(4) Delivery: Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(5) Federal eRulemaking Portal: <http://www.regulations.gov>.

**Instructions:** All submissions must include the agency name and docket number or RIN for this rulemaking. All comments will be posted without change to <http://www.dms.dot.gov/feddocket>, including any personal information sent with each comment. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation in Rulemaking Process" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or submitted comments, go to <http://www.dmt.dot.gov>. You may also access the Federal eRulemaking Portal at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this interim rule, call Mr. Stewart Walker, Project Manager, National Maritime Center (NMC), U.S. Coast Guard, telephone 202–493–1022. If you have questions on viewing the docket, call Ms. Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202–366–0271.

For questions on submitting an application for the issuance of a license or certificate of registry, call the nearest Coast Guard Regional Examination Center (REC), a list of which appears in Title 46, Code of Federal Regulations (46 CFR) section 10.105, or on the Internet at <http://www.uscg.mil/STCW/index.htm>.

**SUPPLEMENTARY INFORMATION:**

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List of Subjects in 46 CFR Part 10

### I. Public Participation and Request for Comments

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. Comments that will provide the most assistance to the Coast Guard in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See

**ADDRESSES** above for information on how to submit comments. All comments received will be posted, without change, to <http://dms.dot.gov> and will include any personal information you have provided. Please see DOT's "Privacy Act" paragraph below.

The Coast Guard does not plan to hold a public meeting to solicit comments on this interim rule. However, you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why a hearing would be beneficial. If the Coast Guard determines that a public hearing would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

*Submitting comments:* If you submit a comment, please include your name and address, identify the docket number for this rulemaking (USCG-2004-17455), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by

mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period in the drafting of the final rule.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Because the Coast Guard currently maintains comments on its regulations on the Docket Management System for the Department of Transportation (DOT), please review DOT's Privacy Act Statement, published in the **Federal Register** on April 11, 2000 at 65 FR 19477, or visit <http://dms.dot.gov> for the handling of public comments under the Privacy Act.

### II. Background and Purpose

A brief discussion of the terms used in portions of the preamble is offered to assist in the understanding of this interim rule. The term "credential" encompasses the merchant mariner's document (MMD), license, and certificate of registry (COR). This rule affects only licenses and CORs, so in this document we use the term "credential" only to refer to a license or COR, and we specify if and when we mean to include MMDs. We use the term "original" credential to refer to an applicant's first license or COR; the term "subsequent issue" credential to refer to a raise of grade, renewal, or duplicate license or COR; and the term "applicant" to refer to mariners or prospective mariners who are applying for a license or COR.

The Coast Guard has been regulating merchant mariners for quite some time, pursuant to an extensive statutory framework. 46 U.S.C. 2103. Title 46 U.S.C. Chapter 71 addresses licenses, certificates, and documents and

authorizes the Coast Guard to issue licenses and CORs to applicants found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness. Mariners who serve as officers must possess licenses or CORs to serve on board U.S.-flagged merchant vessels. 46 U.S.C. 8103. The license or COR functions as proof of a mariner's qualifications and competency, specifying each class for which the holder is qualified. 46 U.S.C. 7101. Licenses and CORs for individuals on documented vessels may be issued only to citizens of the United States. 46 U.S.C. 7102. A license or COR is valid for five years, and may be renewed for additional five-year periods. 46 U.S.C. 7106. For raise of grade licenses, such as from second mate to chief mate, a mariner must have at least one year of service at sea, receive training, demonstrate practical skills, and pass an examination. Raises of grade are done at the option of the mariner, dependent on a mariner's personal initiative. Coast Guard regulations governing the licensing and registering of mariners appear at 46 CFR part 10.

At this time merchant mariners may be required to carry one of three credentials. These are the MMD, license, and COR. This interim rule affects only the mariner's license and COR.

MMDs are required for mariners who sail on vessels of at least 100 gross register tons on oceans and the Great Lakes, with some exceptions. When MMDs are required for a vessel, all mariners on that vessel, whether licensed or unlicensed, must hold them. When MMDs are not required for a vessel, mariners serving as officers on the vessel must still hold a proper license, while those not serving as officers generally will not need to possess any Coast Guard-issued credential.

Unlike licenses and CORs, the MMD is an identity document. An MMD shows the mariner's photograph, ID number, nationality, address, date of birth, physical characteristics, and signature. Also, for those mariners who do not need to carry a license, the MMD is used to show that the mariner has undergone a safety and security check, and to show any additional qualifications or endorsements in the Deck, Engine or Steward's Department, and any additional endorsements such as Lifeboatman or Tankerman Person-in-Charge.

The license is not an identity document. A license is a certificate that is issued for a term of five years and demonstrates a mariner's qualifications and competency to serve as a Deck

Officer, Engineer Officer, Pilot, or Radio Officer.

CORs are similar to licenses, but are used only for staff officers in purser and medical positions. Medical positions require that the candidate also hold a valid State license. The COR, like the license, is not used for identification purposes. It is a certificate that shows that the mariner is qualified to perform one or more specialized job functions.

The purpose of this interim rule is to amend 46 CFR part 10 to strengthen the security of the licensing process by increasing the likelihood that licenses and CORs are issued only to eligible mariners. To do this, the Coast Guard will now require mariners to appear at a Regional Exam Center (REC) to provide fingerprints, and allow REC staff to evaluate the information provided on the mariner's application at the REC. We will use the information provided to conduct a criminal record review in accordance with applicable law and regulations.

**III. Discussion of the Rule**

The Coast Guard is revising its merchant mariner credentialing regulations with respect to licenses and CORs. MMDs are not affected by this rule because on January 6, 2004, the

Coast Guard published an interim rule in the **Federal Register**, entitled "Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Documents (MMDs)" (69 FR 526) to require appearance at a Coast Guard REC for the purposes of presenting identification and having fingerprints taken for original, renewal, and raise of grade MMDs. This rulemaking is meant to implement similar requirements for licenses and CORs. Similar to the MMD rulemaking, the Coast Guard is phasing in these requirements over a five-year period to reduce the burden on both mariners and Coast Guard resources.

There are approximately 200,000 credentialed mariners in the United States. The MMD interim rule mentioned above affected approximately half of this population. This rulemaking will affect the remaining population. All of our substantive changes will increase the likelihood that the Coast Guard will process applications only from, and issue credentials only to, applicants who can prove they are who they claim to be, and whose backgrounds can be verified to make sure they meet security-related requirements. In addition to our substantive changes, we

corrected minor stylistic and grammatical errors in 46 CFR part 10 only when making a substantive change within the same section.

The substantive changes to 46 CFR part 10 are discussed in Table 1, below. This table lists the problem with the preexisting regulations in column 1, then in column 2 it lists the change that was made and why.

The Department of Homeland Security (DHS), under the authority of the Aviation and Transportation Security Act and the Maritime Transportation Security Act of 2002, is developing a program that can be used to control access to secure areas in vessels, facilities, and ports. (See 49 U.S.C. 114(f)(12); 46 U.S.C. 70105.) This program includes a system-wide transportation worker identification card which is currently under development. DHS is developing this program through the Transportation Security Administration (TSA), the Coast Guard, and other Federal agencies, including others within DHS. The Coast Guard will work with TSA to ensure that the regulations for obtaining licenses and CORs are consistent with this initiative to minimize future impacts on mariners.

TABLE 1.—FORMER AND NEW PROVISIONS OF 46 CFR PART 10

Former Rule	New Rule
The definition for "conviction" specified that an applicant convicted of certain crimes was ineligible for licensing, but did not include foreign or military court convictions. (§ 10.103).	We revised the definition of "conviction" to include foreign or military court convictions, as these may be relevant to a determination of an applicant's character and habits of life; convictions for certain crimes by those courts now will count against an applicant. (§ 10.103).
An applicant who fails a chemical test for dangerous drugs was ineligible for licensing, but the regulation did not define a "dangerous drug." (§ 10.103).	The regulation now defines "dangerous drug," using the same definition that appears in 46 CFR 16.105. 46 CFR 16.105 is part of the Coast Guard's regulations on chemical testing of merchant mariners. This correction of an omission conforms our regulations in parts 10 and 16. (§ 10.103).
Applicants for renewals could conduct the entire renewal process by mail. (§ 10.105, § 10.209).	All applicants must appear at a Coast Guard Regional Exam Center (REC) to be fingerprinted by, and show identification (ID) to, an REC employee. This personal appearance requirement allows the Coast Guard to see that the fingerprints and ID actually belong to the applicant, thereby reducing the chance of fraud. (§ 10.105, § 10.209).
The Coast Guard allowed applicants to provide fingerprints taken by an outside entity. (§ 10.201).	All fingerprints must be taken at an REC, by an REC employee. Allowing mariners to submit fingerprints that were taken elsewhere left the Coast Guard with no assurance that the fingerprints actually belonged to the applicant. (§ 10.105, § 10.201).
Applicants for original and subsequent issue credentials had to show proof of their age and citizenship, but were not required to show ID. (§ 10.201).	Applicants must appear at an REC and present two acceptable forms of ID. The requirement of two IDs provides the Coast Guard with an adequate amount of documentation to be reasonably confident that applicants are who they say they are. (§ 10.105).

TABLE 1.—FORMER AND NEW PROVISIONS OF 46 CFR PART 10—Continued

Former Rule	New Rule
No list of acceptable forms of ID was presented in the regulation. (None).	A list of acceptable forms of ID is now presented in the regulation. As the requirement for ID is new, this list notifies the mariners as to what forms will be acceptable. The forms of ID that are listed are more easily verifiable by REC employees and more difficult to falsify. Additionally, on May 11, 2005, Congress enacted the REAL ID Act of 2005 (P.L. 109–13), which establishes a process for promulgating standards for the issuance of driver's licenses and ID cards. The statute states that after May 11, 2008 Federal agencies will be prohibited from accepting for any official purpose IDs issued by States and territories that do not comply with this Act. Because of this, acceptable driver's licenses and ID cards are limited to those issued by States and territories that meet the requirements of the Act. As the requirements of the Act do not become mandatory until May 11, 2008, IDs from all States will be acceptable at least until that date, so long as their validity can be verified by an REC employee. (§ 10.105).
An applicant's qualifications could only be approved by the Officer in Charge, Marine Inspection, (OCMI). (§ 10.201).	The application can now be approved by any officer specified by Coast Guard policy. This reduces the likelihood of unreasonable delays in approving an applicant's qualifications. (§ 10.201).
Applicants could prove citizenship through any Merchant Mariner's Document (MMD) issued by the Coast Guard. (§ 10.205).	The Coast Guard began issuing new MMDs utilizing more tamper-resistant cards on February 3, 2003. Only valid MMDs issued after that date may be used to document citizenship and identity. (§ 10.205).
Applicants could use any of the following atypical proofs of their citizenship: Baptismal certificates; parish records; statements of a physician's attendance at a birth; delayed certificates of birth; reports from the Census Bureau which showed the earliest available record of age or birth; affidavit(s) from a parent, other relative, or two or more responsible citizens; school records; immigration records; and insurance policies. (§ 10.205).	The Coast Guard is no longer accepting atypical proofs of citizenship. We believe verifying atypical proofs of citizenship is best left in the jurisdiction of government agencies that specialize in document verification and citizenship like the U.S. Citizenship and Immigration Services (USCIS) or the Department of State. Thus, we have aligned acceptable proof of citizenship with commonly used documents listed on the USCIS's Eligibility for Employment (I–9) form. By doing so, we maintained acceptance of commonly used documents, including birth certificates, Certificates of Citizenship, Certificates of Naturalization, and passports. These documents are issued by government agencies and are more difficult to alter than the previously accepted atypical proofs of citizenship. (§ 10.205).
There was no requirement for a criminal record review or fingerprint submission for renewals. (§ 10.201).	Criminal record reviews and fingerprints are required of all applicants each time an application is made, including renewals. No credential will be issued until the applicant has passed a criminal record review. This is to increase the likelihood that credentials are only given to those mariners whose character and habits of life are such that the applicant can be entrusted with the duties and responsibilities of the license or COR. (§ 10.201).
Criminal record reviews were not mandatory in the language of the regulation for all original and subsequent issue applicants. (§ 10.201).	Criminal record reviews are now required for all applicants—regardless of whether they are original or subsequent issue applications. The Coast Guard will not issue any credential until the applicant has passed a criminal record review. This is to increase the likelihood that credentials are only given to those mariners whose character and habits of life are such that the applicant can be entrusted with the duties and responsibilities of the license or COR. (§ 10.201).
In section 10.201(a), the Officer in Charge, Marine Inspection (OCMI) had to be satisfied as to an applicant's eligibility for a license or COR. (§ 10.201).	We revised 10.201(a) to allow others in the Coast Guard to make eligibility determinations. This change was made to streamline internal Coast Guard administrative procedures. (§ 10.201).
Applicants were not required to provide new fingerprints and/or ID when seeking a raise of grade or renewal credential. (§ 10.209).	Every time that a mariner applies for a new credential they must provide a set of fingerprints and two acceptable forms of ID. While the likelihood that an individual's fingerprints will change is low, it is imperative that the Coast Guard determine if a mariner is who he or she says he or she is before issuing a credential. This information will be used for identification purposes as well as to update any criminal record history. (§ 10.105, § 10.209).

#### IV. Regulatory Requirements

##### A. Administrative Procedure Act

Implementation of this rule as an interim rule with a request for public comment after the effective date of the rule is based upon the “good cause” exception found under the Administrative Procedure Act (APA) at 5 U.S.C. 553(b)(B). The Coast Guard has

determined that delaying implementation of this rule to await public notice and comment is unnecessary, impracticable and contrary to the public interest for the following reasons:

In the interests of marine safety and seamen's welfare, the Coast Guard was given general superintendence of merchant marine personnel by 46 U.S.C.

2103 and 46 U.S.C. chapter 71. In 2002, Congress found that U.S. ports are susceptible to large-scale acts of terrorism that could cause a large loss of life or economic disruption, that “ports are often a major locus of Federal crime,” (Maritime Transportation Security Act of 2002, section 101, Pub. L. 107–295, 116 Stat. 2064) and that it

is in the best interest of the United States to increase port security. A Coast Guard-issued license authorizes its holder to serve in the capacity of vessel's officer, allowing him or her to assume positions of responsibility in the command and control of merchant marine vessels. The harm that can be caused by persons who wrongfully obtain licenses with the intention of committing crimes or terrorist acts jeopardizes mariner safety and welfare, as well as national security. Our goal is to protect the licensing process from abuse. As discussed above, the Coast Guard has identified several omissions and ambiguities in the former rule that could facilitate licensing abuse. This interim rule corrects those omissions and clarifies those ambiguities to promote maritime safety and security within the United States.

Further, delay or suspension of the existing merchant mariner licensing process pending completion of notice and comment and publication of a final rule could have a severe impact on the professional lives of individual mariners, who are required to carry valid licenses to work on board certain U.S.-flag vessels, and could interfere with maritime commerce, which relies on the ready availability of licensed personnel.

The delay of this rule would set up "a situation in which the interest of the public would be defeated," as well as impede the "due and timely execution" of an important Coast Guard function; see *Utility Solid Waste Activities Group v. Environmental Protection Agency*, 236 F.3d 749 (D.C. Cir. 2001). The Coast Guard therefore finds delay of the implementation of this rule to allow for prior notice and comment to be

impracticable and contrary to the public interest.

The Coast Guard also finds good cause, under 5 U.S.C. 553(d)(3), for this interim rule to take effect immediately. The Coast Guard finds that, for the reasons previously discussed, it would be impracticable and contrary to the public interest to subject this interim rule to prior notice and public comment, or to delay its taking effect.

Although we have good cause to publish this rule without prior notice and comment, we value public comments. As a result, we are soliciting public comments on this interim rule and may revise the final rule in response to those comments.

*B. Regulatory Evaluation*

Executive Order 12866, "Regulatory Planning and Review", 58 FR 51735, October 4, 1993, requires a determination whether a regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and subject to the requirements of the Executive Order. This rule has been identified as significant under Executive Order 12866 and has been reviewed by OMB.

This interim rule changes certain requirements in 46 CFR part 10 for how mariners and prospective mariners will apply for licenses and CORs.

This interim rule requires applicants for original (new) and subsequent issue (raise of grade, renewal, and duplicate) licenses and CORs to have their fingerprints taken at an REC and to have their IDs checked at an REC. The rule requires an applicant to appear at least once in the application process, even if submitting an application by mail, fax,

or other electronic means, and requires that the Coast Guard conduct fingerprinting and check IDs for original (new) and subsequent issue (raise of grade, renewal, and duplicate) license and COR transactions. The primary costs of this rule to applicants for licenses and CORs include the travel cost to an REC and the time spent at an REC in order to have their fingerprints taken and IDs checked. Currently, there is no consistent fingerprinting or identification policy among the RECs for license or COR applications. Some RECs asked all license applicants to visit an REC for fingerprinting, and some do not. All RECs allowed an applicant to renew a license or COR entirely by mail, since there was no requirement to submit fingerprints for that transaction. This interim rule will create one consistent policy at all RECs.

The following sections discuss the baseline population of applicants and the portion of this population that will incur additional costs, the estimated cost per applicant, and the estimated national costs and benefits.

Baseline Population

The average annual population of applicants who apply for a license or a COR is 30,142 mariners and prospective mariners. This population includes 9,384 applicants for original (new) licenses, 20,627 applicants for subsequent issue (raise of grade, renewal, and duplicate) licenses, and 131 applicants for CORs. This population includes all applicants with or without a valid MMD at the time of the license or COR application. Table 2 presents the average annual applicant population by transaction type.

TABLE 2.—SUMMARY OF AVERAGE ANNUAL APPLICANT POPULATION BY TRANSACTION TYPE

Current credential status of applicant	Applicants for original licenses	Applicants for subsequent issue licenses	Applicants for all CORs	Total
Applicants who currently have an MMD .....	2,038	7,302	131	.....
Applicants who DO NOT currently have an MMD .....	7,346	13,325	.....	.....
Total Affected Population .....	9,384	20,627	131	30,142

The average annual population is based on field information and data received from the Coast Guard's NMC and the Coast Guard's Maritime Personnel Qualifications Division. The period of analysis is inclusive from year 2005 through year 2009. We use a five-year period because all currently licensed mariners must renew their licenses and CORs once every five years. Therefore, this five-year period will

cover a complete license and COR renewal cycle, which will give an accurate snapshot of the total cost of the interim rule for mariners to comply with the new application requirements.

The subset of the population that will incur additional costs from this rule is comprised of those applicants who currently apply for licenses and CORs who do not have their fingerprints taken at an REC and do not have their IDs

checked at an REC. These applicants must now incur an additional cost for travel to an REC to have their fingerprints taken and to have their IDs checked.

Not all applicants will incur additional costs from this interim rule. The subset of the population that will not incur additional costs includes applicants who currently visit an REC to have their fingerprints taken and their

IDs checked. These applicants are currently complying with what this rule requires by visiting an REC to have their fingerprints taken and their IDs checked. Prior to this interim rule, some RECs asked applicants to visit an REC to have fingerprints taken and IDs checked as a part of the application process for licenses; other RECs did not. Some applicants also traveled to RECs to have their fingerprints taken because of their close proximity to an REC.

Based on information from the Coast Guard's RECs, we estimate that 40 percent of the applicants for original licenses and 15 percent of the applicants for subsequent issue licenses currently travel to an REC for the purposes of having their fingerprints taken and IDs checked. Therefore, we do not include these applicants in the cost analysis.

There could be other applicants who do not incur additional costs, such as

applicants who simultaneously apply for both MMDs and licenses. These applicants may have chosen to apply for both credentials at the same time to minimize cost and to synchronize the expiration dates for both of their credentials. Since these applicants will be applying for an MMD and a license at the same time, they will make one appearance at an REC to have their fingerprints taken and to have their IDs checked. These applicants would be regulated and processed under the regulations for MMDs published on January 6, 2004, which currently require applicants to have their fingerprints taken and their IDs checked at an REC. 69 FR 526. Therefore, these applicants do not incur additional costs by this rule.

However, it is difficult to estimate what percentage of these applicants is simultaneously applying for credentials after the publication of the regulations

for MMDs. We do not adjust our analysis for these mariners, and therefore our estimates may be conservative because we possibly have counted some of the applicants twice, once under the MMD interim rule, and once under this interim rule. Based on discussions with Coast Guard staff and REC officials, we believe that this number will be relatively small.

Accordingly, the estimated total annual quantity of applicants who will incur an additional cost (referred to as the baseline population) by this rule is 23,294 applicants for licenses and CORs. This baseline population is estimated as the total affected population less the subset of the affected population that does not incur additional costs. Table 3 presents the summary of the annual baseline population that will incur additional costs under this interim rule.

TABLE 3.—SUMMARY OF AVERAGE ANNUAL BASELINE POPULATION BY TRANSACTION TYPE THAT WILL INCUR ADDITIONAL COSTS <sup>1</sup>

Current credential status of applicant	Applicants for original licenses	Applicants for subsequent issue licenses	Applicants for all CORs	Total
Applicants who currently have an MMD .....	1,223	6,207	131	.....
Applicants who DO NOT currently have an MMD .....	4,408	11,326	.....	.....
Total Affected Population <sup>2</sup> .....	5,630	17,533	131	23,294

<sup>1</sup> This baseline population is adjusted to reflect the percentage of current applicants who already travel to have their fingerprints taken at an REC. These are the totals in Table 2 less a 40 percent reduction in original applicants and less a 15 percent reduction in subsequent issue applicants.

<sup>2</sup> Some values may not total due to rounding.

Costs

The costs of this rule include (1) the cost of applicants' time at an REC, and (2) the cost of applicants' travel to and from an REC. For all costs, we assume

an applicant's wage rate as a proxy for the opportunity cost of the work time or free time forgone due to a mariner's visit to an REC and travel to and from an REC. We also assume maximum government per diem reimbursement

rates as proxy unit costs for travel expenses. Table 4 presents the basic unit cost assumptions and sources that we used in this analysis of the interim rule.

TABLE 4.—SUMMARY OF BASIC UNIT COSTS

Item	Unit cost	Source reference
Opportunity Cost of Applicant Time	\$37/hour .....	This wage rate is conservatively based on the 90th percentile wage estimate (the highest) from the 2002 National Occupation Employment and Wage Statistics for Captains, Mates, and Pilots of Water Vessels published by the Bureau of Labor Statistics. This wage rate best applies to licensed officers because they typically earn higher wages than other mariners.
Driving Mileage .....	\$0.375/mile (rounded to \$0.38/mile).	2004 Privately Owned Vehicle (POV) Reimbursement Rates for Automobiles in Amendment 2003–6 of the <i>Federal Travel Regulation</i> , published December 15, 2003, and effective January 1, 2004, by the General Services Administration (GSA). 68 FR 69618.
Round-trip Air-Fare .....	\$250/trip .....	This airfare is based on industry research of current airfare price levels and the 2002 price index for airline fares in the <i>Statistical Abstract of the United States: 2003</i> , 123rd Edition, issued December 2003, by the U.S. Census Bureau.

TABLE 4.—SUMMARY OF BASIC UNIT COSTS—Continued

Item	Unit cost	Source reference
Round-trip Airport Transfer .....	\$50/transfer .....	This round-trip airport transfer cost is based on research of the average private and public transfer costs, including taxi or car rental costs associated with U.S. airports and regional destinations. It is not a mathematic or rigorous estimate, but an average transfer cost based on information available from associations and trade groups, airports, transit authorities, and governments.
Incidentals and Meals .....	\$53/day .....	The average incidentals and meals reimbursement rate for the 17 current REC locations. The GSA provides rates for the continental U.S. The Department of Defense provides rates for the non-continental U.S. These rates are part of the <i>Federal Travel Regulation</i> and are frequently updated.
Lodging .....	\$137/night .....	The average lodging reimbursement rate, including an additional 18% lodging tax, for the 17 current REC locations. The GSA provides rates for the continental U.S. The Department of Defense provides rates for the non-continental U.S. These rates are part of the <i>Federal Travel Regulation</i> and frequently updated.

Cost of REC Time

We estimate that an applicant will spend two hours at an REC being fingerprinted, having their ID checked, and possibly waiting before, during, or after to complete these requirements. This is the REC wait-time estimate based on discussions with Coast Guard REC personnel familiar with operations and customer processing time for applicants who currently visit an REC for fingerprinting and ID examination. We expect very few applicants to take more than two hours, and many to take less time; however, we believe two hours to be an appropriate estimate of the total possible time an applicant will spend at an REC in order to calculate conservative but reasonable costs

attributable to REC processing and waiting time.

We estimate the cost of an applicant's time at the REC to be \$74 (2 hours × \$37 per hour cost of time = \$74). The estimated annual cost of REC time for the baseline applicant population is \$1,723,756 (\$74 per applicant × 23,294 total applicants = \$1,723,756).

Travel Cost

We estimate round-trip travel, travel to and from an REC, to take one day or require multiple day and overnight stays to complete. After a review of current mariner addresses from the Coast Guard's NMC, we estimate that approximately 60 percent of current mariners live within one-day round-trip travel to an REC, 30 percent live within overnight round-trip travel (one night

and two days) to an REC, and 10 percent live at a distance greater than overnight round-trip travel (greater than one night and two days) to an REC. These are national percentages for all mariners who currently have addresses on file with the NMC.

We assume these national percentages will most likely approximate the travel distances to an REC for current license and COR applicants. Therefore, we are applying the demographic characteristics (home of record trends) of the current population of all mariners, upon the future pool of applicants for licenses and CORs. Table 5 presents a summary of the baseline applicant population that will incur additional cost by travel distance to their closest REC using these national population percentages.

TABLE 5.—SUMMARY OF THE AFFECTED APPLICANTS BY REC TRAVEL DISTANCE

Distance to closest REC (miles)	Round-trip distance to closest REC (miles)	Percent of current mariner population within distance (percent)	Number of possible license or COR applicants within distance <sup>1</sup>
50 .....	100	60	13,976
100 .....	200	30	6,988
≥200 .....	≥400	10	2,329
Total .....	.....	100	23,294

<sup>1</sup> Some values may not total due to rounding.

We estimate that most mariners live within a close proximity to an REC—approximately 90 percent live within same-day or one-night round-trip travel from an REC. However, there are mariners who live far from their closest REC, which we consider to be greater than overnight round-trip travel or more than 400 miles round trip. For example, this would include mariners in parts of

the Great Lakes Basin and Alaska, where a large area is served by only one or a few RECs.

We assume for the purpose of estimating costs that most applicants who live within short distances to an REC will drive round trip—this will ensure similar application of cost methodology across variable distances. While there will be some applicants

who take public transportation or use another mode of travel, we believe, on average, most applicants will drive themselves to an REC, with the exception of those applicants who live far from their nearest REC, which we consider to be greater than overnight round-trip travel.

We assume that most applicants who live far from an REC will fly round

trip—this will ensure similar application of cost methodology for those who will travel far distances. While there will be some applicants who take another mode of travel or a

combination of travel modes, we believe, on average, most applicants will choose to travel by plane if they live far away.

We assume the applicants will drive or fly during the day to complete their

round-trip travel to and from an REC. We also assume that one-day of travel is approximately eight hours of travel. Table 6 presents a summary of travel distances and time:

TABLE 6.—SUMMARY OF THE TRAVEL DISTANCES AND TIME <sup>1</sup>

Round-trip travel distance from closest REC (miles)	Duration of travel	Maximum number of travel days to complete distance	Maximum number of hours to complete
100 .....	One-day Driving .....	1	8
200 .....	Overnight Driving .....	2	16
≥400 .....	Overnight Air .....	2	16

<sup>1</sup> The travel time is assumed to be the maximum number of days that would be necessary to complete the round-trip travel converted into hours.

While some applicants will drive longer distances in a single day, we assume the maximum number of days and hours to complete each round-trip driving distance will provide an appropriate estimate of time to calculate the maximum costs attributable to applicant travel time.

The following is an estimate of applicant travel costs using the above populations, unit costs, distances, and times:

**One-day Travel by Automobile**

For an applicant within one-day round-trip travel to and from an REC, we assume the cost to include the mileage, the opportunity cost of the time spent traveling, and incidentals. We assume the cost for one-day round-trip incidentals to be \$53 and the mileage reimbursement to be \$0.38 per mile.

The estimated cost per applicant for one-day round-trip travel is \$387 ((100 round-trip miles × \$0.38 per mile reimbursement rate) + (8 travel hours × \$37 per hour cost of time) + \$53 per day incidentals = \$387). The estimated annual cost for one-day round-trip travel for the affected applicants is \$5,408,712 (\$387 per applicant × 13,976 one-day travel applicants = \$5,408,712).

**Overnight Travel by Automobile**

For an applicant having to travel overnight, we assume the cost to include mileage, the opportunity cost of time spent traveling, lodging, and incidentals. We also assume the cost for lodging and incidentals for overnight round-trip travel to be \$243 ((2 days ×

\$53 per day incidentals) + \$137 per night lodging = \$243).

The estimated cost per applicant for overnight round-trip travel is \$911 ((200 round-trip miles × \$0.38 per mile reimbursement rate) + (16 travel hours × \$37 per hour cost of time) + \$243 lodging and incidentals = \$911). The estimated annual cost of overnight round-trip travel for the affected applicants is \$6,366,068 (\$911 per applicant × 6,988 applicants = \$6,366,068).

**Greater Than Overnight Travel (Travel by Air)**

We assume that applicants who live at distances greater than 200 miles must travel for more than one night and will incur the maximum cost of this interim rule. There exists no precise data to predict or forecast with confidence the actual or future quantity of these applicants living at far distances from an REC, and the combinations of days and nights they will need to travel round-trip to an REC. We expect these relatively few applicants will most likely choose another mode or combination of modes of transportation to travel round-trip between their home of record and the closest REC. We assume the cost of this travel will consist of the airfare, airport transfers to-and-from home and an REC, the opportunity cost of time spent traveling, and the round-trip travel costs associated with overnight incidentals and lodging.

We estimated the cost per applicant for lodging and incidentals for overnight

air travel to be \$243 ((2 days × \$53 per day incidentals) + \$137 per night lodging = \$243). The estimated cost per applicant for overnight air travel is \$1,185 (\$250 airfare + (2 round-trip airport transfers × \$50 per transfer) + (16 travel hours × \$37 per hour cost of time) + \$243 lodging and incidentals = \$1,185). The estimated annual cost of overnight air travel for affected applicants is \$2,759,865 (\$1,185 per applicant × 2,329 applicants = \$2,759,865).

We assume these estimates will approximate the maximum costs associated with travel by air. Most likely the total travel time will be less and involve fewer lodging and incidentals expenses, and will not be as costly in terms of the applicant's time.

**Total National Cost**

The annual cost of this rule to the affected applicants, consisting of the cost of travel and time for these applicants, is estimated to be \$16 million (non-discounted). The estimated five-year (2005–2009), discounted present value of the total cost of this rule to the applicants is \$71 million based on a 7% discount rate and \$77 million based on a 3% discount rate. As stated above, all currently licensed mariners must renew their licenses and CORs every five years. Therefore, a five-year period of analysis covers a complete renewal cycle and provides an accurate snapshot of the total cost of the interim rule for affected applicants. Table 7 summarizes the total annual cost of the rule to applicants.



TABLE 7.—SUMMARY OF AFFECTED APPLICANTS AND ANNUAL COST <sup>1</sup>

Cost component	Number of affected applicants	Annual costs per affected applicant	Annual cost for all affected applicants <sup>2</sup>	Percent of total annual cost (percent)
REC Time Cost .....	23,294	\$74	\$1,723,756	11
One-day Round-trip Travel Cost .....	13,976	387	5,408,712	33
Overnight Round-trip Travel Cost .....	6,988	911	6,366,068	39
Greater Than Overnight Round-Trip Travel Cost .....	2,329	1,185	2,759,865	17
<b>Total Annual Cost of the Interim Rule .....</b>			<b>16,258,401</b>	<b>100</b>

<sup>1</sup> All annual costs include the cost of the applicants' time spent traveling and time spent at an REC.

<sup>2</sup> Some values may not total due to rounding.

The primary cost to these applicants of this interim rule is the travel cost (90 percent of the total cost), which is driven by the mariners' opportunity cost of time, cost of lodging, and other per diem factors. About one-half of the cost of this rule to the affected applicants, as a percentage of total annual cost, is overnight and greater than overnight round-trip travel, which are 39 percent and 17 percent, respectively. However, these two travel cost components only apply to 40 percent of the applicants, with greater than overnight round-trip travel only applying to 10 percent.

These costs will impact mariners and prospective mariners who are interested in applying for licenses or CORs. The cost impacts will be high for any mariner who will have to travel to an REC, because of the limited number of RECs available: 17 RECs nationwide, including two in Alaska and one in Hawaii.

In Table 7, the cost per applicant for time spent at an REC is relatively low at \$74 per applicant. However, if there is any travel involved that will force an applicant to forgo a minimal amount of work, such as one-day round-trip travel, then the total cost per applicant increases 6 times to \$461, which includes the additional one-day round-trip travel cost of \$387 per mariner (\$74 REC time + \$387 one-day round-trip travel = \$461 for a mariner who must travel one-day and visit an REC).

However, we believe the total cost estimate of this interim rule to the affected applicants is a conservative estimate, because the REC locations, together, can serve approximately 90 percent of applicants within a 100-mile radius. We also used conservative driving distances, for example, one-day travel is 100 miles round-trip and overnight travel is 200 miles round-trip. The RECs are also located in or near major maritime ports that may allow mariners and prospective mariners to access the REC before, during, or after the applicants' marine-related business operations.

The cost of the applicants' time, however, will be a net loss to the applicants. The applicants will forgo work-time or free-time in order to comply with this rule, and may have to compensate by using vacation leave. However, we do not expect there to be a loss in business or productivity in the maritime sector, because the work schedules of these mariners often involve several days off their vessels per voyage, which they could use to visit an REC. Owners and operators of vessels also have several mariners they can use in the event another mariner is not available.

**Benefits**

We anticipate several qualitative benefits from the new fingerprinting and ID requirements established by this interim rule. All applicants for licenses and CORs will now have their fingerprints taken by Coast Guard personnel at an REC and must have their ID checked by Coast Guard personnel at an REC. In the past, applicants could have had their fingerprints taken and their identity checked by outside entities and submitted them by mail without a guarantee of accuracy or validity.

The Coast Guard currently requires applicants seeking licenses or CORs to have their basic information on identity and possible criminal records reviewed so that the Coast Guard issues licenses and CORs only to eligible applicants. However, in the past some mariners did not have their fingerprints taken at, nor their identification checked by, the Coast Guard. Under these conditions, there was a possibility that fingerprints and proof of ID could have been falsified. A terrorist could then use a falsified license or COR to portray himself or herself as a qualified deck, engineering, or staff officer. The cumulative effect of the changes described in Table 1 (see Discussion of Rule) will be to increase the likelihood that the Coast Guard will process applications only from, and issue

credentials only to, applicants who can prove they are who they claim to be, and whose backgrounds can be verified to make sure they meet security-related requirements.

We expect this interim rule to assist the Coast Guard in its effort to help secure U.S. ports, waterways, marine infrastructure, and marine-related commercial activities and international trade by protecting the licensing process from abuse.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would 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. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impacts on small entities.

We do not expect this rule to have a significant impact on a large number of small entities. This rule sets new application requirements for mariner licenses and CORs that will prevent abuse and assist the Coast Guard in its effort to help secure U.S. marine infrastructure, commercial activities, and the free flow of trade. We expect this interim rule to help prevent the interruption of U.S. business activities that may result from the abuse of mariner licenses and CORs.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can

better evaluate its effects on them and participate in the rulemaking. If you think this interim rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The Coast Guard will not retaliate against small entities that question or complain about this interim rule or any policy or action of the Coast Guard.

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).

### C. Paperwork Reduction Act

This interim rule calls for a collection of information under the Paperwork Reduction Act of 1995, Title 44, United States Code (44 U.S.C.) sections 3501-3520. This rule modifies the burden in the collection previously approved by the Office of Management and Budget (OMB) under OMB Control Number 1625-0040. The fingerprint and identification (ID) requirements involved with the license and certificate of registry (COR) applications are included in the previously approved collection.

This interim rule changes certain requirements in Title 46, Code of Federal Regulations (46 CFR) part 10 for how mariners and prospective mariners will apply for licenses and CORs.

This interim rule requires applicants for original (new) and subsequent issue (raise of grade, renewal, and duplicate) licenses and CORs to have their fingerprints taken and to have their IDs checked at a Coast Guard Regional Examination Center (REC). The rule requires an applicant to appear at least once in the application process, even if submitting an application by mail, fax, or other electronic means, and requires that the Coast Guard conduct fingerprinting and check IDs for original and subsequent issue license and COR transactions as provided in 46 CFR 10.105 and 10.209. The rule also changes the list of acceptable forms of ID that an applicant must present at an REC as provided in 46 CFR 10.105 and 10.205, and requires that applicants report foreign and military convictions

in addition to domestic convictions as provided in 46 CFR 10.201.

The primary impacts of this rule for license and COR applicants include the travel to and from an REC and the time spent at an REC in order to have their fingerprints taken and IDs checked. There has not been a consistent fingerprinting or ID policy among the RECs for license or COR applications. Some RECs ask all license applicants to visit the REC for fingerprinting and some do not. Some RECs permit an applicant to renew a license or COR entirely by mail, since there was no requirement to submit fingerprints for that transaction. If an REC did require fingerprints, candidates were allowed to have them taken by local authorities (sheriff, police, etc.) and submit them with their applications. The continuance of this practice could allow an applicant to submit fingerprints that are not those of the license candidate. This interim rule creates a consistent policy for all RECs, and the Coast Guard will be assured that the prints submitted for a criminal record check are those of the applicant who appears before the Coast Guard with appropriate ID.

As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and similar actions. The title and description of the collection of information, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the additional time mariners will spend traveling to and from an REC, the additional time mariners will spend waiting and processing at an REC, the changes in the list of acceptable forms of ID that a mariner must present at an REC, and the requirement that applicants must now report foreign and military convictions in addition to domestic convictions.

We assume there are no additional burden hours or costs associated with the changes to the list of acceptable forms of ID, because these forms of legitimate IDs are widely held by the public. We also determined that the requirement for applicants to report foreign and military convictions in addition to domestic convictions is a negligible impact because they currently must report convictions, not specified as foreign or military, in the application process.

*Title:* Continuous Discharge Book, Merchant Mariner Application, Physical Examination Report, Sea Service Report, Chemical Testing, and Entry Level Physical Report.

*OMB Control Number:* 1625-0040.

*Agency Form Numbers:* CG-719A, CG-719B, CG-719K, CG-719S, CG-719P, and CG-719K/E.

*Summary of the Collection of Information:* In accordance with 46 U.S.C. and 46 CFR, the collection of this information is necessary to determine competency, character, and physical qualifications for the issuance of Coast Guard licenses, CORs, and merchant mariner documents.

*Summary of the Modification to the Collection of Information:* This interim rule adds new collection of information requirements in 46 CFR 10.105, 10.201, 10.205, and 10.209 for license and COR applicants. These new provisions require applicants to spend time traveling to and from an REC, to spend time waiting and processing at an REC, to present ID at an REC from a list of acceptable forms of ID, and to report foreign and military convictions.

*Need for Information:* The Coast Guard needs this information to process applications only from, and issue credentials only to, applicants who can prove they are who they claim to be, and whose backgrounds can be verified to make sure they meet security and safety related requirements. This information assists the Coast Guard in its effort to help secure U.S. ports, waterways, marine infrastructure, and marine-related commercial activities, including international trade, by protecting the licensing and COR process from abuse.

*Description of Respondents:* The previously approved collection and the interim rule require applicants for licenses and CORs to submit their applications, including their fingerprints, to an REC. However, the interim rule further requires applicants for original and subsequent issue licenses and CORs to have their fingerprints taken and their IDs checked at an REC. It also requires applicants to present IDs at an REC from a list of acceptable forms of ID and to report foreign and military convictions on the application.

*Number of Respondents:* The previously approved number of respondents is 200,000. This rule will not increase the number of respondents in this collection. This rule requires the existing population of applicants (respondents) for original and subsequent issue licenses and CORs to have their fingerprints taken and their IDs checked at an REC. Previously, the Coast Guard also permitted respondents in this collection to apply for some originals and all subsequent issue licenses and CORs entirely by mail as an alternative to traveling to an REC.

*Frequency of Response:* The previously approved number of responses is 50,000 each year. This rule will increase that number by 23,294, which is the annual number of applicants that were previously not required to and chose not to appear at an REC to have their fingerprints taken and their IDs checked at an REC. See the "Regulatory Evaluation" section for a discussion of the baseline population of applicants. The total number of annual responses will now be 73,294.

*Burden of Response Time From Revision of Collection:* The burden of response time from this rule on applicants for licenses and CORs includes the travel time to and from an REC and the time spent at an REC in order to have their fingerprints taken and IDs checked. We assume the applicants will drive or fly during the day to complete their round-trip travel to and from an REC. We also assume that one day of travel is approximately eight hours of travel (see Table 5 and Table 6 of the "Regulatory Evaluation" section for a summary of travel distances and time).

We estimate that an applicant will spend two hours at an REC being fingerprinted, having their ID checked, and possibly waiting before, during, or after to complete these requirements. This is the REC wait-time estimate based on discussions with Coast Guard REC personnel familiar with operations and customer processing time for applicants who currently visit an REC for fingerprinting and ID examination (see the *Cost of REC Time* discussion in the section "Regulatory Evaluation").

*Estimate of Total Annual Burden Hours:* The previously approved total annual burden is 21,875 hours. This rule, because of the travel requirements and REC waiting and processing time, will increase that number by approximately 307,481 hours (see the "Regulatory Evaluation" section for a discussion of the time and costs of this rule for applicants). The total number of hours will now be 329,356.

*Estimate of Total Annual Burden Cost:* There is not a total annual operations & maintenance (O&M) burden cost reported in the previously approved collection (see form OMB 83-I, Box 14.b., for this collection). Since this rule requires applicants to travel to and from an REC and to wait at an REC while processing fingerprints and IDs, there is an associated reporting cost burden (annual O&M costs) that is added to the collection. This cost burden includes expenses from this rule incurred by applicants for travel time, lodging, incidentals, and time waiting at an REC. This rule increases the annual

cost burden by approximately \$16 million, which is the same as the reported non-discounted annual cost of the rule (see the "Regulatory Evaluation" section for a discussion of the costs of this rule for applicants). The total annual O&M cost to be reported on form OMB 83-I, Box 14.b., of this collection will be \$16 million.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this interim rule to OMB for its review of the collection of information. Due to the circumstances surrounding this interim rule, we asked for emergency approval of our request. We received OMB approval for this collection of information on January 4, 2006.

We request public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the collection burden.

If you submit comments on the collection of information, submit them to both OMB and the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. We received OMB approval for this collection of information on January 4, 2006. The approval expires June 30, 2006.

#### *D. Executive Order 13132 (Federalism)*

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Coast Guard certifies that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

The law is well-settled that States may not regulate in categories expressly reserved for regulation by the Coast Guard. The law also is well-settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of

casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. See *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000). Since this interim rule involves the manning of U.S. vessels and the licensing of merchant mariners, it relates to personnel qualifications. Because the States may not regulate within this category, this rule does not present new preemption issues under Executive Order 13132.

#### *E. 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. The Act does not require an assessment in the case of an interim rule issued without prior notice and public comment. Nevertheless, the Coast Guard does not expect this rule to result in such an expenditure. We discuss this rule's effects elsewhere in this preamble.

#### *F. Taking of Private Property*

This interim rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *G. Civil Justice Reform*

This 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.

#### *H. Protection of Children*

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

#### *I. Indian Tribal Governments*

This interim rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### J. Energy Effects

We have analyzed this interim 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. Although it is a "significant regulatory action" under Executive Order 12866, it affects only the issuance of credentials to merchant mariners and therefore is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### K. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This interim rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### L. Environment

We have analyzed this interim rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe this rule should be categorically excluded under Figure 2–1, paragraph (34)(c) of the Instruction, from further environmental documentation. This rule updates the training, qualifying, licensing, and disciplining of maritime

personnel. An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

#### List of Subjects in 46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

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

#### PART 10—LICENSING OF MARITIME PERSONNEL

■ 1. The authority citation for part 10 is revised 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; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 2. In § 10.103, revise the definition for "Conviction" and add, in alphabetical order, a definition for "Dangerous drug" to read as follows:

#### § 10.103 Definitions of terms used in this part.

\* \* \* \* \*

*Conviction* means the applicant for a license or certificate of registry has been found guilty by judgment or plea by a court of the United States, the District of Columbia, any State, territory, or possession of the United States, a foreign country, or any military court, of a criminal felony or misdemeanor or of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304). Conviction of more than one offense at a single trial will be considered to be multiple convictions. If an applicant pleads guilty or no contest, is granted deferred adjudication, or is required by the court to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court's conviction, then the applicant will be considered to have received a conviction. A later expunged conviction will not negate the conviction unless it is proved to the Coast Guard that the expungement is based upon a showing that the court's earlier conviction was in error.

*Dangerous drug* means a narcotic drug, a controlled substance, or a controlled-substance analogue (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)).

\* \* \* \* \*

■ 3. Revise § 10.105 to read as follows:

#### § 10.105 Applications.

(a) Applicants for licenses and certificates of registry may apply at the following Coast Guard Regional Examination Centers (RECs):

Boston, MA  
New York, NY  
Baltimore, MD  
Charleston, SC  
Miami, FL  
New Orleans, LA  
Houston, TX  
Memphis, TN  
St. Louis, MO  
Toledo, OH  
San Pedro, CA  
Oakland, CA  
Portland, OR  
Seattle, WA  
Anchorage, AK  
Juneau, AK  
Honolulu, HI

(b) A complete application for a license or certificate of registry, whether original, renewal, duplicate, or raise of grade, consists of a written application, all applicable supplementary documents required by this part, fingerprints, and two forms of ID. The written portion of the application may be submitted by mail, fax, or other electronic means. However, no application is complete until the applicant appears in person and is fingerprinted by and provides evidence of his or her identity to a member of the REC staff. If the applicant is simultaneously applying for more than one credential, a single personal appearance and fingerprinting will satisfy this requirement for all pending applications.

(c) Each applicant must present at least two forms of identification to an REC employee as evidence of his or her identity. Expired or otherwise invalid forms may not be used. At least one of the forms of identification must contain the applicant's photograph. Acceptable forms of identification include the following:

(1) U.S. military identification card;  
(2)(i) Before May 11, 2008, a U.S. driver's license;

(ii) On or after May 11, 2008, U.S. driver's license issued by a State that meets the standards promulgated pursuant to the REAL ID Act of 2005;

(3) U.S. passport;

(4) Official identification card issued by a State, or local government or by a territory or possession of the U.S. that meets the standards promulgated pursuant to the REAL ID Act of 2005.

(5) Official identification card issued by the Federal Government. This

includes a Federal employee's identification credential;

(6) Port credential, with photograph of the applicant, issued by State or local government port authority;

(7) Law enforcement credential, that includes a photograph of the applicant and is issued by a Federal, State, or local government or by a territory or possession of the U.S.;

(8) Merchant mariner's document issued after February 3, 2003;

(9) Foreign passport; or

(10) Original or a certified copy of a birth certificate, issued by a State, county, municipality or outlying possession of the U.S. bearing an official seal.

■ 4. In § 10.201, revise paragraphs (a), (b), (h) introductory text, and (h)(1) to read as follows:

**§ 10.201 Eligibility for licenses and certificates of registry, general.**

(a) The applicant for a license or certificate of registry, whether original, renewal, duplicate, or raise of grade, must establish to the satisfaction of the Coast Guard that he or she possesses all the qualifications necessary (including but not limited to age, experience, character references and recommendations, physical health, citizenship, approved training, passage of a professional examination, a test for dangerous drugs, and when required by this part, a practical demonstration of skills) before the Coast Guard will issue a license or certificate of registry.

(b) No person who has been convicted of a violation of the dangerous drug laws of the United States, the District of Columbia, any State, territory, or possession of the United States, or a foreign country, by any military or civilian court, is eligible for a license or certificate of registry, except as provided by the provisions of paragraph (h) of this section. No person who has ever been the user of, or addicted to, a dangerous drug, or has ever been convicted of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304) because of addiction to or abuse of alcohol is eligible for a license or certificate of registry, unless he or she furnishes satisfactory evidence of suitability for service in the merchant marine as provided in paragraph (j) of this section.

\* \* \* \* \*

(h) *Criminal record review.* The Coast Guard will review the criminal record of an applicant before the issuance of a license or certificate of registry. An applicant conducting simultaneous transactions for merchant mariner's credentials will undergo only one

criminal record check. Applicants must provide written disclosure of all prior convictions at the time of application.

(1) The Coast Guard will use the fingerprints submitted pursuant to § 10.105(b) to obtain a criminal record report. An applicant's criminal record report may be used to determine that an applicant's character and habits of life are such that the applicant cannot be entrusted with the duties and responsibilities of the license or certificate of registry. Should such a determination be made, the application may be disapproved. If an application is disapproved, the Coast Guard will advise the applicant in writing that the reconsideration and appeal procedures in subpart 1.03 of this chapter apply and will, in appropriate circumstances, notify the applicant of the reason(s) for disapproval. The Coast Guard will not administer a written examination until final agency action has been made on the applicant's appeal.

\* \* \* \* \*

■ 5. In § 10.202 add paragraph (m) to read as follows:

**§ 10.202 Issuance of licenses, certificates of registry, and STCW certificates or endorsements.**

\* \* \* \* \*

(m) No license or certificate of registry will be issued until the applicant has passed a criminal record review as set forth in § 10.201 of this chapter.

■ 6. In § 10.205 revise paragraphs (a) and (c) to read as follows:

**§ 10.205 Requirements for original licenses, certificates of registry, and STCW certificates and endorsements.**

(a) *General.* The applicant for an original license or certificate of registry must present satisfactory documentary evidence of eligibility with respect to the applicable requirements of § 10.201 through § 10.203. Each applicant must submit an application as set forth in § 10.105 and, unless exempted under § 10.112, submit the evaluation fee set out in table 10.109 in § 10.109.

\* \* \* \* \*

(c) *Citizenship.* Each applicant must provide acceptable evidence of his or her citizenship to the Coast Guard. The Coast Guard will reject any evidence of citizenship that we do not believe to be authentic. "Acceptable evidence of citizenship" means an original of any one of the following documents:

(1) Original or a certified copy of a birth certificate, issued by a State, county, municipality or outlying possession of the U.S. bearing an official seal.

(2) Merchant mariner's document issued by the Coast Guard after February

3, 2003 that shows that the holder is a citizen of the U.S.;

(3) Certificate of Citizenship issued by the U.S. Citizenship and Immigration Services or the Immigration and Naturalization Service;

(4) Certificate of Naturalization issued by the U.S. Citizenship and Immigration Services or the Immigration and Naturalization Service; or

(5) Unexpired U.S. State Department passport.

\* \* \* \* \*

■ 7. In § 10.207, revise paragraph (a) to read as follows:

**§ 10.207 Requirements for raises of grades of licenses.**

(a) *General.* Before any person is issued a raise of grade of license, the applicant must present satisfactory documentary evidence of eligibility with respect to the applicable requirements of §§ 10.201, 10.202, and this section. Each applicant must submit an application as set forth in § 10.105, and, unless exempted under § 10.112, submit the evaluation fee set out in table 10.109 in § 10.109.

\* \* \* \* \*

■ 8. In § 10.209, revise paragraphs (a)(2) and (e)(3)(i) introductory text to read as follows:

**§ 10.209 Requirements for renewal of licenses, certificates of registry, and STCW certificates and endorsements.**

(a) \* \* \*

(2) Although the written portion of the application may be initiated by mail, fax, or other electronic means, no application for renewal is complete until the applicant appears in person at a Regional Examination Center (REC), is fingerprinted, and provides evidence of his or her identity in accordance with the requirements of § 10.105.

\* \* \* \* \*

(e) \* \* \*

(3) *Renewal by mail, fax, or other electronic means.* (i) This paragraph sets forth those required portions of the application that may be submitted by mail, fax, or other electronic means. Although an applicant may initiate, supplement, or complete a renewal by mail, fax, or other electronic means, no application for renewal is complete until the applicant appears in person at an REC, is fingerprinted, and provides evidence of his or her identity in accordance with § 10.205. The following documents must be submitted by the applicant, but may be submitted by mail, fax, or other electronic means:

\* \* \* \* \*

Dated: January 10, 2006.

**Thomas H. Collins,**

*Admiral, U.S. Coast Guard, Commandant.*

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**FEDERAL COMMUNICATIONS  
COMMISSION**

**47 CFR Part 1**

**Practice and Procedure**

*CFR Correction*

In Title 47 of the Code of Federal Regulations, parts 0 to 19, revised as of

October 1, 2005, on page 180, § 1.703 is corrected in paragraph (b) by reinstating the words “oral argument shall file a written statement to that effect setting forth the reasons for his interest in the matter.” after the word “the” at the end of the second sentence.

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