



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: Final rule.

SUMMARY: The Coast Guard is extending the period, from 3 years to 7 years, in which 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.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view comments on the notice of proposed rulemaking and documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-1025 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

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SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

- I. Abbreviations
- II. Basis and Purpose
- III. Background
- IV. Discussion of Comments
- V. Discussion of the Rule
- VI. Regulatory Analyses
 - A. Regulatory Planning and Review
 - B. Small Entities
 - C. Assistance for Small Entities
 - D. Collection of Information
 - E. Federalism
 - F. Unfunded Mandates
 - G. Taking of Private Property
 - H. Civil Justice Reform
 - I. Protection of Children
 - J. Indian Tribal Governments
 - K. Energy Effects
 - L. Technical Standards
 - M. Environment

I. Abbreviations

BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
ICR	Information Collection Request
MMC	Merchant Mariner Credential
MMLD	Merchant Mariner Licensing and Documentation System
NMC	National Maritime Center
NOAA	National Oceanic and Atmospheric Administration
NPRM	Notice of proposed rulemaking
PHS	Public Health Service
RA	Regulatory Analysis
RFA	Regulatory Flexibility ACT
§	Section
U.S.C.	United States Code

II. 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 specifically 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 final rule, consistent with the statutory authorization, we establish in regulation 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.² This regulatory change affects only 46 CFR part 11, “Requirements for officer endorsements,” and, specifically, only 46 CFR 11.201(c)(2).

In accordance with 5 U.S.C. 553(d)(1) and (3), this rule will become effective upon the date of publication in the **Federal Register**. Under 5 U.S.C. 553(d)(1), an agency is permitted to make “a substantive rule which grants or recognizes an exemption or relieves a restriction...” to become immediately effective. This rule relieves a restriction by extending the period, from 3 years to 7 years, in which sea service aboard

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

² The change is also consistent with Executive Order 13860, Supporting the Transition of Active Duty Service Members and Military Veterans Into the Merchant Marine, 84 FR 8407 (Mar. 7, 2019). *See also* Public Law 113-281, § 305(c), 46 U.S.C. 7302 note.

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.

III. Background

Individuals serving on vessels of the uniformed services represent a population who may qualify 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 update the recent sea service requirements for a person to qualify for a national officer endorsement based on sea service aboard vessels of the uniformed services.

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,”³ on October 16, 2015, to implement 46 U.S.C. 7101(j)(1) until a rulemaking could be completed.

IV. Discussion of Comments

In the 2019 Notice of proposed rulemaking (NPRM),⁴ the Coast Guard requested comments on our proposal to extend, from 3 years to 7 years, the period for qualifying

³CG-CVC Policy Letter 15-03 can be accessed at:
https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2015/CG-CVC_pol15-03.pdf

⁴ 84 FR 48842, September 17, 2019.

sea service that is the subject of this final rule. The Coast Guard received no comments on that proposal. Accordingly, the Coast Guard has made no changes from the proposed rule in response to public comment.

In the same NPRM, the Coast Guard asked for public input on two related questions that were not part of the proposal. The Coast Guard received input from two commenters in response to these questions. The questions were:

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

(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 responses to these questions do not impact this rulemaking, but may be used to inform future Coast Guard decisions on regulatory initiatives regarding the requirement for recent sea service. We summarize the comments here.

The Coast Guard asked if the period for recent sea service should be extended to 7 years for all national officer endorsements. The Coast Guard received input from two commenters in response to this question. The first commenter does not support extending the period of recent sea service to 7 years for all national officer endorsements. This commenter discusses the rapid changes in technology that make it critical for mariners to have recent service in order to maintain familiarization with current equipment, associated practices, and safe shipboard operations. Further, this commenter notes the importance of recent service on vessels of appropriate horsepower and tonnage so that mariners will have experience on vessels with handling characteristics, navigation equipment, and firefighting equipment relevant to the endorsement they are seeking.

The second commenter supports extending to 7 years the period of recent service for all original national officer endorsements, not just those for uniformed service members. This commenter believes extending the period within which recent service can be obtained to all mariners would create an even standard regardless of how they obtained their qualifying sea service, and would provide an equitable option within the industry without a negative impact to safety. This same commenter does not support extending the period for required service to 7 years in the case of renewing an MMC officer endorsement or raising the grade of an existing officer endorsement.

The Coast Guard also asked if a recent sea service requirement is necessary for an original, renewal, or raise of grade of an MMC with a national officer endorsement. The Coast Guard received input from two commenters in response to this question. Both commenters support the requirement for recent sea service to obtain a national officer endorsement. The commenters emphasized the importance of ensuring the competency of mariners who make operational decisions that could impact the safety of life, cargo, and the marine environment. The second commenter supported the recent sea service requirement as a means of ensuring competency within the maritime workforce, believing it is important for mariners to have experience on the job before serving in positions of authority where safety could be adversely affected by a lack of experience. With respect to renewals, both commenters believe the existing regulatory requirements for renewing an officer endorsement provide reasonable options for mariners who do not have recent sea service to renew a credential and return to employment within the industry. See 46 CFR 10.227(e) for the available options a mariner may use, other than recent sea service, to meet the professional requirements for renewal. The commenters also state that the

renewal options allowed under 46 CFR 10.227(e) should not be extended for raising the grade of an officer endorsement due to the nature of taking on increased responsibility and, therefore, having an increased role in ensuring the safety of a vessel.

The first commenter also expressed concern over the training of Coast Guard personnel evaluating MMC applications, specifically with regard to the tonnage and horsepower portion of the recent service requirements. However, the training of Coast Guard personnel evaluating MMC applications is outside the scope of this rulemaking.

V. Discussion of the Rule

As specifically authorized by 46 U.S.C. 7101(j)(1), and consistent with existing policy, the Coast Guard is amending 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. The Coast Guard is also amending the regulation to allow applicants to use a combination of sea service obtained on vessels of appropriate tonnage or horsepower within 3 years preceding the date of application with sea service obtained on vessels of the uniformed services within 7 years preceding the date of application to meet the requirement for 3 months of recent sea service. Allowing for a combination of service provides maximum flexibility for applicants in meeting the service requirements for a for a national officer endorsement. This rule uses, without change, the regulatory text proposed in the NPRM.

VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders

related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

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 costs and benefits, reducing costs, harmonizing rules, and 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 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 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 regulatory analysis (RA) follows.

We did not receive public comments regarding the regulatory analysis of the proposed rule; therefore, we adopt the preliminary regulatory analysis of the proposed

rule as final. However, we have updated this analysis using 2018 wage rate estimates, which are reflected in the revised analysis below.

This final rule will revise existing regulations related to the requirement for recent sea service to qualify for an MMC with a national officer endorsement. Specifically, it will 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 change will apply to original and raise of grade national officer endorsement applicants who have served on vessels of the uniformed services. Under 10 U.S.C. 101(a)(5), “uniformed services” means 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 impact of the increased timeframe to attain the 3 months of qualifying sea service that is necessary to satisfy the requirement for recent sea service, we examined data on officer endorsement applications provided by the National Maritime Center (NMC).

This final rule intends to update the regulatory requirements with the service standard authorized under 46 U.S.C 7101(j)(I). This service standard was implemented by the Coast Guard through CG-CVC Policy Letter 15-03 on an interim basis until a rulemaking could be completed.

CG-CVC Policy Letter 15-03 intended to increase the number of qualified applicants for a national officer endorsement, which will 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 and Documentation (MMLD) system was used to estimate the number of mariners that may be affected by this rule. The data available from 2016–2018 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 final rule will 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 requirement for recent sea service to qualify for an MMC with a national officer endorsement. Although this final rule will provide increased flexibility to applicants for an MMC, the Coast Guard cannot conclusively determine how many individuals will take advantage of this flexibility or estimate the impact of increasing the period from 3 years to 7 years on the number of total qualified merchant mariners—therefore, we did not estimate costs. 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 between 2016–2018. The Coast Guard did not receive any public comments to supplement this analysis and no additional data has become available. Therefore, we are unable to determine the source of the increase in national officer endorsements issued with sea service on vessels of the uniformed services (see table 1).

Table 1: Summary of the Impacts of the Final Rule

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 final rule will only provide increasing flexibility for qualified merchant mariners.
Unit Fee and Wage estimates (these are no costs for the final rule)	Unit costs for individuals who will take advantage of the flexibility provided by the rule include the evaluation, examination, and issuance fees for an MMC—that ranges 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 that ranges 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 will 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

Section 7101(j)(1) of 46 U.S.C. applies to applicants that have 3 months of qualifying service on vessels of the uniformed services within the 7 years immediately preceding the date of application. The pool of applicants who will be affected by this final rule are 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 1.34 million military personnel serving in the U.S. armed forces, 683,063 personnel serving in the Reserve,⁶ and approximately 727,000 civilians employed by the uniformed services.^{7 8 9} To estimate the number of people potentially affected by this final rule, 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

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-affairs.html>, accessed March 26, 2019.

Armed forces and Reserves population data from <https://www.cna.org/pop-rep/2017/summary/summary.pdf>, accessed March 24, 2020. Readers can find the data in Table 1. U.S.

armed forces is 1.34 million (1,294,520 + 41,553). The Reserve is 683,063 (677,892 + 5,171). U.S. Public Health Service (PHS) public data, accessed 24 March 2020,

<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 will 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 prepositioning 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.

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:

- (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, of which 356 used prior service on vessels of the uniformed services to meet the requirements for the endorsement.¹⁰ This is

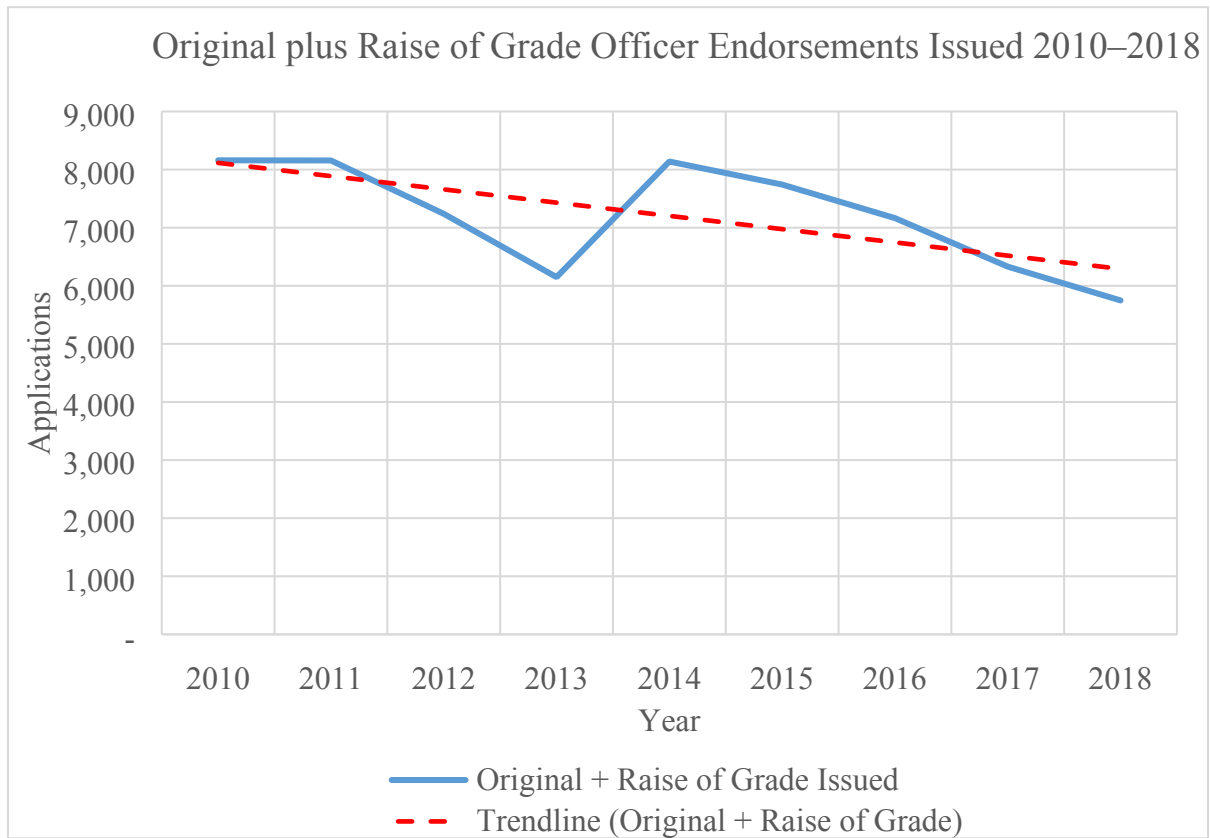
¹⁰ Qualification meaning prior service on vessels of the uniformed services to meet the requirement for recent sea service to qualify for a national officer endorsement.

equivalent to approximately 5.0 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 ($7,203$ 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).¹¹

¹¹ Slight errors may be due to rounding.

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



Costs Analysis

This final rule will 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, which is the current industry practice.

Therefore, we expect the rule to generate no cost to industry and the Federal Government.

Following the publication of CG-CVC Policy Letter 15-03, the 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.¹² As shown in table 2, the total number of national officer endorsements issued, either original or raise of grade, decreased approximately 20 percent from 2016–2018. 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 41 percent $[(501 - 356) \div 356]$.

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 rule expects to increase the number of qualified applicants for a national officer endorsements that will 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

¹² The data is available for years 2016–2018, which leads to a baseline year of 2016.

of the 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 are unable to 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 are also unable to conclusively estimate the impact of this rule 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 are unable to assign costs to this rule.

Although there are no costs for this rule, we present a unit cost estimate for a mariner to obtain an MMC. 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 3) to fill out the MMC application for submission to the NMC. However, because this rule will extend the period of time a mariner has to attain 3 months of qualifying sea service aboard vessels of the uniformed services from 3 years to 7 years, which has been the industry practice since 2015 when CG-CVC Policy Letter 15-03 went into effect, there is no cost associated with this change.

Because we cannot determine 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. However, we are able to provide the following assessment of government costs for clarification purposes only. 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 \$36.75.¹³ 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 final rule will 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 made by this final rule, 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 final rule 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 rule. The final rule will 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

¹³ Information provided by the NMC. The mean hourly wage rate for a GS-8 employee is \$49, “Outside Government Rate”, per Commandant Instruction 7310.1T, November 2018.

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 impact. While there was a 41 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 also a corresponding 20 percent decrease (see table 2) 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 41 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.

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.^{14 15} 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	\$27.83	\$18.84	1.477

Table 4. Loaded Wage Calculation

¹⁴ For officers: <https://www.bls.gov/oes/2018/may/oes535021.htm> and <https://www.bls.gov/oes/2018/may/oes535031.htm>; for ratings: <https://www.bls.gov/oes/2018/may/oes535011.htm>. The mean hourly wage figure is what is used in the Coast Guard calculation.

¹⁵ 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.

Personnel Category	Data Source	Mean Hourly Wage	Loaded Wage Factor	Loaded Wage (\$2018)
Deck Officers	Wage Rate: 2018 mean hourly wage for Captains, Mates, and Pilots of Water Vessels	\$39.61	1.477	\$58.50
Engine Officers	Wage Rate: 2018 mean hourly wage for Ship Engineers	\$36.40	1.477	\$53.76
Deck and Engine Ratings	Wage Rate: 2018 mean hourly wage for Sailors and Marine Oilers	\$22.20	1.477	\$32.79

*Numbers may not sum due to independent rounding.

We estimate the loaded hourly wage rate¹⁶ to be \$58.50 for Deck Officers and \$53.76 for Engine Officers, respectively. This equates to an average loaded mean hourly wage rate for officers of \$56.13.¹⁷ We estimate the loaded mean hourly wage rate of Deck and Engine ratings to be \$32.79.^{18 19}

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

¹⁶ 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 obtain the load factor, we used the multi-screen database and searched for “private industry workers” under “total compensation” and then for “Service providing” in the category “Production, transportation and materials moving Occupations”, within the United States. Similarly, we followed the same steps to get the value for “wages and salaries” to calculate the load factor, we used the series ID CMU201S000500000D and CMU202S000500000D and 2019 quarter 3. The loaded wage factor is equal to the total compensation of \$27.83 divided by the wages and salary of \$18.84 ($\$27.83 \div \$18.84 = 1.477$).

¹⁷ To get the average loaded hourly labor rate for ratings, the calculation is $(\$58.50 + \$53.76) \div 2 = \$56.13$.

¹⁸ All wage rates are in 2018 dollars.

¹⁹ Slight calculation adjustments may occur due to rounding.

hours in a 3-month, or 90-day period, to be 720 hours (90 working days, including weekends, multiplied by 8-hour working days).²⁰

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 \$23,608.80 ($\32.79×720). Using the calculated average loaded mean hourly wage rate for officers, we calculated the total wages for a 3-month time period to be \$40,413.60 ($\56.13×720).²¹ 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 \$16,804.80 ($\$40,413.60 - \$23,608.80$) 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 Wages²²
Deck and Engine Officers	\$56.13	720	\$40,413.60
Deck and Engine Ratings	\$32.79	720	\$23,608.80
Individual Difference (Impact)	-	-	(\$16,804.80)

In summary, although we were unable to estimate the impact of this rule on the number of merchant mariners available for employment on commercial vessels, we provide an estimate of the potential wage increases to the mariner if they are initially credentialed as an officer versus a rating. 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

²⁰ Per the subject matter expert, the working hours is 7 days a week, 8 hours per day.

²¹ Slight calculation adjustments may occur due to rounding.

²² Figures may not add due to rounding.

prerequisite service for an officer endorsement. A potential increase in the entry wage rate for the applicant, if they are able to take advantage of this opportunity, could lead to an improved quality of life for the mariners who will now qualify for an MMC with a national officer endorsement.

Regulatory Alternative Considered

In developing this rule, the Coast Guard considered the following alternative to this 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 Secretary's authority provided in 46 U.S.C. 7101(j)(1).

There are no other feasible alternatives that would be consistent with the policy goals of this rule. 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.

B. Small Entities

Under the Regulatory Flexibility Act (RFA), 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. The rule affects individuals and not companies who employ these individuals. The RFA does not consider individuals to be small entities. Additionally, this rule does not impose any costs on non-Federal entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. Because the data indicates that this rule will not result

in an increase in the number of applicants, it will 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 final 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 the subject matter in 46 U.S.C. 7101 concerning the issuance and classification of merchant marine officer credentials by the United States Coast Guard is to be given pre-emptive effect over any conflicting state laws. *See, e.g., United States v. Locke*, 529 U.S. 89 (2000) (finding that the states are foreclosed from regulating tanker vessels) *see also Ray v. Atlantic Richfield Co.*, 435 U.S. 151, 157 (1978) (state regulation is preempted where “the scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for

the States to supplement it [or where] the Act of Congress may touch a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.” (citations omitted)). Because this final rule involves the credentialing of mariners under 46 U.S.C. 7101, it relates to personnel qualifications for vessels subject to a pervasive scheme of federal regulation and is therefore foreclosed from regulation by the States. Because the States may not regulate within this category, this final rule is consistent with the fundamental federalism principles and preemption requirements in Executive Order 13132.

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 \$100,000,000 (adjusted for inflation) or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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 will not create an environmental risk to health or risk to safety that might 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 will 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. We have determined that it is not a “significant energy action” under Executive Order 13211, because although it is a “significant regulatory action” under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB’s Office of Information and Regulatory Affairs has not designated it as a significant energy action.

L. Technical Standards and Incorporation by Reference

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 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, Rev. 1, associated implementing instructions, 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), and have made a 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. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. This rule is categorically excluded under paragraph L56 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. Paragraph L56 pertains to the training, qualifying, licensing, and disciplining of maritime personnel. This rule involves

amending 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.

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 amends 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. 503; 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 by redesignating paragraph (c)(1) through (c)(6) as paragraph (c) introductory text through (c)(5) and revising newly redesignated (c)(1) to read as follows;

§ 11.201 General requirements for national and STCW officer endorsements.

* * * * *

(c) * * *

(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: August 12, 2020

R.V. TIMME,
Rear Admiral, U.S. Coast Guard,
Assistant Commandant for Prevention Policy.

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