



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 11

[Docket No. USCG-2017-1025]

RIN 1625-AC42

Crediting Recent Sea Service of Personnel Serving on Vessels of the Uniformed Services

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to increase from 3 years to 7 years the period within which qualifying sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for a Merchant Mariner Credential with a national officer endorsement. This notice of proposed rulemaking would implement into Coast Guard regulations legislation that has been codified in statute, and may potentially increase the number of merchant mariners available for employment on commercial vessels.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2017-1025 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public

Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

Collection of Information Comments. Submit comments on the collection of information discussed in Section VI.D of this preamble both to the Coast Guard’s online docket and to the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget using one of the following two methods:

- *Email: dhsdeskofficer@omb.eop.gov.*
- *Mail: OIRA, 725 17th Street NW. Washington, DC 20503, attention Desk Officer for the Coast Guard.*

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Ms. Cathleen Mauro, Maritime Personnel Qualifications Division (CG-MMC-1), Coast Guard; telephone: 202-372-1449, email Cathleen.B.Mauro@uscg.mil.

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I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If you cannot submit your material by using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section for alternate instructions. Documents mentioned in this notice of proposed rulemaking, and all public comments, will be available in our online docket at <https://www.regulations.gov>, and can be viewed by following that website's instructions. Additionally, if you visit the online docket and sign up for email alerts, you will be notified when comments are posted or if a final rule is published.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

We do not plan to hold a public meeting, but we will consider doing so if public comments indicate that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

BLS	Bureau of Labor Statistics
CATEX	Categorical exclusion
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
MMC	Merchant Mariner Credential
MMLD	Merchant Mariner Licensing Documentation
NMC	National Maritime Center
NOAA	National Oceanic and Atmospheric Administration
NPRM	Notice of proposed rulemaking
PHS	Public Health Service
§	Section
U.S.C.	United States Code

III. Basis and Purpose

Under 46 CFR 11.201(c)(2), an applicant for a national officer endorsement on a Merchant Mariner Credential (MMC) “must have at least 3 months of required service on vessels of appropriate tonnage or horsepower within the 3 years immediately preceding the date of application.” Section 305 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014¹ amended 46 U.S.C. 7101 to authorize the Coast Guard to extend the period from 3 years to 7 years for individuals whose 3 months of qualifying sea service was aboard vessels of the uniformed services. Such individuals must also satisfy all other requirements for a national officer endorsement on an MMC. In this notice of proposed rulemaking (NPRM), we propose to establish a 7-year period within which the attainment of 3 months of qualifying sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for an MMC with a national officer endorsement. This NPRM would affect only 46 CFR part 11, “Requirements for officer endorsements,” and, specifically, only 46 CFR 11.201(c)(2).

¹ Public Law 113-281, 128 Stat. 3022 (2014).

IV. Background

Individuals serving on vessels of the uniformed services represent a population who may be qualified for an MMC. When these individuals spend the final years of their careers assigned to shoreside units, the requirement in 46 CFR 11.201(c)(2) to have at least 3 months of qualifying sea service within 3 years of application for an officer endorsement poses an obstacle to meeting the requirement for recent sea service. This rule will improve the pathway for individuals with sea service aboard vessels of the uniformed services to meet the requirement for recent sea service to qualify for a national officer endorsement.

On December 18, 2014, Congress amended 46 U.S.C. 7101 by adding paragraph (j), which authorized the Coast Guard to extend the period from 3 years to 7 years for individuals whose 3 months of qualifying sea service was aboard vessels of the uniformed services. Subsequent to enactment of 46 U.S.C. 7101(j)(1), the Coast Guard issued CG-CVC Policy Letter 15-03, "Crediting Recent Service of Uniformed Service Personnel,"² on October 16, 2015 to implement 46 U.S.C. 7101(j)(1) until a rulemaking could be completed.

V. Discussion of Proposed Rule

In accordance with 46 U.S.C. 7101(j)(1), we propose to amend 46 CFR 11.201(c)(2) to allow individuals who have attained qualifying sea service aboard vessels of the uniformed services within 7 years preceding the date of application for a national officer endorsement to use this service to satisfy the requirement for recent sea service. Because the existing regulatory language in 46 CFR 11.201(c)(2) requires qualifying sea service to be attained

² CG-CVC Policy Letter 15-03 can be accessed here:
https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2015/CG-CVC_pol15-03.pdf

within a 3-year period preceding the date of application, a regulatory change is needed to align our regulations with the authority granted in 46 U.S.C. 7101(j)(1).

VI. Request for Public Input

In addition to seeking public comment on the proposed change described above, the Coast Guard also seeks comment from the public on the following questions:

(1) Should the period for “recent” service be extended to 7 years for all national officer endorsements?

(2) Is it necessary to have a requirement for recent sea service for an original, renewal, or raise of grade of an MMC with a national officer endorsement?

The Coast Guard asks the second question because the Coast Guard has not solicited public comment on the requirement for recent sea service to qualify for an MMC with a national officer endorsement since the 1980s.³ The Coast Guard is interested in hearing public opinion on whether recent sea service is necessary in addition to the existing sea service requirement for deck officer endorsements under 46 CFR part 11, subpart D, for engineer officer endorsements under subpart E, and for first-class pilot endorsements under subpart G to demonstrate that an applicant has the appropriate experience for the endorsement being sought.

When evaluating whether there is a need for recent sea service for the renewal of an MMC with a national officer endorsement, consideration should be given to the professional requirements an applicant must meet for the renewal of any MMC that are provided under 46

³ 46 FR 53624 (ANPRM) and 48 FR 35920 (NPRM).

CFR 10.227(e). Under this section, applicants must meet one of the following professional requirements for renewal of an MMC:

- (1) Present evidence of 1 year of sea service within the previous 5 years;
- (2) Pass a comprehensive open book exercise;
- (3) Complete an approved refresher training course;
- (4) Provide evidence of closely related service for at least 3 years in the previous 5 years; or
- (5) Provide evidence of employment as a qualified instructor having taught two classes in the last 5 years in course work that is relevant to the credential sought.

The comments we receive in response to the questions above may form the basis for a separate rulemaking in the future.

VII. Regulatory Analyses

We developed this NPRM after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes or Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the 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, reducing costs, harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing

Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this proposed rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

A combined preliminary regulatory analysis and threshold regulatory flexibility analysis follows and provides an evaluation of the economic impacts associated with this NPRM.

This NPRM would revise existing regulations related to the requirement for recent sea service to qualify for an MMC with a national officer endorsement. Specifically, this NPRM proposes to amend 46 CFR 11.201(c)(2) by establishing a 7-year period within which the attainment of 3 months of qualifying sea service aboard vessels of the uniformed services would satisfy the requirement for recent sea service. This proposed change would apply to original and raise of grade national officer endorsement applicants who have served on vessels of the uniformed services.⁴ Under 10 U.S.C. §101(a)(5), “uniformed services” means

⁴ As stated in 46 CFR § 10.225, “original” is the first credential issued to an applicant; the first credential issued to applicants after their previous credential has expired beyond the grace period and they do not hold a Document of Continuity under 46 CFR § 10.227(g) or an equivalent unexpired continuity endorsement on their license or MMD; or the first credential issued to applicants after their previous credential was revoked pursuant

the armed forces, the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA), and the commissioned corps of the Public Health Service (PHS). To estimate the impacts that the proposed increase in timeframe for which the attainment of 3 months of qualifying sea service can be used to satisfy the requirement for recent sea service, we examined data on officer endorsement applications provided by the National Maritime Center (NMC).

This proposed rule intends to increase the number of qualified applicants for a national officer endorsement, which would subsequently increase the pool of credentialed mariners supporting U.S. commerce and the growth of the marine transportation system. However, after examining the existing data it was not possible to estimate the extent of any increases. Information provided by the NMC from the Merchant Mariner Licensing Documentation (MMLD) system was used to estimate the number of mariners that may be affected by this proposed rule. The data available from 2016 to 2018 indicates that applicants for an original endorsement or raise of grade to an existing endorsement may be able to utilize previous sea service on vessels of the uniformed services to meet the professional requirements for a national officer endorsement. Meeting the requirements for an original officer endorsement may allow a mariner to be employed at a higher initial wage rate. We present an analysis of the potential positive distributional impacts (qualitative) on mariners in the benefits section.

This NPRM proposes to increase the period from 3 years to 7 years, within which qualifying sea service aboard vessels of the uniformed services can be used to satisfy the

to 46 CFR § 10.235. As stated in 46 CFR part 10.107, “raise of grade” means an increase in the level of authority and responsibility associated with an officer or rating endorsement, such as from mate to master or second assistant engineer to first assistant engineer.

requirement for recent sea service to qualify for an MMC with a national officer endorsement. The Coast Guard cannot conclusively estimate the impact of increasing the period from 3 years to 7 years on the number of total qualified merchant mariners. Although the annual average number of original and raise of grade national officer endorsements is decreasing, the number of individuals using prior service on vessels of the uniformed services is increasing, based on data from between 2016 and 2018. We are also unable to determine the source of the increase in national officer endorsements issued with sea service on vessels of the uniformed services; therefore, we did not estimate costs (see table 1).

Table 1: Summary of the Impacts of the NPRM

Category	Summary
Applicability	Amend requirement in 46 CFR 11.201(c)(2) to 3 months of qualifying sea service within 7 years of application for a national officer endorsement for individuals who have service on vessels of the uniformed services.
Potentially Affected Population	Based on a historical estimate of the proportion of individuals who used prior service on vessels of the uniformed services to the number of original and raise of grade national officer endorsements issued between 2016 and 2018, we estimate that about 516 prospective mariners may apply annually for an MMC with a national officer endorsement utilizing service on vessels of the uniformed services. However, the data did not allow us to conclusively estimate the increase in mariners due to annual fluctuations in the applications as a result of factors external to this rule.
Costs	No costs estimated because this proposed rule would only provide increasing flexibility for qualified merchant mariners. Unit costs for individuals would be the evaluation, examination, and issuance fees for an MMC that range from \$45–\$110 for a total unit

	cost of \$255 for each individual, and the labor time it takes to fill out the forms at the respective loaded mean hourly wage rates and submission to the NMC, which range from 5 to 18 minutes. The loaded mean hourly wage rates for individuals range from \$26.99 to \$57.95.
Unquantified Benefits	<ul style="list-style-type: none"> • Potential for an increased pool of qualified mariners supporting U.S. commerce and the growth of the marine transportation system. • Potential for an increase in the number of job opportunities for individuals who have served on vessels of the uniformed services. • Potential for an increase in the starting wage rate for Mariners who would now qualify for a national officer endorsement.

Note: Please see the benefit section of this analysis for the wage rates in this table.

Affected Population

46 U.S.C. 7101(j)(1) applies to applicants that have three months of qualifying service on vessels of the uniformed services within the seven years immediately preceding the date of application. The pool of applicants consists of, and this NPRM would affect, current and former members of the U.S. armed forces,⁵ the commissioned corps of NOAA and PHS, and civilians who attained qualifying sea service aboard vessels of the uniformed services within 7 years preceding the date of application for a national officer endorsement. There are approximately 1.33 million military personnel serving in the U.S. armed forces, 681,000 personnel serving in the Reserve⁶ and approximately 727,000 civilians employed by the armed and uniformed services.^{7 8 9} To estimate the number of people potentially affected

⁵ Under 10 U.S.C. § 101(a)(4), the U.S. armed forces includes the Air Force, Army, Coast Guard, Navy, and Marines Corps.

⁶ The Reserve consists of the Army National Guard, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard, the Coast Guard Reserve, and the Air Force Reserve.

⁷ Armed forces civilian personnel data from <https://www.census.gov/library/publications/2011/compendia/statab/131ed/national-security-veterans->

by this NPRM, we examined data provided by the NMC. The NMC evaluates MMC applications and issues credentials to qualified mariners. As noted in section IV, on December 18, 2014, Congress amended 46 U.S.C. 7101 to authorize the Coast Guard to extend the period by which a mariner can obtain 3 months of qualifying sea service aboard vessels of the uniformed services from 3 years to 7 years to satisfy the requirement for recent sea service. Following that, in October 2015, CG-CVC Policy Letter 15-03 was published to implement 46 U.S.C. 7101(j)(1) on an interim basis until the Coast Guard could complete a rulemaking. This analysis utilized Coast Guard data from the MMLD database on all original and raise of grade national officer endorsements issued beginning in 2010, and original and raise of grade national officer endorsements issued utilizing prior sea service on vessels of the uniformed services beginning in 2016. In 2016, the NMC began identifying applications utilizing prior service aboard vessels of the uniformed services to meet the requirement for recent sea service under 46 CFR 11.201(c)(2). The data spans from January 2016 through December 2018 to include 36 months (unless otherwise noted). Therefore, given the data availability, we use the statistical baseline of 2016 for this analysis. The observations are as follows:

affairs.html, accessed March 26, 2019.

Armed forces and Reserves population data from <https://www.cna.org/pop-rep/2016/summary/summary.pdf>, accessed March 26, 2019.

U.S. PHS public data, accessed 20 August 2018, <https://usphs.gov/aboutus/leadership.aspx>

NOAA public data, accessed July 14, 2018, <https://www.fedscope.opm.gov/ibmcognos/cgi-bin/cognosisapi.dll>.

To access, use the following path: FSe – Employment Generic, Employment – March 2018 Generic, Agency - All Agencies, CM54 – National Oceanic and Atmospheric Administration. This link is only accessible by a government computer.

⁸ As stated in CG-CVC Policy Letter No. 15-03, section (4)(a)(3), this would also apply to civilian mariners working aboard vessels of the uniformed services. For example, the more-than-5000 civil servant mariners who work aboard Military Sealift Command vessels, the union contract mariners who sail aboard NOAA vessels, and the Navy-owned repositioning vessels.

⁹ There are approximately 709,265 DoD civilian personnel, 6,500 PHS personnel, and 11,268 NOAA personnel. $709,265+6,500+11,268 = 727,033$, which is rounded to 727,000.

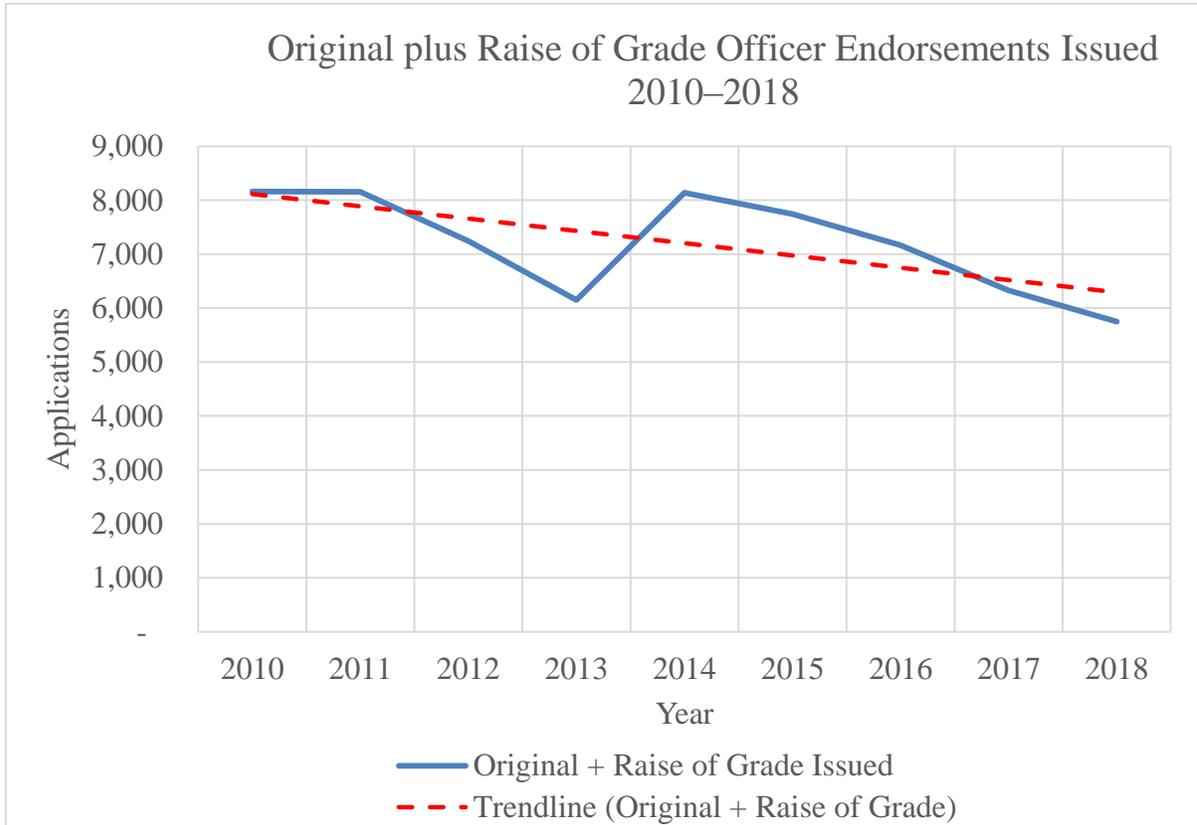
- (1) The annual average number of original and raise of grade national officer endorsements issued is 7,203 (as observed from 2010–2018). In Figure 1, we show the results of our observation of historical data indicating that the number of annual officer endorsements issued from 2010–2018 is on a downward trend.
- (2) In 2016, there were 7,165 original and raise of grade national officer endorsements issued,¹⁰ of which 356 used prior service on vessels of the uniformed services to meet the requirements for the endorsement.¹¹ This is equivalent to approximately five percent ($356 \div 7,165$). In 2017, there were 6,330 original and raise of grade national officer endorsements issued, of which 495 used prior service on vessels of the uniformed services to meet the requirements for the endorsement. This is equivalent to approximately 7.8 percent ($495 \div 6,330$). In 2018, there were 5,748 original and raise of grade national officer endorsements issued, of which 501 used prior service on vessels of the uniformed services to meet the requirements for the endorsement. This is equivalent to approximately 8.7 percent ($501 \div 5,748$).
- (3) The average percentage of original and raise of grade national officer endorsements issued using prior sea service aboard vessels of the uniformed services is about 7.2 percent ($[0.05 + 0.078 + 0.087] \div 3 = 0.072$ or 7.2 percent).
- (4) Using the figure derived in (1) and the figure derived in (3), the Coast Guard found the average number of (estimated) national officer endorsements using prior sea service aboard vessels of the uniformed services to be 516 per year

¹⁰ Both original and raise of grade.

¹¹ Qualification meaning prior service on vessels of the uniformed services to meet the requirement for recent sea service to qualify for a national officer endorsement.

(7,203 average annual number of national officer endorsements issued \times 0.072 percentage of national officer endorsements issued using prior sea service on vessels of the uniformed services).¹²

Figure 1. Annual Number of Original and Raise of Grade National Officer Endorsements Issued by Year



Costs Analysis

This NPRM would amend 46 CFR 11.201(c)(2) and establish a 7-year period within which the attainment of 3 months of qualifying sea service aboard vessels of the uniformed services could be used to satisfy the requirement for recent sea service to qualify for a national officer endorsement. Following the publication of CG-CVC Policy Letter 15-03, the

¹² Slight errors may be due to rounding.

Coast Guard anticipated an increase in the total number of MMCs issued with original or raise of grade national officer endorsements. In 2016, the NMC began collecting data on the number of applicants using prior sea service aboard vessels of the uniformed service.¹³ As shown in table 2, the total number of national officer endorsements issued, either original or raise of grade, decreased approximately 20 percent from 2016 to 2018. However, the number of national officer endorsements issued, either original or raise of grade, that utilized sea service on vessels of the uniformed services increased approximately 29 percent.

Table 2. National Officer Endorsements Issued (2016–2018)

National Officer Endorsements Issued—Original and Raise of Grade			
Year	2016	2017	2018
Applications	7,165	6,330	5,748
National Officer Endorsements Issued with Service on Vessels of the Uniformed Services—Original and Raise of Grade			
Year	2016	2017	2018
Applications	356	495	501

As stated previously, this proposed rule expects to increase the number of qualified applicants for a national officer endorsements that would ultimately lead to an increase in the number of credentialed mariners. However, even with the increase in the national officer endorsements issued utilizing sea service on vessels of the uniformed services, the decrease in national officer endorsements issued from 2010–2018 is significant enough to conclude that the population of credentialed mariners is decreasing.

In addition, due to data limitations described above, we cannot ascertain if the increase in national officer endorsements issued with sea service on vessels of the uniformed services from 2016–2018 was due to applicants utilizing sea service on vessels of the

¹³ The data is available for years 2016–2018, which leads to a baseline year of 2016.

uniformed services resulting from CG-CVC Policy Letter 15-03 or if it was just part of the annual fluctuations in applications.

As a result, we cannot estimate the impact of CG-CVC Policy Letter 15-03 on the number of original or raise of grade national officer endorsements issued, and we cannot conclusively estimate the impact of this proposed rulemaking on the number of total qualified merchant mariners. Without being able to estimate the increase in the number of original or raise of grade national officer endorsements issued utilizing prior service on vessels of the uniformed services as directly related to CG-CVC Policy Letter 15-03, we cannot assign costs to this proposed rule. The fees associated with an application for an MMC are established in 46 CFR 10.219. The fees for an original or raise of grade national officer endorsement include evaluation, examination, and issuance fees ranging from \$45–\$110. We also estimate it takes a mariner between 5 and 18 minutes (based on NMC’s OMB-approved Information Collection Request (ICR), with a control number of 1625-0040) at a respective mariner’s loaded hourly wage rate (see Table 1) to fill out the MMC application for submission to the NMC. However, because we would extend the period of time a mariner has to attain 3 months of qualifying sea service aboard vessels of the uniformed services, which is current industry practice, there is no cost associated with this proposed change.

Because we cannot estimate the impact on the number of national officer endorsements issued related to CG-CVC Policy Letter 15-03, we also cannot estimate the government costs associated with this rulemaking. It normally takes a Coast Guard evaluator at the GS-8 level with a loaded mean hourly wage of \$49 approximately 45 minutes to

review the MMC application and associated documentation for a unit cost of about \$36.75.¹⁴ Government costs would result if there were an increase in applications for MMCs or if the time to evaluate the application changed from the estimated time in the ICR with a control number of 1625-0040. This would be realized at the NMC where applications for MMCs are evaluated and credentials are issued.

Benefits

This NPRM would align the regulations in 46 CFR 11.201(c) with the authority granted in 46 U.S.C. 7101(j)(1) with no negative economic impact on the affected population. As mentioned earlier in this document, the Coast Guard issued CG-CVC Policy Letter 15-03 to implement 46 U.S.C. 7101(j)(1) on an interim basis until a rulemaking could be completed. Without the regulatory change proposed by this NPRM, our regulations would not reflect the most up-to-date sea service standard specifically authorized under 46 U.S.C. 7101(j)(1). Accordingly, this NPRM helps avoid confusion by ensuring the most up-to-date applicable standard is incorporated in the regulation.

. The Coast Guard has identified several qualitative benefits for this proposed rule. The proposed regulation would improve the pathways to qualify for an MMC with a national officer endorsement and increase the number of job opportunities for individuals with experience aboard vessels of the uniformed services. This also provides the ability for a larger pool of mariners to enter the workforce at a higher pay rate than they would have realized prior to CG-CVC Policy Letter 15-03. Although there is also a potential for an increase in the pool of applicants, at this time, the data does not allow us to estimate this

¹⁴ Information provided by the National Maritime Center. The mean hourly wage rate for a GS-8 employee is \$49, “Outside Government Rate”, per Commandant Instruction 7310.1T, November 2018.

impact. While there was a 29 percent increase in the number of original and raise of grade national officer endorsements issued utilizing prior sea service on vessels of the uniformed services, there was a corresponding 20 percent decrease in the number of original and raise of grade national officer endorsements issued that did not utilize prior sea service from 2016–2018. The 20 percent decrease is a more significant indication of the annual credentialing trend as compared to the 29 percent increase to the population that did use prior sea service as part of their application. At this time, the data is not robust enough to allow us to estimate the impact of CG-CVC Policy Letter 15-03 on the number of original and raise of grade national officer endorsements issued. The Coast Guard requests data, input, and comments from the general public and interested stakeholders regarding the potential of an increase in applicants due to this proposed rule.

Providing a method for individuals to use recent sea service on vessels of the uniformed services to qualify for an MMC with a national officer endorsement could result in the opportunity for them to be initially employed at a higher pay rate, which leads to the possibility of favorable wage impacts to the mariner. Below we describe the potential increase in wages to the mariner resulting from having previous service on vessels of the uniformed services.

To estimate the potential wage impacts to the mariner, we compared the shipboard wage rates for an individual with an MMC with an officer endorsement to that of an individual with an MMC with a rating endorsement. The job categories for individuals with an officer endorsement as defined by the Bureau of Labor Statistics (BLS) are as follows: (1) Deck Officers, to include captains, mates, and pilots for water vessels; and (2) Engine Officers, to include ship engineers. The job categories for ratings are as follows: (1) Deck

including sailors, and (2) Engine including marine oilers. If an applicant was unable to meet the existing 3-year requirement for recent sea service to qualify for an MMC with a national officer endorsement, they may seek employment as a rating to obtain recent sea service.^{15 16} Ratings are employed at a lower wage rate than officers. Tables 3 and 4 show the calculation for the loaded wage factor and the loaded wage rate for each personnel category. As described in table 4, individuals who do not hold an officer endorsement are classified as a rating paid at a lower wage than those that have an officer endorsement aboard a vessel. To meet the requirement for 3 months of recent sea service for an MMC with a national officer endorsement, an individual would have to spend that time employed as a rating aboard a vessel.

Table 3. Loaded Wage Factor Calculation

Personnel Category	Data Source	Total Compensation	Wage & Salaries	Loaded Wage Factor
All Workers Private Industry	BLS Employer Costs for Employee Compensation, all workers private industry, service providing, production, transportation and materials moving	\$26.99	\$18.13	1.489

Table 4. Loaded Wage Calculation

Personnel Category	Data Source	Mean Hourly Wage	Loaded Wage Factor	Loaded Wage (\$2017)
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¹⁵ For officers: <https://www.bls.gov/oes/2017/may/oes535021.htm> and <https://www.bls.gov/oes/2017/may/oes535031.htm>; for ratings: <https://www.bls.gov/oes/2017/may/oes535011.htm>. The mean hourly wage figured is what is used in the calculation.

¹⁶ Currently, there are 45 types of officer endorsements and 12 types of rating endorsements available for an MMC. Because the BLS does not have wage information on all of these endorsement types, these categories were chosen as the best categories to encompass the endorsement types.

Deck Officers	Wage Rate: 2017 mean hourly wage for Captains, Mates, and Pilots of Water Vessels	\$38.93	1.489	\$57.95
Engine Officers	Wage Rate: 2017 mean hourly wage for Ship Engineers	\$37.48	1.489	\$55.80
Deck and Engine Ratings	Wage Rate: 2017 mean hourly wage for Sailors and Marine Oilers	\$22.38	1.489	\$33.32

*Numbers may not sum due to independent rounding.

We estimate the loaded¹⁷ hourly wage rate of Deck Officers to be \$57.95 and \$55.80 for Engine Officers. This equates to an average loaded mean hourly wage rate for officers of \$56.88.¹⁸ We estimate the loaded mean hourly wage rate of Deck and Engine ratings to be \$33.32.^{19 20}

To obtain the wage difference for the period a person would need to work as a rating on board a vessel to obtain recent sea service to qualify for a national officer endorsement, we must first calculate the 3-month wage for a rating, then calculate the 3-month wage for an officer, and then calculate the difference. We estimated the working hours in a 3-month, or 90-day period, to be 720 hours (90 working days, including weekends, multiplied by 8-hour working days).²¹

¹⁷ Employer Costs for Employee Compensation provides information on the employer compensation and can be found at <https://data.bls.gov/cgi-bin/dsrv?cm>. To calculate the load factor, we used the series ID CMU201S000500000D and CMU202S000500000D using the multi-screen database and 2017 quarter 4. The loaded wage factor is equal to the total compensation of \$26.99 divided by the wages and salary of \$18.13 ($\$26.99 \div \$18.13 = 1.49$). Values for the total compensation, wages, and salary are for all private industry workers in the transportation and material moving occupations, 2017 4th quarter. We use 2017 data to keep estimated benefits in 2017 dollars.

¹⁸ To get the average loaded hourly labor rate for ratings, the calculation is $(\$57.95 + \$55.80) \div 2 = \$56.88$.

¹⁹ All wage rates are in 2017 dollars.

²⁰ Slight calculation adjustments may occur due to rounding.

²¹ Per the subject matter expert, the working hours would be 7 days a week, 8 hours per day.

Using the calculated loaded mean hourly wage rate for Deck and Engine ratings, the Coast Guard calculated the total wages for a 3-month time period to be \$23,988.20 (\$33.32×720). Using the calculated average loaded mean hourly wage rate for officers, we calculated the total wages for a 3-month time period to be \$40,950.37 (\$56.88×720).²² We can then calculate the loss in wages from being unable to qualify for an MMC with a national officer endorsement for a 3-month period. The difference in wages totals \$16,962.17 (\$40,950.37–\$23,988.20) per mariner. See table 5 below.

Table 5. 90-Day Wage Difference

Personnel Category	Loaded Mean Hourly Wage	90 Days in Hours	90 Days in Wages²³
Deck and Engine Officers	\$56.88	720	\$40,950.37
Deck and Engine Ratings	\$33.32	720	\$23,988.20
Individual Difference (Impact)	-	-	(\$16,962.17)

In summary, we were unable to estimate the impact of this rule on the number of merchant mariners available for employment on commercial vessels. By increasing the period to meet the requirement for recent sea service to qualify for an MMC with a national officer endorsement, an individual forgoes having to work at a lower pay rate to obtain the prerequisite service for an officer endorsement. The result is a potential increase in the entry wage rate for the applicant, which could lead to an improved quality of life for the mariners who would now qualify for an MMC with a national officer endorsement.

Regulatory Alternative Considered

²² Slight calculation adjustments may occur due to rounding.

²³ Figures may not add due to rounding.

In developing this NPRM, the Coast Guard considered the following alternative to the proposed rule: Continuing to allow the extended period for recent sea service as provided in CG-CVC Policy Letter 15-03. We rejected this alternative. In enacting Section 305 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014, Congress expressly authorized the Secretary to extend the period for recent sea service from 3 years to 7 years for individuals whose sea service was aboard vessels of the uniformed services. Accordingly, the Coast Guard is taking action, through rulemaking, to make the regulatory language consistent with the legislative authority. Absent a regulatory change, 46 CFR 11.201 would not align with 46 U.S.C. 7101(j)(1).

There are no other feasible alternatives. Because the existing regulatory language in 46 CFR 11.201(c)(2) requires qualifying sea service to be attained within a 3-year period preceding the date of application for all applicants, a regulatory change is needed to implement 46 U.S.C. 7101(j)(1).

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601-612, we have considered whether this proposed 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. The Coast Guard has not identified any small entities that would be directly regulated by the proposed rule. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as

a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this proposed rule. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed 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 in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

D. Collection of Information

This proposed rule would call for no new collection of information tasks under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520. Because the data indicates that this proposed rule would not result in an increase in the number of applicants, it would not add respondents for recording and recordkeeping to the existing collection (OMB Control Number 1625-0040), “Application for Merchant Mariner Credential (MMC), Application for Merchant Mariner Medical Certificate, Application for Merchant Mariner Medical Certificate for Entry Level Ratings, Small Vessel Sea Service Form, DOT/USCG Periodic Drug Testing Form, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions, Merchant Mariner Medical Certificate, Recognition of Foreign Certificate.”

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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 analyzed this proposed rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

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), 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* the Supreme Court's decision in *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000). Because this proposed rule involves the credentialing of mariners under 46 U.S.C. 7101, it relates to personnel qualifications and is therefore foreclosed from regulation by the States. Therefore, because the States may not regulate within this category, this proposed rule is consistent with the fundamental federalism principles and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect,

Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule would have implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this NPRM.

F. Unfunded Mandates

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 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, the Coast Guard does discuss the effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would 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 proposed 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

The Coast Guard has analyzed this proposed rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to

health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it would not have a substantial direct effect on one or more Indian tribes, or 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 proposed 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.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, 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 proposed rule does not use technical standards. Therefore, the Coast Guard did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f). We have made a preliminary determination 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 proposed rule appears to meet the criteria for categorical exclusion (CATEX) under paragraphs A3(d) and L54 in Appendix A, Table 1 of DHS Directive 023-01(series). CATEX A3 pertains to the promulgation of rules and procedures that are: (d) “those that interpret or amend an existing regulation without changing its environmental effect” and CATEX A3 also pertains to regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel. This rule proposes to revise mariner credentialing requirements to implement 46 U.S.C. 7101(j)(1) without substantive change. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 46 CFR Part 11

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 11 as follows:

PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

1. The authority citation for part 11 continues 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, 8906, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

2. Amend § 11.201 as follows:

a. Redesignate paragraph (c)(1) as paragraph (c) introductory text and revise the newly redesignated paragraph (c) introductory text;

b. Redesignate paragraphs (c)(2) through (c)(6) as (c)(1) to (c)(5); and

c. Revise newly redesignated (c)(1).

The revisions to read as follows.

§ 11.201 General requirements for national and STCW officer endorsements.

* * * * *

(c) *Experience and service.* Applicants for officer endorsements should refer to §10.232 of this subchapter for information regarding requirements for documentation and proof of sea service.

(1) An applicant for a national officer endorsement must meet one of the following:

(i) Have at least 3 months of required service on vessels of appropriate tonnage or horsepower within the 3 years immediately preceding the date of application; or

(ii) Have at least 3 months of required service on vessels of the uniformed services as defined in 10 U.S.C. 101(a)(5) of appropriate tonnage or horsepower within the 7 years immediately preceding the date of application; or

(iii) Have at least 3 months of required service attained through a combination of service established under paragraphs (c)(1)(i) or (ii) of this section.

* * * * *

Dated: September 6, 2019

R. V. TIMME

Rear Admiral, U.S. Coast Guard,

Assistant Commandant for Prevention Policy

[FR Doc. 2019-19754 Filed: 9/16/2019 8:45 am; Publication Date: 9/17/2019]