

on failure to timely file the required financial statements, data, notifications, or affidavits, the revocation is effective 10 days after the date of the notice of intention to revoke, unless, before revocation, the certificant demonstrates to the satisfaction of the Director, NPFC, that the required documents were timely filed or have been filed.

(f) If the intended denial is based on paragraph (a)(1) or (a)(4) of this section, or the intended revocation is based on paragraph (b)(1) or (b)(2) of this section, the applicant or certificant may request, in writing, an opportunity to present information for the purpose of showing that the applicant or certificant is in compliance with the part. The request must be received by the Director, NPFC, within 10 days after the date of the notification of intention to deny or revoke. A Certificate subject to revocation under this paragraph remains valid until the Director, NPFC, issues a written decision revoking the Certificate.

(g) An applicant or certificant whose Certificate has been denied under paragraph (a) of this section or revoked under paragraph (b) or (c) of this section may request the Director, NPFC, to reconsider the denial or revocation. The certificant shall file a request for reconsideration, in writing, to the Director, NPFC, within 20 days of the date of the denial or revocation. The certificant shall state the reasons for reconsideration. The Director, NPFC, issues a written decision on the request within 30 days of receipt, except that failure to issue a decision within 30 days shall be deemed an affirmance of a denial or revocation. Until the Director, NPFC, issues this decision, a revoked certificate remains invalid. A decision by the Director, NPFC, affirming a denial or revocation, is final agency action.

§ 138.130 Fees.

(a) The Director, NPFC, will not issue a Certificate until the fees set forth in paragraphs (c) and (d) of this section have been paid.

(b) Fees must be paid in United States currency by check, draft, or postal money order made payable to the "U.S. Coast Guard". Cash will not be accepted.

(c) Except as provided in §138.70(c), an applicant that submits an application for the first time under this part, shall pay an initial, non-refundable application fee of \$150 for each type of application (i.e., individual Certificate(s), Fleet Certificate, and Master Certificate). An applicant that submits an application for an additional (i.e., supplemental) individual Certificate, or to replace, amend or renew an existing Certificate, is not required to pay a new application fee. However, if an applicant for any reason withdraws or permits the withdrawal of an application for an individual Certificate(s) and the applicant holds no valid individual Certificate(s), in order to reapply for an individual Certificate(s) covering the same or different vessels the applicant shall submit a new application form and an application fee of \$150. Similarly, an applicant shall submit a new application form and fee to obtain a new Fleet or Master Certificate following invalidation of a Fleet or Master Certificate.

(d) In addition to the application fee of \$150, an applicant shall also pay a certification fee of \$80 for each Certificate requested. An applicant shall submit the certification fee for each vessel listed in, or later added to, an application for an individual Certificate(s). An applicant shall submit the \$80 certification fee to renew or to reissue a Certificate for any reason, including, but not limited to, a vessel or operator name change or a lost certificate.

(e) A certification fee is refunded, upon receipt of a written request, if the application is denied or withdrawn before issuance of the Certificate. Overpayments of application and certification fees are refunded, on request, only if the refund is for \$50 or more. However, any overpayments not refunded will be credited, for a period of three years from the date of receipt of the monies by the Coast Guard, for the applicant's possible future use or transfer to another applicant under this part.

§ 138.140 Enforcement.

(a) Any person who fails to comply with this part with respect to evidence of financial responsibility under section 1016 of OPA 90 (33 U.S.C. 2716) is

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subject to a civil penalty. In addition, under section 4303(b) of that Act (33 U.S.C. 2716a(b)), the Attorney General may secure such relief as may be necessary to compel compliance with this part including termination of operations. Further, any person who fails to comply with this part with respect to evidence of financial responsibility under section 108(a)(1) of CERCLA (42 U.S.C. 9608(a)(1)), is subject to a Class I administrative civil penalty and a Class II administrative civil penalty or judicial penalty.

(b) The Secretary of the Treasury shall withhold or revoke the clearance required by 46 U.S.C. App. 91 to any vessel subject to this part that does not produce evidence of financial responsibility required by this part.

(c) The Coast Guard may deny entry to any port or place in the United States or the navigable waters of the United States, and may detain at a port or place in the United States in which it is located, any vessel subject to this part, which, upon request, does not produce evidence of financial responsibility required by this part.

(d) Any vessel subject to this part which is found in the navigable waters without the necessary evidence of financial responsibility is subject to seizure by and forfeiture to the United States.

(e) Knowingly and willfully using an invalid Certificate, or any copy thereof, is fraud.

[CGD 91-005, 59 FR 34227, July 1, 1994, as amended by CGD 96-052, 62 FR 16703, Apr. 8, 1997]

§ 138.150 Service of process.

(a) When executing the forms required by this part, each applicant and guarantor shall designate thereon a person located in the United States as its agent for service of process for purposes of this part and for receipt of notices of designations and presentations of claims under the Acts (collectively referred to as "service of process"). Each designated agent shall acknowledge the designation in writing unless

the agent has already furnished the Director, NPFC, with a "master" (i.e., blanket) concurrence showing that it has agreed in advance to act as the United States agent for service of process for the applicant, certificant, or guarantor in question.

(b) If any applicant, certificant, or guarantor desires, for any reason, to change any designated agent, the applicant, certificant, or guarantor shall notify the Director, NPFC, of the change and furnish the relevant information, including the new agent's acknowledgment in accordance with paragraph (a) of this section, if a "master" concurrence is not applicable. In the event of death, disability, or unavailability of a designated agent, the applicant, certificant, or guarantor shall designate another agent in accordance with paragraph (a) of this section within 10 days of knowledge of any such event. The applicant, certificant, or guarantor shall submit the new designation to the Director, NPFC. The Director, NPFC, may revoke a certificate if an applicant, certificant, or guarantor fails to designate and maintain an agent for service of process.

(c) If a designated agent can not be served because of death, disability, unavailability, or similar event and another agent has not been designated under this section, then service of process on the Director, NPFC, will constitute valid service of process. Service of process on the Director, NPFC, will not be effective unless the server—

(1) Sends the applicant, certificant, or guarantor (by registered mail, at its last known address on file with the Director, NPFC), a copy of each document served on the Director, NPFC; and

(2) Attests to this registered mailing, at the time process is served upon the Director, NPFC, indicating that the intent of the mailing is to effect service of process on the applicant, certificant, or guarantor and that service on the designated agent is not possible, stating the reason why.