

**§ 1.01-30**

**46 CFR Ch. I (10-1-04 Edition)**

Chief of one of the offices within Marine Safety and Environmental Protection at Headquarters. In most administrative cases the channel ends at this point; however, on matters of policy and other appropriate cases, the course continues to the Assistant Commandant for Marine Safety and Environmental Protection, and then to the Commandant, whose decisions are final.

(c) In proceedings involving the suspension or revocation of a Coast Guard license, certificate or document issued to an individual, the course and method by which such proceedings are channeled are as follows:

(1) In the United States, the Commonwealth of Puerto Rico, Territory of Guam, the Virgin Islands, and other possessions, the proceedings are initiated by the bringing of charges and specifications against the holder of the Coast Guard license, certificate or document. A Coast Guard Investigating Officer under the supervision of an Officer in Charge, Marine Inspection, or an Officer in Charge, Marine Inspection causes the charges and specifications to be served on the person described therein (person charged) who is a holder of a Coast Guard license, certificate or document. At a hearing the Coast Guard submits evidence to support the charges and specifications, while the person charged may submit evidence in rebuttal or mitigation. The Administrative Law Judge renders a decision on the basis of the evidence adduced at the hearing and the law. The Administrative Law Judge's decision is given to the person charged.

(i) In a case where an appeal is made by the person charged, the notice of appeal is filed with the Administrative Law Judge who heard the case or with any Officer in Charge, Marine Inspection, for forwarding to such Administrative Law Judge.

(ii) [Reserved]

(2) [Reserved]

(d) In the performance of their duties, all Coast Guard Administrative Law Judges are bound by law and the regulations in this chapter or in 33 CFR chapter I. Statements of policy, clarification of points of procedure, and general administrative instructions are published in *Administrative*

*Law Judges' Circulars and Administrative Law Judges' Internal Practices and Procedures Series*. The Chief Administrative Law Judge, located in the Office of the Commandant, U.S. Coast Guard, maintains a complete file of these publications for reading purposes during normal working hours.

[CGD 88-033, 54 FR 50376, Dec. 6, 1989, as amended by CGD 96-041, 61 FR 50725, Sept. 27, 1996; CGD 97-057, 62 FR 51040, 51041, Sept. 30, 1997; USCG-2004-18884, 69 FR 58341, Sept. 30, 2004]

**§ 1.01-30 Judicial review.**

(a) Nothing in this chapter shall be construed to prohibit any party from seeking judicial review of any Commandant's decision or action taken pursuant to the regulations in this part or part 5 of this chapter with respect to suspension and revocation proceedings arising under 46 U.S.C. chapter 77.

(b) If the person found guilty of any offense fails to make a timely appeal, the decision of the Administrative Law Judge is final and binding on the person charged as of the date that the decision is delivered to the person charged or his authorized representative.

**§ 1.01-35 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and record keeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 2.01 .....	1625-0002
§ 2.95-10 .....	1625-0035
§ 3.10 .....	1625-0014
Part 4 .....	1625-0001
Part 6 .....	1625-0002

[CGD 88–033, 54 FR 50376, Dec. 6, 1989, as amended by USCG–2004–18884, 69 FR 58341, Sept. 30, 2004]

### Subpart 1.03—Rights of Appeal

AUTHORITY: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Public Law 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 1070; §1.01–35 also issued under the authority of 44 U.S.C. 3507.

#### § 1.03–10 Definition of terms used in this subpart.

(a) The term *recognized classification society* means the American Bureau of Shipping or other classification society recognized by the Commandant.

(b) The term *new vessel* means:

(1) For vessels which require a Certificate of Inspection, a new vessel is a vessel which has not received an initial Certificate of Inspection.

(2) For vessels which do not require a Certificate of Inspection, a new vessel is a vessel which has not received a Load Line assignment.

(c) The term *existing vessel* means a vessel which is not a new vessel.

#### § 1.03–15 General.

(a) Any person directly affected by a decision or action taken under this chapter or under chapter III of this title, by or on behalf of the Coast Guard, except for matters covered by subpart J of part 5 of this chapter dealing with suspension-and-revocation hearings, shall follow the procedures contained in this section when requesting that the decision or action be reviewed, set aside, or revised.

(b) When requesting that a decision or action be reconsidered or reviewed, as may be required by this subpart, such request must be made within 30 days after the decision is rendered or the action is taken.

(c) When making a formal appeal of a decision or action, as permitted by this subpart, such appeal must be submitted in writing and received by the authority to whom the appeal is required to be made within 30 days after the decision or action being appealed, or within 30 days after the last administrative action required by this subpart. Upon written request and for good cause, the 30 day time limit may

be extended by the authority to whom the appeal is required to be made.

(d) A formal appeal must contain a description of the decision or action being appealed and the appellant's reason(s) why the decision or action should be set aside or revised.

(e) When considering an appeal, the Commandant or a District Commander may stay the effect of a decision or action being appealed pending determination of the appeal.

(f) While a request for reconsideration or review or a formal appeal is pending, the original decision or action remains in effect, unless otherwise stayed under paragraph (e) of this section.

(g) The Commandant may delegate authority to act on administrative appeals under this subpart to the Assistant Commandant for Marine Safety and Environmental Protection, and appropriate office chiefs within Marine Safety and Environmental Protection.

(h) Formal appeals made to the Commandant shall be addressed to:

(1) Commandant (G–MOC) for appeals involving vessel inspection issues, load line issues, and vessel manning issues;

(2) Commandant (G–MS) for appeals involving vessel plan review or tonnage measurement issues;

(3) Commanding Officer, National Maritime Center, for appeals involving vessel documentation issues, marine personnel issues, including medical waivers, and suspension or withdrawal of course approvals; or

(4) Commandant (G–MSE) for appeals involving the recognition of a classification society.

(5) Commandant (G–M) for appeals involving decisions or actions of the Director, Great Lakes Pilotage.

(i) Failure to submit a formal appeal in accordance with the procedures and time limits contained in this subpart results in the decision or action becoming final agency action.

(j) Any decision made by the Commandant, or by the Assistant Commandant for Marine Safety and Environmental Protection, or by an office chief pursuant to authority delegated