

Port or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI, and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners.

The Captain of the Port or designated representative may be contacted via U.S. Coast Guard Sector Lake Michigan on channel 16, VHF-FM.

Dated: August 27, 2008.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. E8-21223 Filed 9-10-08; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Parts 10 and 15

[Docket No. USCG-2006-26202]

RIN 1625-AB10

#### Training and Service Requirements for Merchant Marine Officers

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard amends certain regulations relating to mariner training and service. These regulatory changes remove the expiration date of the radar-observer endorsement from the merchant mariner's license, allow for an apprentice mate of towing vessels to reduce sea-service time for mate (pilot) of towing vessels by completing additional approved training, and provide an alternate path to mate (pilot) of towing vessels for master of steam or motor vessels of any tonnage that is 200 GRT or less. These changes are intended and expected to eliminate confusion and provide alternate training and service requirements for mate (pilot) of towing vessels.

**DATES:** This final rule is effective October 14, 2008.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2006-26202 and are available for inspection or copying at the Docket Management Facility (M-30),

U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Commander Kelly Post or Mr. Gerald Miente, CG-5221, Coast Guard, telephone 202-372-1401. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Table of Abbreviations
- II. Regulatory History
- III. Background and Purpose
- IV. Discussion of Comments and Changes
- V. Regulatory Evaluation
  - A. Executive Order 12866
  - B. Small Entities
  - C. Assistance for Small Entities
  - D. Collection of Information
  - E. Federalism
  - F. Unfunded Mandates Reform Act
  - G. Taking of Private Property
  - H. Civil Justice Reform
  - I. Protection of Children
  - J. Indian Tribal Governments
  - K. Energy Effects
  - L. Technical Standards
  - M. Environment

##### I. Table of Abbreviations

- GRT Gross Register Tons
- MMC Merchant Mariner's Credential
- NPRM Notice of Proposed Rulemaking
- OSV Offshore Supply Vessel
- SNPRM Supplemental Notice of Proposed Rulemaking
- TOAR Towing Officer Assessment Record
- TSAC Towing Safety Advisory Committee

##### II. Regulatory History

On September 17, 2007, we published a Notice of Proposed Rulemaking (NPRM) entitled "Training and Service Requirements for Merchant Marine Officers" in the **Federal Register** (72 FR 52841). The comment period closed on December 17, 2007. We received a total of 14 comments on the NPRM. No public meeting was requested, and none was held.

##### III. Background and Purpose

The revisions contained within this final rule: (1) Remove the expiration date of the radar-observer endorsement from the merchant mariner's license; (2) Allow for an apprentice mate of towing vessels to reduce required minimum sea-service time for mate (pilot) of

towing vessels by completing additional approved training; and (3) Provide an alternate path to mate (pilot) of towing vessels for a master of steam or motor vessels of any tonnage that is 200 gross register tons (GRT) or less.

(1) *Radar-observer endorsement:* A petition for rulemaking was submitted to the Coast Guard on March 10, 2005, by an industry working group called the Mid-America Regional Examination Center Workgroup. That petition identified problems associated with placing the expiration date for the radar-observer endorsement on the deck licenses of mariners operating vessels equipped with radar. The expiration date for the radar-observer endorsement may be different from the expiration date of the license itself, causing confusion as to the validity of the license.

A license is valid for a five-year period from the date it is issued by the Coast Guard. A radar-observer endorsement is also valid for five years, but that period begins after the month in which the certificate of training is issued. For original licenses, unless the radar training certificate was issued the month before the license is issued, the expiration date of the radar endorsement will be different than the expiration date of the license. For license renewals, existing 46 CFR 10.480(k) provides a one-time opportunity for a mariner to synchronize the expiration date of the radar endorsement with that of the license. That section does not, however, account for subsequent renewals which might also bring the dates out of alignment. The end result is that, currently, many licenses have conflicting radar endorsement expiration and license expiration dates printed on them.

When conflicting dates appear on the license, confusion may result. Moreover, licenses may need to be prematurely renewed or reissued with the new radar observer endorsement date when the mariner obtains a new radar training certificate. If the radar observer endorsement date is not printed on the license, this confusion would be avoided.

In reviewing the industry recommendation, it was recognized that changing the requirement would simplify the process of issuing the license and ease the burden on the Coast Guard, industry, and schools providing the training. Mariners will still be required to keep their radar-observer training current, but an endorsement evidencing that training will no longer be printed on their licenses. While they will still be required to hold current

radar training certificates to man vessels equipped with radar, as specified in 46 CFR 15.815, they will have up to 48 hours to produce a copy of their certificate upon request of the Coast Guard or other appropriate Federal agency.

(2) *Training programs*: A petition submitted by Kirby Towing Co. dated January 4, 2006, and the Report of the Licensing Implementation Working Group of the Towing Safety Advisory Committee (TSAC) dated October 3, 2005, identified difficulties with the service requirements for certification as a mate (pilot) of towing vessels. According to Kirby Towing Co. and TSAC, the requirements for an apprentice mate to become a mate (pilot) of towing vessels unnecessarily restrict and dampen the use of comprehensive long-term training programs.

We agree, and the corresponding regulatory change provides mariners and their employers the flexibility to use training programs, which the Coast Guard can accept as meeting a portion of the service requirements for mate (pilot) of towing vessels under 46 CFR 10.465(a).

(3) *Alternate progression*: A petition for rulemaking dated February 11, 2005, was submitted by Delta Towing Co. seeking an alternate path to obtain a license as mate (pilot) of towing vessels, and the Report of the Licensing Implementation Working Group of TSAC dated October 3, 2005, supported the Delta Towing Co. petition, recommending that the Coast Guard implement this change as quickly as possible. The petition recommended a path that could relieve a shortage of qualified towing vessel personnel, as well as provide alternatives to companies that operate diverse fleets of vessels (e.g. offshore supply vessels (OSVs) and towing vessels).

The corresponding regulatory change provides a voluntary alternate path for a master of steam or motor vessels of any tonnage that is 200 GRT or less to qualify as a mate (pilot) of towing vessels while still demonstrating the experience and training that the regulations require. The alternate path is available for any holder of a master of steam or motor vessels license, of any route and of any tonnage that is 200 GRT or less, except for the limited masters licenses specified in §§ 10.429 and 10.456 of this part.

(4) *Relationship to Other Rulemaking Projects*: On May 22, 2006, the Coast Guard published an NPRM and on January 25, 2007, a supplemental notice of proposed rulemaking (SNPRM), both of which were entitled "Consolidation

of Merchant Mariner Qualification Credentials." Among other things, that proposed rule would create a single merchant mariner's credential (MMC). 71 FR 29462 and 72 FR 3605. This rulemaking makes changes to some of the same regulatory text, and was closely coordinated with the MMC project to ensure that there are no conflicts.

#### IV. Discussion of Comments and Changes

We received a total of 14 comments on the NPRM.

(1) *Radar-observer endorsement*: The rulemaking removes the requirement in 46 CFR 10.480(g) for the month and year of the expiration of the radar-observer endorsement to appear on the license. This change eliminates the appearance that a license expires early when the radar-observer endorsement expires. The regulatory change does not affect the actual expiration date of either the license or the endorsement, and does not affect the requirement that the mariner maintain a current training certificate. This change only eliminates the requirement that the Coast Guard actually print the expiration date of the endorsement on the license.

This rule also removes 46 CFR 10.480(k). That paragraph permits a one-time extension of the radar observer-endorsement expiration date for up to two years in order to synchronize that date with the license expiration date. If the expiration date of the radar-observer endorsement is removed from the license, only one expiration date would appear on the license, and synchronization for the purpose of avoiding confusion about the license expiration date is unnecessary.

Removing this paragraph allows mariners greater flexibility in managing their training schedules, and reduces the work backlog at the Coast Guard's regional examination centers and National Maritime Center. Mariners can submit their licenses for renewal closer to the actual five-year expiration of the license, rather than the shorter period that resulted from the need to renew when the radar-observer endorsement expired.

Revised § 15.815 also requires mariners to have certificates of training readily available. Although the expiration date will no longer appear on the license, inspection teams, incident investigators, employers, and any appropriate Federal agency representative must still be able to see proof that a mariner is currently qualified as a radar-observer. This change facilitates enforcement of qualification requirements while

providing mariners flexibility in the way they maintain evidence of training. We made minor editorial changes to § 15.815(e), as it was proposed in the NPRM, to clarify that mariners must carry the original certificate of training or a notarized copy thereof onboard, or provide a copy of the certificate of training to the requesting entity within 48 hours.

All comments that addressed removal of the radar-observer endorsement expiration date from the license supported that part of the proposed rule. One comment expressed disagreement with allowing mariners 48 hours to provide a copy of the radar training certificate for enforcement purposes. The commenter advised that the radar training certificate should be produced on demand. We appreciate this concern, and we will reconsider the 48-hour allowance in the future if it, in fact, causes significant enforcement problems.

(2) *Training programs*: The service requirements in 46 CFR 10.465(a) and table 10.465-1 are revised to permit mariners to count time successfully spent in Coast Guard-approved training programs toward the service requirements for mate (pilot) of towing vessels. We also are revising 46 CFR 10.304 by adding a new paragraph (j), which provides that substitution of training in lieu of required service for a license as mate (pilot) of towing vessels is governed by 46 CFR 10.465(a) and table 10.465-1.

The NPRM inadvertently included proposed regulatory text amending 46 CFR 10.464(b) to permit mariners to count time spent in Coast Guard approved training programs toward the service requirements for a limited master of towing license. Because that amendment was not intended and not discussed in the NPRM preamble, the amendment of § 10.464(b) is not included in this rule.

All of the comments that addressed allowing reduced sea-service time to qualify for a mate (pilot) of towing vessels license by completing additional approved training supported that part of the proposed rule. One comment offered support for the training allowance "provided that the process of obtaining Coast Guard approval for proposed courses and training programs are reasonable with uniform and accessible guidelines for submittal." Another commenter agreed that those who attend approved training for apprentice mate should be given credit towards the sea-service requirement, but cautioned that "anything more than day-for-day credit would be overly generous and not in the best interests of safety."

We believe the existing processes for obtaining Coast Guard approval of training are reasonable. Approval of training is governed by 46 CFR Part 10, Subpart C—*Training Schools With Approved Courses*. The requirements and standards for training approval are contained in 46 CFR 10.302 and 10.303. The actual amount of sea-service credit is specified in the approval letter for the training course or program, which has been clarified in a revision to footnote 5 in Table 10.465–1. Based on an evaluation of various factors, the Coast Guard affords some training greater sea-service credit than others. The Coast Guard may grant more than one-for-one credit when appropriate and on a case-by-case basis, and ensures that safety standards remain high.

(3) *Alternate progression*: This rule inserts a new paragraph (e) in 46 CFR 10.465 that allows a master of steam or motor vessels of any tonnage of 200 GRT or less to become a mate (pilot) of towing vessels under certain conditions. The new paragraph provides that an applicant needs three years of service as master of steam or motor vessels of any tonnage that is 200 GRT or less, completion of a Towing Officer Assessment Record (TOAR), completion of the towing vessel license (apprentice mate) exam, and a minimum of 30 days of training and observation on a towing vessel on the route being sought.

This rule also adds the words “a minimum of” before the existing words “30 days of training and observation on towing vessels \* \* \*” in 46 CFR 10.465(d)(1) and 10.464(f)(1) to make those respective paragraphs consistent with each other and the new 46 CFR 10.465(e). This editorial amendment clarifies our intent that individuals may, and usually will, have more than 30 days of training and observation on towing vessels.

In addition, the regulatory language in §§ 10.464(f) and 10.465(d) has been revised to make it less confusing. This rule replaces the descriptive terms “inspected, self-propelled vessels” with the actual endorsement title “master of steam or motor vessels.”

The voluntary alternate progression provisions generated the most public interest and discussion in the comments received. Of the 14 comments received, six expressed strong support for the alternate progression, four expressed concern regarding the alternate progression, one recommended minor wording changes to the alternate progression regulatory text without expressing an opinion as to the merits of the alternate progression, and three comments did not address the alternate progression. This is in addition to the

original petition for rulemaking from Delta Towing Co. requesting the alternate progression, and the positive endorsement of TSAC, which expressed strong support for the alternate progression and recommended that it be implemented as quickly as possible.

The proponents of the alternate progression, including TSAC, laud it as a streamlined mechanism for experienced masters from other segments of the industry to operate towing vessels. They see it as facilitating the entry of experienced masters of crewboats, supply boats, and other small vessels into the towing industry, which is expected to help alleviate the shortage of towing vessel officers while maintaining high standards of maritime safety. The proponents view the alternate progression as a “win” for the towing industry by ultimately making more towing vessel officers available to companies for employment, and for individual mariners who will now have a more flexible and viable path to diversify their service.

The four opponents of the alternate progression are all currently licensed towing vessel masters. They are concerned that the alternate progression “lowers the bar for training” on towing vessels and negatively impacts safety. They expressed particular concern with the requirement of only 30 days training and observation on towing vessels for the alternate progression candidates. They recommended that the current towing vessel licensing rules should remain unchanged because the current rules ensure an appropriate level of training and qualification for towing vessel officers.

A comparison of the existing mate (pilot) requirements under 46 CFR 10.465 to the alternate progression revision shows that the level of experience and training required of the new alternate progression candidates is equivalent to, or even surpasses, existing requirements. Currently, under 46 CFR 10.465, a mate (pilot) candidate needs a total of 30 months sea service, 24 months of which have to be on a towing vessel. Of the 24 months on a towing vessel, 12 months must be as an apprentice mate, essentially in trainee status. The other 12 months could be in any capacity, including unlicensed deckhand. Additionally, the candidate must complete a TOAR or approved course, and pass an exam.

In contrast, under the voluntary alternate progression provided by this rule, a mate (pilot) of towing vessels candidate needs a total of 36 months as master of a steam or motor vessel that is 200 GRT or less. This is in addition to the sea service required to obtain that

master’s license, which is at least 24 months except as described below. These sea service requirements together total 5 years, at least 3 years of which must be as a master of a steam or motor vessel that is 200 GRT or less.

A master of Great Lakes and inland vessels not more than 100 GRT is required to accumulate at least 12 months sea service to obtain a master’s license. This requirement plus at least 3 years as a master of a steam or motor vessel that is 200 GRT or less produces a total requirement of 4 years sea service to advance to mate (pilot) under the alternate progression.

Additionally, an alternate progression candidate must also complete a TOAR or approved course, pass an exam, and complete a minimum of 30 days training and observation on towing vessels.

It should be emphasized that an alternate progression candidate must serve a minimum of 30 days and complete the TOAR on a towing vessel. The TOAR is extensive, difficult to complete in only 30 days, and most people take considerably more time. One commenter, who opposed the alternate progression, advised that he is a designated examiner, and that “\* \* \* it is simply not possible [to complete a TOAR in only 30 days] regardless of the candidate’s previous experience!”

The Great Lakes/Inland TOAR, for example, contains almost 70 different tasks or duties that the candidate must perform proficiently to the satisfaction of the designated examiner. This must be done on the towing vessel, and it would be difficult for the candidate to satisfactorily do it all in only 30 days.

In summary, to take advantage of the “alternate progression” to mate (pilot), an individual has to be a highly experienced master, requiring in most cases at least 2 years more sea service, at a higher level of responsibility, than a mate (pilot) candidate under the current regulations. The alternate progression includes the exact same TOAR and exam requirements as the current regulations, and has an additional requirement of a minimum of 30 days training and observation on a towing vessel. We anticipate that most alternate progression candidates may, in fact, have much more than 30 days on a towing vessel because of the time needed to complete the TOAR.

In response to the comments opposing the alternate progression, we have revised the text of 46 CFR 10.465(e) by inserting the words “a minimum of” before the words “30 days of training and observation on towing vessels \* \* \*” This rule also adds the words “a minimum of” before the existing words “30 days of training and observation on

towing vessels \* \* \* in 46 CFR 10.465(d)(1) and 10.464(f)(1) to make those respective paragraphs consistent with the new 46 CFR 10.465(e). This clarifies our intent that the individual may have more than 30 days of training and observation on towing vessels.

Another commenter supported the alternate progression, and recommended two additional modifications to "broaden its utility without undermining its fundamental objectives." The commenter recommended allowing mates as well as masters of less than 200 GRT vessels to be included in the alternate progression, and that alternate progression candidates be required to have 36 months of service either "operating under" or merely "holding" a less than 200 GRT license.

The same commenter advised that the current allowance in 46 CFR 10.465(d) for individuals with licenses more than 200 GRT to operate towing vessels as a mate (pilot) only requires the individual to hold a mate (not a master) license more than 200 GRT. The commenter further advised that, with respect to their second recommendation, there are mariners who hold less than 200 GRT licenses but are not actually working "under the authority" of the license because they are serving in unlicensed capacities aboard towing vessels, and recommended that this time should count for the alternate progression.

We disagree at this time. A key to the alternate progression to mate (pilot) of towing vessels for individuals with licenses less than 200 GRT is their level of responsibility while accumulating the required 3 years of sea service. Someone serving as a master of a less than 200 GRT vessel for the required 3 years has a higher level of responsibility than a mate on a less than 200 GRT vessel. This elevates the quality of the service to an extent that we believe it should be counted towards mate (pilot) of towing vessel under the alternate progression. Further, if we change the language to require 36 months service while "holding" or operating under the authority of the license, that service could have been accumulated in any capacity, with a lower degree of responsibility than master.

In order to better clarify that our intent in the NPRM was to count only time served as a master of vessels 200 GRT or less toward the alternate progression requirement, we revised § 10.465(e)(1) to read: "\* \* \* 36 months of service as a master under the authority of a license described in paragraph (e) of this section." We can reevaluate the changes recommended by this commenter for future revision of the

regulation after the new rule has been implemented and we have better data as to the actual success of the alternate progression.

One commenter expressed support for the alternate progression and recommended expanding its scope to encompass the limited master of towing vessels license in 46 CFR 10.464(b). As discussed above, the NPRM inadvertently included such a provision in the regulatory text. Because the NPRM preamble did not discuss this change, the public did not receive adequate notice, and the provision has been removed from this rule accordingly.

Additionally, paragraph (b) of 46 CFR 10.464 already allows a significant reduction in required service in that an apprentice mate (steersman) can proceed directly to limited master, bypassing mate (pilot) altogether, with 36 months total service, 18 months of which must be as an apprentice mate (steersman). We are not prepared to further alter this already reduced burden at this time, and intend to reevaluate the limited master of towing vessels' requirements for future revision after we have data on the implementation of the alternate progression.

One commenter, who did not clearly support or oppose the alternate progression, recommended two specific changes to the proposed regulation. First, the commenter recommended changing proposed 46 CFR 10.465(e) from "\* \* \* of any tonnage less than 200 GRT \* \* \*" to "of any tonnage not more than 200 GRT." We agree in part, and have changed § 10.465(e) to read "\* \* \* of any tonnage that is 200 GRT or less \* \* \*". This approach is preferred because the provision should be broad enough to include licenses authorizing service on vessels of lesser tonnage.

Second, the commenter recommended that the word "appropriate" should be deleted from proposed 46 CFR 10.465(e)(2) and (3) because it is too general. We disagree. The word "appropriate" is necessary here because there are different TOARs and different apprentice mate exams, depending on the route(s) that an applicant seeks to be endorsed on the license.

The same commenter also discussed the statement in the NPRM Regulatory Evaluation (72 FR 52843) that the "Coast Guard's current regulations do not count time spent in a rigorous Coast Guard-approved towing training course toward the minimum service time requirements." The commenter pointed out that this language is confusing, particularly the use of the word

"rigorous" in this context. We agree that this language was confusing, and have deleted it in our revised discussion of training programs in the Regulatory Evaluation below.

Finally, one commenter, in expressing opposition to the alternate progression, pointed out an inaccuracy in the preamble language of the NPRM. Specifically, in the first column of 72 FR 52844, under *Benefits*, the Regulatory Evaluation states that "such a candidate would have already served approximately five years (sixty months) as a licensed officer before receiving the endorsement."

The commenter correctly advised that a candidate may have five years of experience, but not necessarily as a licensed officer. Alternate progression candidates who hold a 100 GRT license, are required to have 2 years of service in any capacity in the deck department pursuant to 46 CFR 10.428. Candidates who hold a 200 GRT near coastal license are required to have 2 years of service, only one of which must be as a master or mate, and the other year can be in any capacity in the deck department, pursuant to 46 CFR 10.426. We concur with the commenter in this regard, and have corrected the preamble language accordingly.

We have also clarified in the preamble language above that masters of Great Lakes and inland vessels not more than 100 GRT only need a minimum of 4 years total sea service to complete the alternate progression to mate (pilot), as opposed to 5 years. This is because they only need 12 months total deck service to obtain their licenses under 46 CFR 10.455, plus the additional 3 years serving as a master under their license, to advance to mate (pilot) under the alternate progression.

## V. Regulatory Evaluation

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

### A. Executive Order 12866

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. However, we have performed the following analysis of costs and benefits.

The rule is divided into three elements: Radar endorsement, training programs, and alternate progression.

This analysis will consider each of the three elements separately.

#### Radar Endorsement

This part of the rule removes the expiration date of the radar-observer endorsement from the merchant mariner licenses. Previously, 46 CFR 10.480(g) required that the Coast Guard print both the endorsement and license expiration dates on the merchant mariner license.

Since the endorsement expiration date is tied to the date training is completed and the license is generally issued after the training is completed, the radar-observer endorsement expiration date often preceded that of the license. The Coast Guard has determined that many people mistake the radar-observer endorsement expiration date for that of the license itself. Removing the radar-observer endorsement expiration date would reduce confusion without affecting safety. Safety would remain unchanged because mariners and companies would still be required to keep training records current and readily available. Based on 2007 data from the Coast Guard's National Maritime Center, we estimate that the rule will effect about 8000 radar-observer endorsements per year. This total includes both original and other than original endorsements.

*Costs:* Implementing this element of the rule would impose no additional cost on the economy. This rule contemplates no change in the fee paid for a merchant mariner license.

*Benefits:* Removing the expiration date from the merchant mariner license will simplify the process of issuing licenses and reduce confusion caused by displaying the two expiration dates on the license. That confusion could be denying some mariners the full five-year term of their licenses. The rule allows such mariners to maintain the full five-year term of their mariner's license, giving them greater flexibility in deciding when to renew their licenses.

#### Training Programs

This part of the rule allows applicants for mate (pilot) of towing vessels to apply time spent in Coast Guard-approved training programs toward the minimum length of service requirement.

The Coast Guard's regulations did not count time spent in a Coast Guard-approved towing training program toward the minimum service time requirements. Prospective mates (pilots) that elected to take such training would forego a chance to qualify for their licenses sooner. The changes reduce this disincentive and therefore encourage more prospective towing vessel officers to enroll in training programs and more

towing companies and training institutions to establish them. The Coast Guard believes that increasing the number of approved towing training program graduates among towing vessel officers could increase overall towing safety.

*Costs:* This element of the rule increases industry and mariner flexibility. It does not impose mandatory costs on the economy because towing companies, mariners and training institutions would voluntarily exercise this flexibility only if they expected that it would make business sense for them to do so.

*Benefits:* The training program part of the rule is expected to lead to an increase in the number of prospective mates (pilots) enrolling in Coast Guard-approved towing officer training programs. Such an increase would improve navigational safety. See the Regulatory Evaluation section of the NPRM for additional discussion of this subject.

The Coast Guard already allows applicants for certain engineering and deck licenses to substitute time spent in a Coast Guard-approved training course toward service time requirements, as described in 46 CFR 10.304, "Substitution of training for required service, use of training-record books, and use of towing officer assessment records." The training programs element of the rule extends that flexibility to applicants for licenses as mate (pilot) of towing vessels.

#### Alternate Progression

This part of the new rule allows individuals who have served three years or longer as a master of steam or motor vessels of any tonnage that is 200 GRT or less, except for the limited masters' licenses specified in §§ 10.429 and 10.456, to obtain a license as a mate (pilot) of towing vessels on a particular route after completing a TOAR, the appropriate apprentice mate exam, and a minimum of a 30-day period of training and observation on a towing vessel on that route.

*Costs:* There are no mandatory costs resulting from this change to industry or mariners. Mariners would voluntarily take advantage of this provision only if they would gain a net benefit from doing so.

*Benefits:* This rule will increase flexibility for certain mariners. The alternate progression part of this rule would extend similar flexibility to a sufficiently experienced master of steam or motor vessels not more than 200 GRT. The Coast Guard has determined that this part of the rule will not reduce maritime safety. Candidates eligible for

a license as a mate (pilot) of towing vessels under this rule will have the same level of knowledge as those seeking a license as a master of towing vessels because they would be required to pass the same apprentice mate exam.

#### B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

As explained previously, the Coast Guard does not expect that the rule will have a significant economic impact upon operating companies, some of which are small entities. The Coast Guard does not expect the rule to have a significant impact upon small businesses. The Coast Guard likewise expects no significant economic impact upon not-for-profit organizations or government jurisdictions, because the rule does not change any requirements for either. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

#### C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Enforcement Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

#### D. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### E. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### G. Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

### J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Management and Budget, Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g. specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that, under the Instructions, there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. This rule is categorically excluded, under figure 2–1, paragraph (34)(c), of the Instruction from further environmental documentation because this regulation concerns the training, qualifying, licensing and disciplining of maritime personnel. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

### List of Subjects

#### 46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

#### 46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

■ For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 10 and 15 as follows:

### PART 10—LICENSING OF MARITIME PERSONNEL

■ 1. The authority citation for part 10 continues to read as follows:

**Authority:** 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, and 8906; Executive Order 10173; Department of Homeland Security Delegation 0170.1. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

■ 2. Amend § 10.304 by adding new paragraph (j) to read as follows:

**§ 10.304 Substitution of training for required service, use of training record books, and use of towing officer assessment records.**

\* \* \* \* \*

(j) Substitution of a training program in lieu of required service for a license as mate (pilot) of towing vessels is governed by § 10.465(a) and table 10.465–1 of this part.

■ 3. In § 10.464—

■ (a) In paragraph (f) introductory text, remove the words “inspected, self-propelled” and add, in their place, the words “steam or motor”; and,

■ (b) Revise paragraph (f)(1) to read as follows:

**§ 10.464 Requirements for licenses as master of towing vessels.**

\* \* \* \* \*

(f) \* \* \*

(1) Have a minimum of 30 days of training and observation on towing vessels for the route being assessed, except as noted in paragraph (e) of this section; and

\* \* \* \* \*

■ 4. In § 10.465—

■ a. Amend paragraph (a) by adding the following sentence to the end of the paragraph;

■ b. Revise table 10.465–1 to read as follows;

■ c. In paragraph (d) introductory text, remove the words “inspected, self-propelled” and add, in their place, the words “steam or motor”;

■ d. Revise paragraph (d)(1) to read as follows; and

■ e. Redesignate existing paragraphs (e) and (f) as paragraphs (f) and (g) and add new paragraph (e) to read as follows:

**§ 10.465 Requirements for licenses as mate (pilot) of towing vessels.**  
 (a) \* \* \* Time of service requirements as an apprentice mate (steersman) of towing vessels may be

reduced by an amount equal to the time specified in the approval letter for the completed Coast Guard-approved training programs.

TABLE 10.465-1—REQUIREMENTS FOR LICENSE AS MATE (PILOT<sup>1</sup>) OF TOWING VESSELS

1	2	3	4	5	6	7
Route endorsed	Total service <sup>2</sup>	TOS <sup>3</sup> on T/V as apprentice mate (steersman) <sup>5</sup>	TOS <sup>3</sup> on particular route	TOAR <sup>4</sup> or an approved course	30 days of observation and training while holding master (limited) and pass a limited examination	Subordinate route authorized
(1) OCEANS (O) .....	30	12 of 30 .....	3 of 12 .....	YES .....	YES .....	NC, GL-I GL-I
(2) NEAR-COASTAL (NC)	30	12 of 30 .....	3 of 12 .....	YES .....	YES .....	
(3) GREAT LAKES-INLAND (GL-I).	30	12 of 30 .....	3 of 12 .....	YES .....	YES.	
(5) WESTERN RIVERS (WR).	30	12 of 30 .....	3 of 12 .....	YES .....	NO (90-days service required).	

<sup>1</sup>For all inland routes, as well as Western Rivers, the license as pilot of towing vessels is equivalent to that as mate of towing vessels. All qualifications and equivalencies are the same.

<sup>2</sup>Service is in months unless otherwise indicated.

<sup>3</sup>TOS is time of service.

<sup>4</sup>TOAR is Towing Officers' Assessment Record.

<sup>5</sup>Time of service requirements as an apprentice mate (steersman) of towing vessels may be reduced by an amount equal to the time specified in the approval letter for a completed Coast Guard-approved training program.

\* \* \* \* \*

(d) \* \* \*

(1) Have a minimum of 30 days of training and observation on towing vessels for the route being assessed, except as noted in paragraph (b) of this section; and

\* \* \* \* \*

(e) If you hold any license as a master of steam or motor vessels of any tonnage that is 200 GRT or less, except for the limited masters' licenses specified in 46 CFR 10.429 and 10.456, then you may obtain an endorsement as mate (pilot) of towing vessels by meeting the following requirements:

(1) Providing proof of 36 months of service as a master under the authority of a license described in paragraph (e) of this section;

(2) Successfully completing the appropriate TOAR;

(3) Successfully completing the appropriate apprentice mate exam; and

(4) Having a minimum of 30 days of training and observation on towing vessels for the route being assessed, except as noted in paragraph (b) of this section.

\* \* \* \* \*

**§ 10.480 [Amended]**

■ 5. Amend § 10.480 as follows:

■ a. In paragraph (f), remove "Except as provided by paragraph (k) of this section,"; and

■ b. Remove paragraphs (g) and (k), and redesignate paragraphs (h), (i), and (j) as (g), (h), and (i), respectively.

**PART 15—MANNING REQUIREMENTS**

■ 6. Revise the authority citation for part 15 to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8103, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906 and 9102; and Department of Homeland Security Delegation No. 0170.1.

■ 6. In § 15.815—

■ a. In paragraphs (a), (b), and (c), remove the words "a valid endorsement" and add, in their place, the words "an endorsement"; and

■ b. Add new paragraphs (d) and (e) to read as follows:

**§ 15.815 Radar observers.**

\* \* \* \* \*

(d) Each person who is required to hold a radar endorsement must have their certificate of training readily available to demonstrate that the endorsement is still valid.

(e) For the purposes of this section, "readily available" means that the mariner must carry the original certificate of training or a notarized copy thereof onboard. Alternatively, the mariner must provide a copy of the certificate of training to the requesting entity within 48 hours. The requested material may be delivered either physically, electronically, or by facsimile.

Dated: August 27, 2008.

**Brian M. Salerno,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security & Stewardship.*

[FR Doc. E8-21118 Filed 9-10-08; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

[Docket No. 0808211134-81140-01]

**RIN 0648-AX21**

**Pacific Halibut Fisheries; Guided Sport Charter Vessel Fishery for Halibut**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS withdraws regulations that placed limits on charter vessel anglers, including a one-halibut daily bag limit in International Pacific Halibut Commission Area 2C. The U.S. District Court for the District of Columbia issued a Temporary Restraining Order (TRO) on June 10, 2008 (amended on June 13, 2008), and a Preliminary Injunction (PI) on June 20, 2008, enjoining and restraining NMFS from giving any effect to or otherwise taking any action to enforce the one-halibut daily bag limit restriction for charter vessel anglers.