

2133-0030

REFERENCES:

**SECTION 1305 (A) OF THE
MARITIME EDUCATION AND
TRAINING ACT OF 1980.**

46 CFR 10.205 (g) and 10.207 (f).

(ii) may reduce the amount to be recovered from such individual to reflect partial performance of service obligations and such other factors as the Secretary determines merit such reduction.

(5)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in paragraph (3)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than 2 years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (3)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary—

- (i) subject to clause (ii), may recover from the individual the amount of student incentive payments, plus interest and attorneys fees; and
- (ii) may reduce the amount to be recovered from such individual to reflect partial performance of service obligations and such other factors as the Secretary determines merit such reduction.

(6) To aid in the recovery of student incentive payments plus interest and attorneys fees the Secretary may request the Attorney General to begin court proceedings, and the Secretary may make use of the Federal debt collection procedures in chapter 176 of title 28, United States Code, and other applicable administrative remedies.

(7) The Secretary may defer the service commitment of any individual pursuant to subparagraph (E) of paragraph (3) (as specified in the agreement required by such paragraph) for a period of not more than 2 years if such individual is engaged in a graduate course of study approved by the Secretary, except that any deferment of service as a commissioned officer pursuant to subparagraph (E) of such paragraph must be approved by the Secretary of the military department (including the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration) which has jurisdiction over such service.

(8) This subsection shall apply only to individuals first entering a State maritime academy after the date occurring 6 months after the effective date of the Maritime Education and Training Act of 1980.

(h) **Appointment of cadet as midshipman in United States Naval Reserve.** Any citizen of the United States attending a State maritime

academy may be appointed by the Secretary of the Navy as a midshipman in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve).

SEC. 1305. ADDITIONAL TRAINING (46 App. U.S.C. 1295d (2003)).

(a) The Secretary may provide additional training on maritime subjects, as the Secretary deems necessary, to supplement other training opportunities and may make any such training available to the personnel of the merchant marine of the United States and to individuals preparing for a career in the merchant marine of the United States.

(b) The Secretary may prepare or purchase any equipment or supplies required for any training provided under subsection (a) and may contract with any person, partnership, firm, association, or corporation (without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)) for the performance of any services deemed necessary by the Secretary in the preparation of any such equipment or supplies and in the supervision and administration of any such training.

(c)(1) The Secretary shall assist maritime training institutions approved by the Secretary in establishing a maritime oil pollution prevention, response, and clean-up training program.

(2) Under the program established under paragraph (1)—

(A) the Secretary may provide, to maritime training institutions approved by the Secretary, vessels described in paragraph (4), with title free of all liens, subject to the requirements specified under paragraph (3); and

(B) in return for receipt of such vessels, such institutions shall—

- (i) employ the vessels for the training of students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills; and
- (ii) make the vessels and qualified students available to appropriate Federal, State, and local oil spill response authorities in the event of a maritime oil spill.

(3) The requirements referred to in paragraph (2)(A) are as follows:

(i) any vessel provided under paragraph (2)(A) shall be tendered to the approved maritime training institution at a location determined by the Secretary;

(ii) no such vessel may be sold, traded, chartered, donated, scrapped, or in any way altered or disposed of without the prior approval of the Secretary;

- (iii) Farnsworth Lantern.
- (iv) Keystone Orthoscope.
- (v) SAMCTT (School of Aviation Medicine Color Threshold Tester).
- (vi) Titmus Optical Vision Tester.
- (viii) Williams Lantern.

(3) For an original license as engineer, radio officer, offshore installation manager, barge supervisor or ballast control operator, the applicant must have correctable vision of at least 20/50 in each eye and uncorrected vision of at least 20/200 in each eye. Applicants need only to have the ability to distinguish the colors red, green, blue and yellow.

(4) Where an applicant does not possess the vision, hearing, or general physical condition necessary, the OCMi, after consultation with the examining physician or physician's assistant, may recommend a waiver to the Commandant if extenuating circumstances warrant special consideration. Applicants may submit to the OCMi, additional correspondence, records and reports in support of this request. In this regard, recommendations from agencies of the Federal Government operating government vessels, as well as owners and operators of private vessels, made in behalf of their employees, will be given full consideration. Waivers are not normally granted to an applicant whose corrected vision in the better eye is not at least 20/40 for deck licenses or 20/50 for engineer licenses.

(e) *Experience or training.* (1) All applicants for original licenses and certificates of registry shall present to the OCMi, letters, discharges, or other documents certifying the amount and character of their experience and the names, tonnage and horsepower of the vessels on which acquired. The OCMi must be satisfied as to the authenticity and acceptability of all evidence of experience or training presented. Certificates of discharge are returned to the applicant. The OCMi shall note on the application that service represented by these documents has been verified. All other documentary evidence of service, or authentic copies thereof, are filed with the application. A license is not considered as satisfactory evidence of any qualifying experience.

(2) No original license or certificate of registry may be issued to any naturalized citizen on less experience in any grade or capacity than would have been required of a citizen of the United States by birth.

(3) Experience and service acquired for foreign vessels is creditable for establishing eligibility for an original license, subject to evaluation by the OCMi to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters, and operating conditions. An applicant who has obtained qualifying experience on foreign vessels shall submit satisfactory documentary evidence of such service (including any necessary translation into English) in the forms prescribed by paragraph (e)(1) of this section.

(4) No applicant for an original license who is a naturalized citizen, and who has obtained experience on foreign vessels, will be given an original license in a grade higher than that upon which he or she has actually served while acting under the authority of a foreign license.

(f) *Character check and references.* (1) Each applicant for an original license shall submit written recommendations concerning the applicant's suitability for duty from a master and two other licensed officers of vessels on which the applicant has served. For a license as engineer or as pilot, at least one of the recommendations must be from the chief engineer or licensed pilot, respectively, of a vessel on which the applicant has served. For a license as engineer where service was obtained on vessels not carrying a licensed engineer and for a license as master or mate (pilot) of towing vessels, the recommendations may be by recent marine employers with at least one recommendation from a master, operator, or person in charge of a vessel upon which the applicant has served. For a license as offshore installation manager, barge supervisor, or ballast control operator, at least one recommendation must be from an offshore installation manager of a unit on which the applicant has served. Where an applicant qualifies for a license through an approved training school,

one of the character references must be an official of that school. For a license for which no commercial experience may be required, such as: Master or mate 25-200 gross tons, operator of unsuspected passenger vessels, radio officer or certificate of registry, the applicant may have the written recommendations of three persons who have knowledge of the applicant's suitability for duty.

(2) The OCMi may review the criminal record check of each applicant for an original license or certificate of registry according to the procedures set forth in § 10.201(h).

(3) A person may apply for an original license, or license of a different type, while on probation as a result of administrative action under part 5 of this chapter. The offense for which the applicant was placed on probation will be considered in determining his or her fitness to hold the license applied for. A license issued to an applicant on probation will be subject to the same probationary conditions as were imposed against the applicant's other license or mariner's document. An applicant may not take an examination for a license during any period when a suspension without probation or a revocation is effective against the applicant's currently held license or mariner's document, or while an appeal from these actions is pending.

(4) In the event a license or certificate of registry has already been issued when information about the applicant's habits of life and character is brought to the attention of the OCMi, if such information warrants the belief that the applicant cannot be entrusted with the duties and responsibilities of the license or certificate of registry issued, or if such information indicates that the application for the license or certificate of registry was false or incomplete, the OCMi may notify the holder in writing that the license or certificate of registry is considered null and void, direct the holder to return it to the OCMi, and advise the holder that, upon return of the license or certificate of registry, the appeal procedures of § 10.204 of this part apply.

(g) *Firefighting certificate.* Applicants for the licenses in the following categories must present a certificate of

completion from a firefighting course of instruction which has been approved by the Commandant. The course must meet both the basic and advanced sections of the International Maritime Organization's (IMO) Resolution A.43 (XI) *Training of Crews in Firefighting*. The course must have been completed within five years before the date of application for the license requested.

(1) Master's license for service on vessels of 200 gross tons or less in ocean service.

(2) All master or mate's licenses for over 200 gross tons.

(3) All licenses for master or mate (pilot) of towing vessels, except apprentice mate (steersman) of such vessels on oceans.

(4) All licenses on mobile offshore drilling units.

(5) All engineer's licenses:
(h) *First aid and cardiopulmonary resuscitation (CPR) course certificates.* A certificate for an original license (certificate of registry, except as provided in §§ 10.429, 10.456, and 10.466 this part, must present to the OCMi:

(1) A certificate indicating completion of a first aid course within the past 12 months from:

(i) The American National Red Cross *Standard First Aid and Emergency Care or Multi-media Standard First Aid* course;

(ii) A Coast Guard approved first aid training course; or,

(iii) A course the OCMi determines meets or exceeds the standards of the American Red Cross courses; and,

(2) A currently valid certificate completion of a CPR course from:

(i) The American National Red Cross;
(ii) The American Heart Association;
(iii) A Coast Guard approved training course; or,
(iv) A course the OCMi determines meets or exceeds the standards of the American Red Cross or American Heart Association courses.
(1) *Professional Examination.* (1) Where the OCMi finds the applicant's experience and training to be satisfactory and the applicant is eligible in other respects, the OCMi will authorize the examination in accordance with the following requirements:

other documentary evidence of service, or copies thereof, are filed with the application.

(3) Sea service acquired prior to the issuance of the license held is generally not accepted as any part of the service required for raise of grade of that license. However, service acquired prior to issuance of a license will be accepted for certain crossovers, endorsements or increases in scope of a license, as appropriate. In the limited tonnage categories for deck licenses, total accumulated service is a necessary criterion for most raises in grade; service acquired prior to the issuance of such licenses will, therefore, be accepted.

(4) No raise of grade of license may be issued to any naturalized citizen on less experience in any grade than would have been required of a citizen of the United States by birth.

(5) Experience and service acquired on foreign vessels while holding a valid U. S. license is creditable for establishing eligibility for a raise of grade, subject to evaluation by the OCMI to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters and operating conditions. An applicant who has obtained the qualifying experience on foreign vessels shall submit satisfactory documentary evidence of such service (including any necessary translations into English) in the forms prescribed by paragraph (c)(2) of this section.

(6) An applicant remains eligible for a raise of grade of license while on probation as a result of action under part 5 of this chapter. A raise of grade of license issued to a person on probation will be subject to the same probationary conditions imposed against the applicant's other certificates or licenses. The offense for which he or she was placed on probation will be considered on the merits of the case in determining fitness to hold the license applied for. No applicant will be examined for a raise of grade of license during any period when a suspension without probation or a revocation imposed under part 5 of this chapter is effective against the applicant's license or certificate or while an appeal from these actions is pending.

(d) *Professional Examination.* (1)(i) When the OCMI finds an applicant's experience and training for raise of grade to be satisfactory and the applicant is eligible in all other respects, the OCMI will authorize the examination. Oral-assisted examinations may be administered in accordance with § 10.205(i)(1). The OCMI will place in the applicant's file a record indicating the subjects covered.

(i) The general instructions for administration of examinations and the lists of subjects for all licenses appear in Subpart I of this part.

(2) The qualification requirements for *radar observer* are contained in § 10.480.

(e) *Physical requirements.* (1) An applicant for raise of grade of a license who has not had a physical examination for an original license or renewal of license within three years must submit a certification by a licensed physician or physician assistant that he or she is in good health and has no physical impairment or medical condition which would render him or her incompetent to perform the ordinary duties of the license applied for.

(2) If the OCMI has reason to believe that an applicant for raise of grade of license suffers from some physical impairment or medical condition which would render the applicant incompetent to perform the ordinary duties of that license, the applicant may be required to submit the results of an examination by a licensed physician or physician assistant that meets the requirements for an original license.

(3) An applicant who has lost the sight of one eye may obtain a raise of grade of license, provided that the applicant is qualified in all other respects and that the visual acuity in the one remaining eye passes the test required under § 10.205(d).

(f) *Firefighting certificate.* Applicants for raise of grade of license who have not previously met the requirements in § 10.205(g), must do so.

(g) *Chemical testing for dangerous drugs.* To obtain a raise of grade of a license each applicant shall produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter.

(h) *Criminal Record Review.* Each applicant for a raise of grade may be required to submit to a criminal record check under § 10.201(h).

(1) *National Driver Register.* Each applicant for a raise of grade of a license shall consent to an NDR check under § 10.201(i) if the license is reissued with a new expiration date.

[CGD 81-059, 52 FR 38623, Oct. 16, 1987, as amended by CGD 81-059, 54 FR 134, Jan. 4, 1989; CGD 91-002, 58 FR 15238, Mar. 19, 1993; CGD 91-223, 60 FR 4524, Jan. 23, 1995; CGD 91-212, 60 FR 65486, Dec. 19, 1995; CGD 94-029, 61 FR 47063, Sept. 6, 1996; CDG 95-062, 62 FR 34530, June 26, 1997; USCG-1997-2799, 64 FR 42815, Aug. 5, 1999]

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

(a) *General.* Except as provided in paragraph (g) of this section, an applicant for renewal of a license or certificate of registry shall establish possession of all of the necessary qualifications before the license or certificate of registry is issued.

(1) Each application must be on a Coast Guard furnished form and be accompanied by the evaluation fee set out in table 10.109 in § 10.109. An approved application is valid for 12 months.

(2) The applicant may apply in person at any Regional Examination Center listed in § 10.105 or may renew the license or certificate of registry by mail under paragraph (e)(3) of this section.

(3) The applicant shall submit the original or a photocopy of the license or certificate of registry to be renewed. A photocopy will include the back and all attachments. If requested, the old license or certificate of registry will be returned to the applicant.

(b) *Fitness.* No license or certificate of registry will be renewed if it has been suspended without probation or revoked as a result of action under part 5 of this chapter, or facts that would render a renewal improper have come to the attention of the Coast Guard.

(c) *Professional requirements.* (1) In order to renew a license as master, mate, engineer, pilot, or operator, the applicant shall:

(i) Present evidence of at least 1 year of sea service during the past 5 years.

(ii) Pass a comprehensive, open-book exercise covering the general subject matter contained in appropriate sections of subpart I of this part;

(iii) Complete an approved refresher training course; or

(iv) Present evidence of employment in a position closely related to the operation, construction or repair of vessels (either deck or engineer as appropriate) for at least 3 years during the past 5 years. An applicant for a deck license with this type of employment must also demonstrate knowledge on an applicable Rules of the Road exercise.

(2) The qualification requirements for renewal of *radar observer* endorsement are in § 10.480.

(3) Additional qualification requirements for renewal of a license as pilot are contained in § 10.713.

(4) An applicant for renewal of a radio officer's license shall, in addition to meeting the requirements of paragraphs (a) and (b) of this section, present a currently valid license as first- or second-class radiotelegraph operator issued by the Federal Communications Commission. This license will be returned to the applicant.

(5) An applicant for renewal of a medical doctor or professional nurse certificate of registry shall, in addition to meeting the requirements of paragraphs (a) and (b) of this section, present evidence that he or she holds a currently valid appropriate license as physician, surgeon, or registered nurse issued under the authority of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(6) An applicant for renewal of a license as master or mate (pilot) of towing vessels shall submit satisfactory evidence of either by—

(i) Completing a practical demonstration of maneuvering and handling a towing vessel before a designated examiner; or

(ii) Submitting documentary proof of ongoing participation in training and drills during the validity of the license being renewed.

(d) *Physical requirements.* (1) An applicant for renewal of a license shall submit a certification by a licensed physi-