

Coast Guard, DHS

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§ 10.111 Penalties.

(a) Anyone who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

(b) The Coast Guard may assess additional charges to anyone to recover collection and enforcement costs associated with delinquent payments of, or failure to pay, a fee. Coast Guard licensing services may also be withheld from anyone pending payment of outstanding fees owed to the Coast Guard for services already provided by Regional Examination Centers.

[CGD 91-002, 58 FR 15237, Mar. 19, 1993]

§ 10.112 No-fee license for certain applicants.

(a) For the purpose of this section, a no-fee license applicant is a person who is a volunteer, or part-time or full-time employee of an organization which is:

- (1) Charitable in nature;
- (2) Not for profit; and
- (3) Youth oriented.

(b) An organization may submit a written request to Commanding Officer, U.S. Coast Guard National Maritime Center, 4200 Wilson Boulevard, Suite 630, Arlington, VA 22203-1804 in order to be considered an eligible organization under the criteria set forth in paragraph (a) of this section. With the written request, the organization must provide evidence of its status as a youth oriented, not for profit, charitable organization.

NOTE: The following organizations are accepted by the Coast Guard as meeting the requirements of paragraph (a) of this section and need not submit evidence of their status: Boy Scouts of America, Sea Explorer Association, Girl Scouts of the United States of America, and Young Men's Christian Association of the United States of America.

(c) A letter from an organization determined eligible under paragraph (b) of this section must also accompany the person's license application to the Coast Guard. The letter must state that the purpose of the person's application is solely to further the conduct of the organization's maritime activities. The applicant then is eligible under this section to obtain a no-fee li-

cence if other requirements for the license are met.

(d) A marine license issued to a person under this section is endorsed restricting its use to vessels owned or operated by the sponsoring organization.

(e) The holder of a no-fee license issued under this section may have the restriction removed by paying the appropriate evaluation, examination, and issuance fees that would have otherwise applied.

[CGD 91-002, 58 FR 15238, Mar. 19, 1993, as amended by CGD 95-072, 60 FR 50460, Sept. 29, 1995; CGD 96-041, 61 FR 50726, Sept. 27, 1996; CGD 97-057, 62 FR 51042, Sept. 30, 1997; USCG-2001-10224, 66 FR 48619, Sept. 21, 2001]

Subpart B—General Requirements for All Licenses and Certificates of Registry

§ 10.201 Eligibility for licenses and certificates of registry, general.

(a) The applicant for a license or certificate of registry, whether original, renewal, duplicate, or raise of grade, must establish to the satisfaction of the Coast Guard that he or she possesses all the qualifications necessary (including but not limited to age, experience, character references and recommendations, physical health, citizenship, approved training, passage of a professional examination, a test for dangerous drugs, and when required by this part, a practical demonstration of skills) before the Coast Guard will issue a license or certificate of registry.

(b) No person who has been convicted of a violation of the dangerous drug laws of the United States, the District of Columbia, any State, territory, or possession of the United States, or a foreign country, by any military or civilian court, is eligible for a license or certificate of registry, except as provided by the provisions of paragraph (h) of this section. No person who has ever been the user of, or addicted to, a dangerous drug, or has ever been convicted of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304)

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because of addiction to or abuse of alcohol is eligible for a license or certificate of registry, unless he or she furnishes satisfactory evidence of suitability for service in the merchant marine as provided in paragraph (j) of this section.

(c) Except as provided in § 10.467(h) of the part, an applicant for a license must demonstrate an ability to speak and understand English as found in the navigation rules, aids to navigation publications, emergency equipment instructions, machinery instructions, and radiotelephone communications instructions.

(d) An applicant for a license must meet the requirements for recent service specified in § 10.202(e).

(e) No license or certificate of registry may be issued to any person who is not a citizen of the United States with the exception of operator of uninspected passenger vessels limited to vessels not documented under the laws of the United States.

(f) Except as specified in this paragraph, no license or certificate of registry may be issued to a person who has not attained the age of 21 years.

(1) A license as master of near coastal, Great Lakes and inland, inland, or river vessels of 25-200 gross tons, third mate, third assistant engineer, mate of vessels of 200-1600 gross tons, ballast control operator, assistant engineer (MODU), assistant engineer of fishing industry vessels, mate (pilot) of towing vessels, radio officer, assistant engineer (limited-oceans), or designated duty engineer of vessels of not more than 4000 horsepower may be granted to an applicant who has reached the age of 19 years.

(2) A license as limited master of near coastal vessels of not more than 100 gross tons, limited master of Great Lakes and inland vessels of not more than 100 gross tons, mate of Great Lakes and inland vessels of 25-200 gross tons, mate of near coastal vessels of 25-200 gross tons, operator of uninspected passenger vessels, or designated duty engineer of vessels of not more than 1,000 horsepower, or apprentice mate (steersman) of towing vessels, may be granted to an applicant, otherwise qualified, who has reached the age of 18 years.

(g) Persons serving or intending to serve in the merchant marine service are recommended to take the earliest opportunity of ascertaining, through examination, whether their visual acuity, and color vision where required, are such as to qualify them for service in that profession. Any physical impairment or medical condition which would render an applicant incompetent to perform the ordinary duties of an officer at sea is cause for denial of a license.

(h) *Criminal record review.* The Coast Guard will review the criminal record of an applicant before the issuance of a license or certificate of registry. An applicant conducting simultaneous transactions for merchant mariner's credentials will undergo only one criminal record check. Applicants must provide written disclosure of all prior convictions at the time of application.

(1) The Coast Guard will use the fingerprints submitted pursuant to § 10.105(b) to obtain a criminal record report. An applicant's criminal record report may be used to determine that an applicant's character and habits of life are such that the applicant cannot be entrusted with the duties and responsibilities of the license or certificate of registry. Should such a determination be made, the application may be disapproved. If an application is disapproved, the Coast Guard will advise the applicant in writing that the reconsideration and appeal procedures in subpart 1.03 of this chapter apply and will, in appropriate circumstances, notify the applicant of the reason(s) for disapproval. The Coast Guard will not administer a written examination until final agency action has been made on the applicant's appeal.

(2) The OCMI may use table 10.201(h) to evaluate applicants for licenses and certificates of registry who have criminal convictions. The table lists major categories of criminal activity and is not to be construed as an all-inclusive list. If an applicant is convicted of an offense that does not appear on the list, the OCMI will establish an appropriate assessment period using the list as a guide. The assessment period commences when an applicant is no longer

incarcerated. The applicant must establish proof of the time incarcerated and periods of probation and parole to the satisfaction of the OCMI. The assessment period may include supervised or unsupervised probation or parole. A conviction for a drug offense more than 10 years prior to the date of application will not alone be grounds for denial.

(3) When an applicant has convictions for more than one offense, the minimum assessment period will be the longest minimum in table 10.201(h) and table 10.201(i) based upon the applicant's convictions; the maximum assessment period will be the longest shown in table 10.201(h) and table 10.201(i) based upon the applicant's convictions.

(4) If a person with a criminal conviction applies for a license or certificate of registry before the minimum assessment period shown in table 10.201(h), or established by the OCMI under paragraph (h)(2) of this section has elapsed, then the applicant must provide evidence of suitability for service in the merchant marine. Factors which are evidence of suitability for service in the merchant marine are listed in paragraph (j) of this section. The OCMI will consider the applicant's evidence and may issue the license or certificate of registry in less than the listed minimum assessment period if the OCMI is satisfied that the applicant is suitable to hold the license or certificate of registry for which he or she has applied. If an applicant does not provide evidence of suitability for service in the merchant marine, then the application will be considered incomplete and will not be processed by the OCMI.

(5) If a person with a criminal conviction applies for a license or certificate of registry during the time between the minimum and maximum assessment periods shown in table 10.201(h) or established by the OCMI under paragraph (h)(2) of this section, the OCMI will consider the conviction and, unless there are offsetting factors, may grant the applicant the license or certificate of registry for which he or she has applied. Offsetting factors include multiple convictions, failure to comply with court orders (e.g., child support orders), previous failures at rehabilitation or reform, inability to maintain steady employment, or any connection between the crime and the safe operation of a vessel. If the OCMI considers the applicant unsuitable for service in the merchant marine at the time of application, the OCMI will disapprove the application.

(6) If a person with a criminal conviction applies for a license or certificate of registry after the maximum assessment period shown in table 10.201(h) or established by the OCMI under paragraph (h)(2) of this section has elapsed, then the OCMI will grant the applicant the license or certificate of registry for which he or she has applied unless the OCMI has reason to believe the applicant is still unsuitable for service in the merchant marine. If the OCMI disapproves an application based upon a conviction older than the maximum assessment period, the OCMI will notify the applicant in writing of the reason(s) for the disapproval. The OCMI will also inform the applicant, in writing, that the reconsideration and appeal procedures contained in §1.03 of this chapter apply.

TABLE 10.201(h)—GUIDELINES FOR EVALUATING APPLICANTS FOR LICENSES AND CERTIFICATES OF REGISTRY WHO HAVE CRIMINAL CONVICTIONS

Crime ¹	Assessment periods	
	Minimum	Maximum
Crimes Against Persons		
Homicide (intentional)	7 years	20 years.
Homicide (unintentional)	5 years	10 years.
Assault (aggravated)	5 years	10 years.
Assault (simple)	1 year	5 years.
Sexual Assault (rape, child molestation)	5 years	10 years.
Robbery	5 years	10 years.
Other crimes against persons ² .		

TABLE 10.201(h)—GUIDELINES FOR EVALUATING APPLICANTS FOR LICENSES AND CERTIFICATES OF REGISTRY WHO HAVE CRIMINAL CONVICTIONS—Continued

Crime ¹	Assessment periods	
	Minimum	Maximum
Crimes Against Property		
Burglary	3 years	10 years.
Larceny (embezzlement)	3 years	5 years.
Other crimes against property ² .		
Vehicular Crimes		
Conviction involving fatality	1 year	5 years.
Reckless Driving	1 year	2 years.
Racing on the Highways	1 year	2 years.
Other vehicular crimes ² .		
Crimes Against Public Safety		
Destruction of Property	5 years	10 years.
Other crimes against public safety ² .		
Crimes Involving National Security		
Terrorism, Acts of Sabotage, Espionage and related offenses	7 years	20 years.
Criminal Violations of Environmental Laws		
Criminal violations of environmental laws involving improper handling of pollutants or hazardous materials.	1 year	10 years.
Dangerous Drug Offenses^{3,4,5}		
Trafficking (sale, distribution, transfer)	5 years	10 years.
Dangerous drugs (Use or possession)	1 year	10 years.
Other dangerous drug convictions ⁶ .		

¹ Conviction of attempt, solicitation, aiding and abetting, accessory after the fact, and conspiracy to commit the criminal conduct listed in this table carry the same minimum and maximum assessment periods provided in the table.

² Other crimes are to be reviewed by the OCMI to determine the minimum and maximum assessment periods depending on the nature of the crime.

³ Applicable only to original applications for licenses or CORs. Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements of paragraph (b) of this section. Note: Applicants for reissue of a license or COR with a new expiration date including a renewal or a raise of grade, who have been convicted of a dangerous drug offense while holding a license or COR, may have their applications withheld until appropriate action has been completed by the OCMI under the regulations which appear in 46 CFR part 5 governing administrative actions against merchant mariner credentials.

⁴ The OCMI may consider dangerous drug convictions more than 10 years old only if there has been a dangerous drug conviction within the past 10 years.

⁵ Applicants must demonstrate rehabilitation under paragraph (j) of this section, including applicants with dangerous drug use convictions more than ten years old.

⁶ Other dangerous drug convictions are to be reviewed by the Officer in Charge, Marine Inspection on a case by case basis to determine the appropriate assessment periods depending on the nature of the offense.

(i) *National Driver Register*. A license or certificate of registry will not be issued as an original or reissued with a new expiration date unless the applicant consents to a check of the NDR for offenses described in section 205(a)(3) (A) or (B) of the NDR Act (i.e., operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; and any traffic violations arising in connection with a fatal traffic accident, reckless driving, or racing on the highways). The OCMI will not consider NDR listed civil convictions that are

more than 3 years old from the date of request unless that information relates to the current suspension or revocation of the applicant's license to operate a motor vehicle. The OCMI may determine minimum and maximum assessment periods for NDR listed criminal convictions using table 10.201(h). An applicant conducting simultaneous merchant mariner's credential transactions is subject to only one NDR check.

(1) Any application may be disapproved if information from the NDR check leads the OCMI to determine

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that the applicant cannot be entrusted with the duties and responsibilities of the license or certificate of registry for which the application is made. If an application is disapproved, the OCMI will notify the applicant in writing of the reason(s) for disapproval and advise the applicant that the appeal procedures in §1.03 of this chapter apply. No examination will be given pending decision on appeal.

(2) Prior to disapproving an application because of information received from the NDR, the OCMI will make the information available to the applicant for review and written comment. The applicant may submit records from the applicable State concerning driving record and convictions to the Coast Guard Regional Examination Center (REC) processing the application. The REC will hold an application with NDR listed convictions pending the completion of the evaluation and delivery by the individual of the underlying State records.

(3) The guidelines in table 10.201(i) will be used by the OCMI in evaluating applicants for licenses and certificates of registry who have drug or alcohol related NDR listed convictions. Non-drug

or alcohol related NDR listed convictions will be evaluated by the OCMI under table 10.201(h) as applicable.

(4) An applicant may request an NDR file check for *personal* use in accordance with the Federal Privacy Act of 1974 (Pub. L. 93-579) by contacting the NDR at the following address: National Driver Register, Nassif Building, 400 7th Street, SW., Washington, DC 20590.

(i) Applicants should request Form NDR-PRV or provide the following information on a notarized letter:

- (A) Full legal name;
- (B) Other names used;
- (C) Complete mailing address;
- (D) Driver license number;
- (E) Eye color;
- (F) Social security number;
- (G) Height;
- (H) Weight; and
- (I) Sex.

(ii) The NDR will respond to every valid inquiry including requests which produce no record(s) on the NDR file. Records can be made available, within a reasonable amount of time after the request, for personal inspection and copying during regular working hours at 7:45 a.m. to 4:15 p.m., each day except Federal holidays.

TABLE 10.201(i)—GUIDELINES FOR EVALUATING APPLICANTS FOR LICENSES AND CERTIFICATES OF REGISTRY WHO HAVE NDR MOTOR VEHICLE CONVICTIONS INVOLVING DANGEROUS DRUGS OR ALCOHOL ¹

No. of convictions	Date of conviction	Assessment period
1	Less than 1 year	1 year from date of conviction.
1	More than 1, less than 3 years ...	Application will be processed, unless suspension or revocation ² is still in effect. Applicant will be advised that additional conviction(s) may jeopardize merchant mariner credentials.
1	More than 3 years old	Not necessary unless suspension or revocation is still in effect.
2 or more	Any less than 3 years old	1 year since last conviction and at least 3 years from 2nd most recent conviction, unless suspension or revocation is still in effect.
2 or more	All more than 3 years old	Application will be processed unless suspension or revocation is still in effect.

¹ Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements of paragraph (b) of this section.

² Suspension or revocation, when referred to in table 10.201(i), means a State suspension or revocation of a motor vehicle operator's license.

(j) If an applicant has one or more alcohol or dangerous drug related criminal or NDR listed convictions; if the applicant has ever been the user of, or addicted to the use of, a dangerous drug; or if the applicant applies before the minimum assessment period for his or her conviction has elapsed; the OCMI may consider the following factors, as applicable, in assessing the ap-

plicant's suitability to hold a license or certificate of registry. This list is intended as a guide for the OCMI. The OCMI may consider other factors which he or she judges appropriate to a particular applicant, such as:

- (1) Proof of completion of an accredited alcohol- or drug-abuse rehabilitation program.

(2) Active membership in a rehabilitation or counseling group, such as Alcoholics Anonymous or Narcotics Anonymous.

(3) Character references from persons who can attest to the applicant's sobriety, reliability, and suitability for employment in the merchant marine including parole or probation officers.

(4) Steady employment.

(5) Successful completion of all conditions of parole or probation.

[CGD 81-059 and CGD 81-059a, 52 FR 38623 and 38666, Oct. 16, 1987, as amended by CGD 81-059, 54 FR 133, Jan. 4, 1989; CGD 81-059a, 55 FR 14799, Apr. 18, 1990; CGD 91-223, 60 FR 4524, Jan. 23, 1995; CGD 91-212, 60 FR 65484, Dec. 19, 1995; CGD 95-062, 62 FR 34529, June 26, 1997; USCG-1999-6224, 64 FR 63225, Nov. 19, 1999; USCG-2005-22329, 70 FR 57183, Sept. 30, 2005; USCG-2004-17455, 71 FR 2166, Jan. 13, 2006]

§ 10.202 Issuance of licenses, certificates of registry, and STCW certificates or endorsements.

(a) Applications for original licenses, original certificates of registry, raises of grade, extensions of route, or endorsements must be current and up-to-date with respect to service and the physical examination, as appropriate. Physical examinations and approved applications are valid for 12 months.

(b) Any person who is found qualified under the requirements set forth in this part is issued an appropriate license or certificate of registry valid for a term of 5 years from date of issuance. Any license or certificate of registry which is renewed or upgraded prior to its expiration date automatically becomes void upon issuance of the replacement license or certificate of registry.

(c) A license or certificate of registry is not valid until signed by the applicant and the OCMI (or the OCMI's designated representative).

(d) Every person who receives an original license or certificate of registry shall take an oath before a designated Coast Guard official that he or she will faithfully and honestly, according to his or her best skill and judgment, without concealment or reservation, perform all the duties required by law and obey all lawful orders of superior officers. Such an oath remains binding for all subsequent licenses or certificates of registry issued

to that person unless specifically renounced in writing.

(e) The applicant for any original license, endorsement, or raise of grade of license must have at least three months' qualifying service on vessels of appropriate tonnage or horsepower within the three years immediately preceding the date of application.

(f) Any applicant whose uncorrected vision exceeds 20/40 in either eye for deck licenses or 20/50 in either eye for engineer, radio officer, offshore installation manager, barge supervisor, or ballast control operator licenses may not serve under the authority of the license unless corrective lenses are worn and spare lenses are carried on board a vessel while serving. (Not applicable to staff officers).

(g) If an Officer in Charge, Marine Inspection, refuses to grant an applicant the license or certificate of registry for which applied, the OCMI will furnish the applicant, if requested, a written statement setting forth the cause of denial.

(h) The Officer in Charge, Marine Inspection, may modify the service and examination requirements in this part to satisfy the unique qualification requirements of an applicant. The Officer in Charge, Marine Inspection, may also lower the age requirement for operator of uninspected passenger vessels license applicants. The authority granted by a license will be restricted on its face to reflect any modifications made under the authority of this paragraph. Such restrictions shall not be removed without the approval of the OCMI issuing the license.

(i) To obtain an original issuance or a renewal of a license or a certificate of registry, a raise in grade of a license, or a higher grade of certificate of registry each applicant shall produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter. An applicant who fails a chemical test for dangerous drugs will not be issued a license or certificate of registry.

(j) When an original license is issued, renewed, upgraded, or otherwise modified, the OCMI will determine whether the holder of the license needs to hold an STCW certificate or endorsement