

§ 1.01-20

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

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.01-15, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 1.01-20 Suspension and revocation proceedings.

(a) The Commandant takes final agency action on each proceeding concerned with revocation.

(b) The Commandant has delegated authority to the Vice Commandant in 33 CFR 1.01-40 to take final agency action under subparts I, J, and K of part 5 of this chapter on each proceeding except on a petition or appeal in a case on which an order of revocation has been issued.

(c) The Commandant assigns to his staff a Chief Administrative Law Judge who is an Administrative Law Judge appointed under 5 U.S.C. 3105 and whose assignment is to:

(1) Act as adviser and special assistant to the Commandant on matters concerning the administration of hearings conducted under 46 U.S.C. chapter 77;

(2) Conduct hearings under 46 U.S.C. chapter 77;

(3) Train new Administrative Law Judges assigned to conduct hearings under 46 U.S.C. chapter 77;

(4) Review the written decisions and orders of each Administrative Law Judge assigned to conduct a hearing under 46 U.S.C. chapter 77; and

(5) Act as adviser to the Chief Counsel in preparation of the final action of proceedings conducted under subparts I, J, and K of part 5 of this chapter.

(d) The Chief Counsel of the Coast Guard, under the general direction and supervision of the Commandant, U.S. Coast Guard:

(1) Acts as an adviser and as a special assistant to the Commandant in matters of law; and

(2) Prepares for the consideration of the Commandant or the Vice Commandant, as appropriate, proposed decisions on cases on appeal or review in suspension and revocation proceedings.

§ 1.01-25 General flow of functions.

(a) The Officer in Charge, Marine Inspection, has final authority with respect to the functions described in § 1.01-15(b) of this subpart, subject to

the rights of appeal set forth in subpart 1.03 of this part.

(b)(1) The general course and method by which the functions (other than those dealing with suspension and revocation of credentials described in paragraph (c) of this section) concerning marine safety activities are channeled, begins with the Officer in Charge, Marine Inspection, at the local Sector Office. From this Officer the course is to the Chief, Marine Safety Division, on the staff of the District Commander, and then to the District Commander. From the District Commander, the course is to the Chief of one of the offices with Marine Safety and Environmental Protection at Headquarters.

(2) For Activities Europe, the course is from the Officer in Charge, Activities Europe to the staff of the Atlantic Area Commander, then to the Atlantic Area Commander, and then to the Chief of one of the offices with Marine Safety and Environmental Protection at Headquarters.

(c) In proceedings involving the suspension or revocation of a Coast Guard credential 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, the Territory of Guam, the Virgin Islands, and other possessions, the proceedings are initiated by the issuance of a complaint against the holder of the Coast Guard credential. A Coast Guard Investigating Officer, as defined in 46 CFR 5.15, causes the complaint to be served on the person described therein (respondent) who is a holder of a Coast Guard credential. At a hearing the Coast Guard submits evidence to support the allegations of the complaint, while the respondent 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 respondent.

(i) In a case where an appeal is made by either party (Coast Guard or respondent), the notice of appeal is filed in accordance with the procedures of 33 CFR 20.1001(a).

(ii) [Reserved]

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(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; USCG-2006-24520, 71 FR 35818, June 22, 2006, USCG-2006-25556, 72 FR 36329, July 2, 2007; USCG-2006-24371, 74 FR 11214, Mar. 16, 2009; USCG-2009-0314, 74 FR 30937, June 29, 2009]

§ 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 Direc-

tor 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