DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 12

[Docket No. USCG–2003–14500]

RIN 1625–AA81

Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Documents (MMDs)

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing one section of regulations previously published as an interim rule on January 6, 2004. The interim rule was published to enhance the application procedures for the Merchant Mariner Licensing and Documentation program, which were necessary to improve maritime safety and promote the national security interest of the United States, but was never published as a final rule. The Coast Guard is finalizing the one remaining section of the interim rule that has remained unfinalized, which is a statement of the purpose of the rules in this part.

DATES: This final rule is effective June 28, 2012.

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–2003–14500, 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 by going to *http://www.regulations.gov*, inserting USCG–2003–14500 in the ''Enter Keyword or ID'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Gerald Miante, Maritime Personnel Qualifications Division, Coast Guard; telephone 202–372–1407, email *Gerald.P.Miante@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

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I. Abbreviations

§ Section symbol
CFR Code of Federal Regulations
FR **Federal Register**
MMD Merchant Mariner's Document
NMC National Maritime Center
REC Regional Examination Center
RFA Regulatory Flexibility Act
TSA Transportation Security Administration
TWIC Transportation Worker Identification Credential
U.S.C. U.S. Code

II. Regulatory History

On June 16, 2011, we published a notice of intent with request for comments titled ''Validation of Merchant Mariners' Vital Information and Issuance of Coast Guard Merchant Mariner's Documents (MMDs)'' in the **Federal Register** (76 FR 35173). We received no comments on the notice. No public meeting was requested and none was held.

III. Basis and Purpose

On January 6, 2004, the Coast Guard published in the **Federal Register** (69 FR 526) an interim rule with request for comments. The interim rule described enhancements to the application procedures for the Merchant Mariner Licensing and Documentation program, which were necessary to improve maritime safety and promote the national security interests of the United States. However, subsequent rulemakings have consolidated the majority of the application procedures within Coast Guard regulations and therefore have either revoked or revised the majority of the 2004 interim rule's provisions. As a result, the Coast Guard is finalizing the single remaining section that has not been addressed in subsequent rulemakings.

The most recent significant rulemaking documents addressing the interim rule provisions are as follows [1]: ((1) Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, Supplemental Notice of Proposed Rulemaking [Docket No. USCG–2004–17914] (75 FR 13715); (2) Large Passenger Vessel Crew Requirements, Final Rule [USCG–2007–27761] (74 FR 47729); (3) Crewmember Identification Documents, Final Rule [Docket No. USCG–2007–28648] (74 FR 19135); (4) Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License, Final Rule, [Docket Nos. TSA–2006–24191; USCG–2006–24196] (74 FR 13114); (5) Consolidation of Merchant Mariner Qualification Credentials, Final Rule [Docket No. USCG–2006–24371] (74 FR 11196); (6) Maritime Identification Credentials, Notice of acceptable identification credentials; phased cancellation [Docket No. USCG–2006–24189] (74 FR 2865); and (7) Training and Service Requirements for Merchant Marine Officers, Final Rule [Docket No. USCG–2006–26202] (73 FR 52789).

IV. Background

The one section of the January 6, 2004, interim rule that has remained unfinalized is 46 CFR 12.01–1(a)(1): *Purpose of rules in this part.* This paragraph sets forth the purpose of the rules in Part 12 as a means for determining and verifying the identity, citizenship, nationality, and professional qualifications an applicant must possess to be eligible for certification to serve on merchant vessels of the United States. The Coast Guard is finalizing this one remaining section of the interim rule.

V. Discussion of Comments and Changes

No comments were received. As a result, no changes were made.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the

[1] To find all the rulemaking documents associated with the rulemakings listed here, you can view each rulemaking's docket on *www.regulations.gov*.

costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This final rule is intended to finalize 46 CFR 12.01–1(a)(1), which is the one remaining section of regulations previously published as an interim rule on January 6, 2004, that has not already been finalized. That section is a statement of the purpose of the rules in part 12. Since this final rule does not actually modify the statement of the purpose in the referenced part, there are no costs to the merchant marine industry and in particular the mariners.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rulemaking, which finalizes a lawfully promulgated interim rule and changes prefatory text only, does not require a general notice of proposed rulemaking and, therefore, is exempt from the analysis requirements of the Regulatory Flexibility Act. 5 U.S.C. 604.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Gerald P. Miante, Personnel Qualifications Division, Coast Guard, telephone 202–372–1407, email *Gerald.P.Miante@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this 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).

D. Collection of Information

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

E. Federalism

A rule has federalism implications under Executive Order 13132, Federalism, if it has a substantial direct effect 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.

We have evaluated this rule under Executive Order 13132 and have determined that although the rule is preemptive of state law or regulation, it does not have a substantial direct effect 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. It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also 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) are within fields foreclosed from regulation by the States. *See United States* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (2000). Congress granted to the Coast Guard the authority to regulate the issuance of merchant mariners' documents, including the process by which a mariner's qualifications are determined and verified for specific ratings. Because States may not promulgate rules within this category, this rule does not have federalism implications under Executive Order 13132.

F. 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 (adjusted for inflation) or more in any one year. This rule will not result in such an expenditure.

G. Taking of Private Property

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

H. 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.

I. Protection of Children

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

J. Indian Tribal Governments

This 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. 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.

L. Technical Standards

The National Technology Transfer and Advancement Act (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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(a) and (c) of the Instruction. This final rule involves regulations that are editorial and concern qualification of maritime personnel. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 12

Penalties, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 12 as follows:

PART 12—REQUIREMENTS FOR RATING ENDORSEMENTS

■ 1. The authority citation for Part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701, and 70105; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 12.01–1 by revising paragraph (a)(1) to read as follows:

§ 12.01–1 Purpose of rules in this part.

(a) * * *

(1) A comprehensive and adequate means of determining and verifying the identity, citizenship, nationality, and professional qualifications an applicant must possess to be eligible for certification to serve on merchant vessels of the United States;

* * * * *

Dated: May 11, 2012.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2012–12871 Filed 5–25–12; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR parts 51 and 54

[WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; FCC 12–47]

Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission reconsiders and modifies certain provisions of its rules that were adopted in the *USF/ICC Transformation Order.* The Commission grants a Petition for Reconsideration and Clarification of the National Exchange Carrier Association, Inc., Organization for the Promotion and Advancement of Small Telecommunications Companies and Western Telecommunications Alliance. The Commission grants in part and denies in part a Petition for Reconsideration filed by the Independent Telephone & Telecommunications Alliance and a Petition for Reconsideration and/or Clarification filed by Frontier Communications Corp. and Windstream Communications, Inc. Finally, the Commission denies a Petition for Reconsideration filed by the United States Telecom Association.

DATES: Effective June 28, 2012.

FOR FURTHER INFORMATION CONTACT: Amy Bender, Wireline Competition Bureau, (202) 418–1469, Victoria Goldberg, Wireline Competition Bureau, (202) 418–1520.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's in WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208; FCC 12–47, released on April 25, 2012. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, and at the following Internet address: The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, facsimile (202) 488–5563, or via email at *fcc@bcpiweb.com http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db0425/FCC-12-47A1.pdf.*

I. Introduction

1. In this Order, we address several issues raised in petitions for reconsideration of certain aspects of the *USF/ICC Transformation Order.* The *USF/ICC Transformation Order* represents a careful balancing of policy goals, equities, and budgetary constraints. This balance was required in order to advance the fundamental goals of universal service and intercarrier compensation reform within a defined budget while simultaneously providing sufficient transitions for stakeholders to adapt. While reconsideration of a Commission's decision may be appropriate when a petitioner demonstrates that the original order contains a material error or omission, or raises additional facts that were not known or did not exist until after the petitioner's last opportunity to present such matters, if a petition simply repeats arguments that were previously considered and rejected in the proceeding, due to the balancing involved in this proceeding, we are likely to deny it.

2. With this standard in mind, in this Order we take several limited actions stemming from reconsideration petitions. We grant a request to permit carriers accepting incremental support in Phase I of the Connect America Fund (CAF) to receive credit for deploying broadband to certain unserved locations in partially served census blocks, and deny a number of other requests to modify the rules governing CAF Phase I. In addition, we also grant in part a request by Frontier-Windstream and the Rural Associations to reconsider the VoIP intercarrier compensation rules adopted in the *USF/ICC Transformation Order.* Specifically, we modify our rules to permit LECs, prospectively, to tariff a transitional default rate equal to their intrastate originating access rates when they originate intrastate toll VoIP traffic