

## § 125.45

## 33 CFR Ch. I (7-1-01 Edition)

the right to control the sequence of witnesses called by him.

(i) The Hearing Board shall give due consideration to documentary evidence developed by investigation, including membership cards, petitions bearing the applicant's or holder's signature, books, treatises or articles written by the applicant or holder and testimony by the applicant or holder before duly constituted authority.

(j) Complete verbatim stenographic transcription shall be made of the hearing by qualified reporters and the transcript shall constitute a permanent part of the record. Upon request, the applicant or holder or his counsel or representative shall be furnished, without cost, a copy of the transcript of the hearing.

(k) The Board shall reach its conclusion and base its determination on information presented at the hearing, together with such other information as may have been developed through investigation and inquiries or made available by the applicant or holder.

(l) If the applicant or holder fails, without good cause shown to the satisfaction of the chairman, to appear personally or to be represented before the Hearing Board, the Board shall proceed with consideration of the matter.

(m) The recommendation of the Hearing Board shall be in writing and shall be signed by all members of the Board. The Board shall forward to the Commandant, with its recommendation, a memorandum of reasons in support thereof. Should any member be in disagreement with the majority a dissent should be noted setting forth the reasons therefor. The recommendation of the Board, together with the complete record of the case, shall be sent to the Commandant as expeditiously as possible.

### § 125.45 Action by Commandant.

(a) If, upon receipt of the Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an appli-

cant, direct that a Coast Guard Port Security Card be issued to the applicant, or, in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall:

(1) In the case of an applicant, notify him that a Coast Guard Port Security Card will not be issued to the applicant, or,

(2) In the case of a holder, revoke and require the surrender of his Coast Guard Port Security Card.

(c) Such applicant or holder shall be notified of his right, and shall have 20 days from the receipt of such notice within which, to appeal under this part.

### § 125.47 Appeals.

(a) The Commandant shall establish at Coast Guard Headquarters, Washington, DC, an Appeal Board to hear appeals provided for in this part. The Commandant shall designate for the Appeal Board a Chairman, who shall be so far as practicable, an officer of the Coast Guard. The Commandant shall designate, so far as practicable, a member from a panel of persons representing management nominated by the Secretary of Labor, and a member from a panel of persons representing labor nominated by the Secretary of Labor. The Commandant shall insure that persons designated as Appeal Board members have suitable security clearance. The Chairman of the Appeal Board shall make all arrangements incident to the business of the Appeal Board.

(b) If an applicant or holder appeals to the Appeal Board within 20 days after receipt of notice of his right to appeal under this part, his appeal shall be handled under the same procedure as that specified in § 125.39, and the privilege of challenge may be exercised through the same procedure as that specified in § 125.41.

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(c) Appeal Board proceedings shall be conducted in the same manner as that specified in §125.43.

### § 125.49 Action by Commandant after appeal.

(a) If, upon receipt of the Appeal Board's recommendation, the Commandant is satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, he shall, in the case of an applicant, direct that a Coast Guard Port Security Card be issued to the applicant, or in the case of a holder, notify him accordingly.

(b) If, upon receipt of the Appeal Board's recommendation, the Commandant is not satisfied that the character and habits of life of the applicant or holder are such as to warrant the belief that his presence on waterfront facilities, and port and harbor areas, including vessels and harbor craft therein, would not be inimical to the security of the United States, the Commandant shall notify the applicant or holder that his appeal is denied.

### § 125.51 Replacement of lost Coast Guard Port Security Card.

(a) Any person whose Coast Guard Port Security Card has been stolen, lost, or destroyed shall report that fact to a Coast Guard Port Security Unit or Captain of the Port as soon thereafter as possible.

(b) A person who has lost a Coast Guard Port Security Card may apply for a replacement card by submitting "An Application for Replacement of Lost Port Security Card" (Form CG 2685A) to a Coast Guard Port Security Unit. A replacement will be issued only after a full explanation of the loss of the Coast Guard Port Security Card is made in writing to the Coast Guard and after a full check is made and authorization is granted by the Commandant.

(c) Any person to whom a Coast Guard Port Security Card has been issued as a replacement for a lost card, shall immediately surrender the original card to the nearest Coast Guard

Port Security Unit or Captain of the Port if the original card should be recovered.

### § 125.53 Requirements for credentials; certain vessels operating on navigable waters of the United States (including the Great Lakes and Western Rivers).

(a) Every person desiring access to vessels, except public vessels, falling within any of the categories listed below, as a master, person in charge, or member of the crew thereof, shall be required to be in possession of one of the identification credentials listed in §125.09.

(1) Towing vessels, barges, and lighters operating in the navigable waters of the continental United States other than the Great Lakes and Western Rivers.

(2) Harbor craft, such as water taxis, junk boats, garbage disposal boats, bum boats, supply boats, repair boats, and ship cleaning boats, which in the course of their normal operations service or contact vessels, foreign or domestic, public or merchant, in the navigable waters of the continental United States other than the Great Lakes and Western Rivers.

(b) The term "master, person in charge, or member of the crew" shall be deemed to include any person who serves on board in any capacity concerned with the operation, maintenance, or administration of the vessel or its cargo.

(c) Where the Coast Guard Port Security Card (Form CG 2514) is to be used as the identification required by paragraph (a) of this section, application for such card may be made immediately by the persons concerned. The issuance of the Coast Guard Port Security Card shall be in the form and manner prescribed by §125.11.

(d) At the discretion of the District Commander any person desiring access to vessels of the categories named in this section, who may be required by the provisions hereof to possess identification credentials, may be furnished a letter signed by the District Commander or the Captain of the Port and this letter shall serve in lieu of a Coast Guard Port Security Card and will authorize such access for a period not to exceed 60 days, and such a letter issued