

reportable transactions and complying with other tax laws.

(iv) The taxpayer demonstrates that the failure to include on any return or statement any information required to be disclosed under section 6011 arose from events beyond the taxpayer's control.

(v) The taxpayer cooperates with the IRS by providing timely information with respect to the transaction at issue that the Commissioner (or the Commissioner's delegate) may request in consideration of the rescission request. In considering whether a taxpayer cooperates with the IRS, the Commissioner (or the Commissioner's delegate) will take into account whether the taxpayer meets the deadlines described in Rev. Proc. 2007-21 (or successor document) (see § 601.601(d)(2)(ii)(b) of this chapter) for complying with requests for additional information.

(vi) Assessment of the penalty weighs against equity and good conscience, including whether the penalty is disproportionate to the tax benefit received and whether the taxpayer demonstrates that there was reasonable cause for, and the taxpayer acted in good faith with respect to, the failure to timely file or to include on any return any information required to be disclosed under section 6011. An important factor in determining reasonable cause and good faith is the extent of the taxpayer's efforts to ensure that persons who prepared the taxpayer's return were informed of the taxpayer's participation in the reportable transactions. The presence of reasonable cause, however, will not necessarily be determinative of whether to grant rescission.

(4) *Absence of favorable factors weighs against rescission.* The absence of facts establishing the factors described in paragraph (d)(3) of this section weighs against granting rescission. The absence of any one of these factors, however, will not necessarily be determinative of whether to grant rescission.

(5) *Factors not considered.* In determining whether to grant rescission, the Commissioner (or the Commissioner's delegate) will not consider doubt as to liability for, or collectibility of, the penalties.

(e) *Reports to the Securities and Exchange Commission (SEC)—(1) In general.* Under section 6707A(e), a taxpayer who is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (or is required to file consolidated reports with another person) must disclose in periodic reports filed with the SEC the

requirement to pay each of the following penalties:

(i) The penalty imposed by section 6707A(a) in the amount of \$200,000 for failure to disclose a listed transaction.

(ii) The accuracy-related penalty imposed by section 6662A(a) at the 30-percent rate determined under section 6662A(c) for a reportable transaction understatement with respect to which the relevant facts affecting the tax treatment of the reportable transaction were not adequately disclosed in accordance with regulations prescribed under section 6011.

(iii) The accuracy-related penalty imposed by section 6662(a) at the 40-percent rate determined under section 6662(h) for a gross valuation misstatement, if the taxpayer (but for the exclusionary rule of section 6662A(e)(2)(C)(ii)) would have been subject to the accuracy-related penalty under section 6662A(a) at the 30-percent rate determined under section 6662A(c).

(iv) The penalty described in paragraph (e)(3) of this section for failure to disclose in periodic reports filed with the SEC the requirement to pay any of the penalties described in paragraphs (e)(1)(i) through (iii) or (e)(3) of this section.

(2) *Manner and content of disclosure.* The Secretary may prescribe the manner in which disclosure of the requirement to pay the penalties identified in paragraph (e)(1) of this section must be made on reports filed with the SEC, including identification of the specific SEC form and section thereof in which the taxpayer must make the disclosure as well as specification of the timing and contents of the disclosure, by publishing a revenue procedure or other guidance in the Internal Revenue Bulletin.

(3) *Penalty for failure to disclose in SEC filings.* Any taxpayer who is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (or is required to file consolidated reports with another person) may be subject to a penalty in the amount of \$200,000 for each failure to disclose the requirement to pay a penalty identified in paragraphs (e)(1)(i) through (e)(1)(iii) of this section in the manner specified by revenue procedure or other guidance published in the Internal Revenue Bulletin. The taxpayer also may be subject to an additional penalty in the amount of \$200,000 for each failure to disclose a penalty arising under this section in the manner specified by revenue procedure or other guidance published in the Internal Revenue Bulletin. The penalty provided by this paragraph is not subject to

rescission as described in paragraph (d) of this section.

(f) *Effective/applicability date—(1)* The rules of this section apply to disclosure statements that are due after September 11, 2008.

(2) The applicability of this section expires on or before September 9, 2011.

L.E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: September 5, 2008.

Eric Solomon,

Assistant Secretary of the Treasury, (Tax Policy).

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0900]

Safety Zone; Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Milwaukee Harbor Safety Zone in Milwaukee Harbor from 8:30 p.m. through 8:45 p.m. on September 29, 2008. This action is necessary to protect vessels and people from the hazards associated with fireworks displays. This safety zone will restrict vessel traffic from portions of the Captain of the Port Lake Michigan Zone.

DATES: The regulation in 33 CFR 165.935 will be enforced from 8:30 p.m. through 8:45 p.m. on September 29, 2008.

FOR FURTHER INFORMATION CONTACT:

Petty Officer Eric Vogel, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747-7154.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce Safety Zone, Milwaukee Harbor, Milwaukee, WI, 33 CFR 165.935 for the following event: Milwaukee Brewers Rally Monday, on September 29, 2008, from 8:30 p.m. through 8:45 p.m.

All vessels must obtain permission from the Captain of the Port or his designated representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the

Port or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI, and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners.

The Captain of the Port or designated representative may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM.

Dated: August 27, 2008.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E8-21223 Filed 9-10-08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 10 and 15

[Docket No. USCG-2006-26202]

RIN 1625-AB10

Training and Service Requirements for Merchant Marine Officers

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends certain regulations relating to mariner training and service. These regulatory changes remove the expiration date of the radar-observer endorsement from the merchant mariner's license, allow for an apprentice mate of towing vessels to reduce sea-service time for mate (pilot) of towing vessels by completing additional approved training, and provide an alternate path to mate (pilot) of towing vessels for master of steam or motor vessels of any tonnage that is 200 GRT or less. These changes are intended and expected to eliminate confusion and provide alternate training and service requirements for mate (pilot) of towing vessels.

DATES: This final rule is effective October 14, 2008.

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-2006-26202 and are available for inspection or copying at the Docket Management Facility (M-30),

U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, 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://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Commander Kelly Post or Mr. Gerald Miente, CG-5221, Coast Guard, telephone 202-372-1401. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

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I. Table of Abbreviations

- GRT Gross Register Tons
- MMC Merchant Mariner's Credential
- NPRM Notice of Proposed Rulemaking
- OSV Offshore Supply Vessel
- SNPRM Supplemental Notice of Proposed Rulemaking
- TOAR Towing Officer Assessment Record
- TSAC Towing Safety Advisory Committee

II. Regulatory History

On September 17, 2007, we published a Notice of Proposed Rulemaking (NPRM) entitled "Training and Service Requirements for Merchant Marine Officers" in the **Federal Register** (72 FR 52841). The comment period closed on December 17, 2007. We received a total of 14 comments on the NPRM. No public meeting was requested, and none was held.

III. Background and Purpose

The revisions contained within this final rule: (1) Remove the expiration date of the radar-observer endorsement from the merchant mariner's license; (2) Allow for an apprentice mate of towing vessels to reduce required minimum sea-service time for mate (pilot) of

towing vessels by completing additional approved training; and (3) Provide an alternate path to mate (pilot) of towing vessels for a master of steam or motor vessels of any tonnage that is 200 gross register tons (GRT) or less.

(1) *Radar-observer endorsement:* A petition for rulemaking was submitted to the Coast Guard on March 10, 2005, by an industry working group called the Mid-America Regional Examination Center Workgroup. That petition identified problems associated with placing the expiration date for the radar-observer endorsement on the deck licenses of mariners operating vessels equipped with radar. The expiration date for the radar-observer endorsement may be different from the expiration date of the license itself, causing confusion as to the validity of the license.

A license is valid for a five-year period from the date it is issued by the Coast Guard. A radar-observer endorsement is also valid for five years, but that period begins after the month in which the certificate of training is issued. For original licenses, unless the radar training certificate was issued the month before the license is issued, the expiration date of the radar endorsement will be different than the expiration date of the license. For license renewals, existing 46 CFR 10.480(k) provides a one-time opportunity for a mariner to synchronize the expiration date of the radar endorsement with that of the license. That section does not, however, account for subsequent renewals which might also bring the dates out of alignment. The end result is that, currently, many licenses have conflicting radar endorsement expiration and license expiration dates printed on them.

When conflicting dates appear on the license, confusion may result. Moreover, licenses may need to be prematurely renewed or reissued with the new radar observer endorsement date when the mariner obtains a new radar training certificate. If the radar observer endorsement date is not printed on the license, this confusion would be avoided.

In reviewing the industry recommendation, it was recognized that changing the requirement would simplify the process of issuing the license and ease the burden on the Coast Guard, industry, and schools providing the training. Mariners will still be required to keep their radar-observer training current, but an endorsement evidencing that training will no longer be printed on their licenses. While they will still be required to hold current