

(B) Of an offense that would prevent the issuance or renewal of the license, certificate, or document; or

(C) Of an offense described in subparagraph 205(a)(3)(A) or (B) of the National Driver Register Act of 1982 (23 U.S.C. 401, note); and

(ii) The respondent submits a specific order of court to the effect that the conviction has been unconditionally set aside for all purposes.

(2) The ALJ, however, may not rescind his or her order on account of any law that provides for a subsequent conditional setting-aside, modification, or expunging of the order of court, by way of granting clemency or other relief after the conviction has become final, without regard to whether punishment was imposed.

(f) Three years or less after an S&R proceeding has resulted in revocation of a license, certificate, or document, the respondent may file a motion for reopening of the proceeding to modify the order of revocation with the ALJ Docketing Center.

(1) Any motion to reopen the record must clearly state why the basis for the order of revocation is no longer valid and how the issuance of a new license, certificate, or document is compatible with the requirement of good discipline and safety at sea.

(2) Any party who does not respond to any petition to reopen the record waives any objection to the motion.

Subpart J—Appeals

§ 20.1001 General.

(a) Any party may appeal the ALJ's decision by filing a notice of appeal. The party shall file the notice with the U. S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022. The party shall file the notice 30 days or less after issuance of the decision, and shall serve a copy of it on the other party and each interested person.

(b) No party may appeal except on the following issues:

(1) Whether each finding of fact is supported by substantial evidence.

(2) Whether each conclusion of law accords with applicable law, precedent, and public policy.

(3) Whether the ALJ abused his or her discretion.

(4) The ALJ's denial of a motion for disqualification.

(c) No interested person may appeal a summary decision except on the issue that no hearing was held or that in the issuance of the decision the ALJ did not consider evidence that that person would have presented.

(d) The appeal must follow the procedural requirements of this subpart.

§ 20.1002 Records on appeal.

(a) The record of the proceeding constitutes the record for decision on appeal.

(b) If the respondent requests a copy of the transcript of the hearing as part of the record of proceeding, then,—

(1) If the hearing was recorded at Federal expense, the Coast Guard will provide the transcript on payment of the fees prescribed in 49 CFR 7.45; but,

(2) If the hearing was recorded by a Federal contractor, the contractor will provide the transcript on the terms prescribed in 49 CFR 7.45.

§ 20.1003 Procedures for appeal.

(a) Each party appealing the ALJ's decision or ruling shall file an appellate brief with the Commandant at the following address: U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022, and shall serve a copy of the brief on every other party.

(1) The appellate brief must set forth the appellant's specific objections to the decision or ruling. The brief must set forth, in detail, the—

(i) Basis for the appeal;

(ii) Reasons supporting the appeal; and

(iii) Relief requested in the appeal.

(2) When the appellant relies on material contained in the record, the appellate brief must specifically refer to the pertinent parts of the record.

(3) The appellate brief must reach the Docketing Center 60 days or less after service of the ALJ's decision. Unless filed within this time, or within another time period authorized in writing by the Docketing Center, the brief will be untimely.