

## Coast Guard, DHS

## § 5.903

(c) The Decision of the Commandant on Review, shall be the final agency action in the absence of a remand.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

### § 5.807 Commandant's Decision on Review.

The Commandant's Decisions on Review are available for reading purposes at Coast Guard Headquarters, at Offices of District Commanders, Sector Offices and Marine Inspection Offices. (See 33 CFR subpart 1.10.)

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-25556, 72 FR 36330, July 2, 2007]

## Subpart L—Issuance of New Credential or Endorsement After Revocation or Surrender

### § 5.901 Time limitations.

(a) Any person whose credential or endorsement has been revoked or surrendered for one or more of the offenses described in § 5.59 and § 5.61(a) may, three years after compliance with the Administrative Law Judge's decision and order or the date of voluntary surrender, apply for the issuance of a new credential or endorsement.

(b) The three year time period may be waived by the Commandant upon a showing by the individual that, since the occurrence upon which the revocation or surrender was based, the individual has demonstrated his good character in the community for a period exceeding three years.

(c) Any person whose credential or endorsement has been revoked or surrendered for one or more offenses which are not specifically described in §§ 5.59 or 5.61(a) may, after one year, apply for the issuance of a new credential or endorsement.

(d) For a person whose credential or endorsement has been revoked or surrendered for the wrongful simple possession or use of dangerous drugs, the three year time period may be waived by the Commandant upon a showing that the individual:

(1) Has successfully completed a bona fide drug abuse rehabilitation program;

(2) Has demonstrated complete non-association with dangerous drugs for a minimum of one year following completion of the rehabilitation program and;

(3) Is actively participating in a bona fide drug abuse monitoring program.

(e) For a person whose credential or endorsement has been revoked or surrendered for offenses related to alcohol abuse, the waiting period may be waived by the Commandant upon a showing that the individual has successfully completed a bona fide alcohol abuse rehabilitation program and is actively participating in a bona fide alcohol abuse monitoring program.

(f) The waivers specified under subparagraphs (d) or (e) of this section may only be granted once to each person.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by CGD 84-099, 52 FR 47535, Dec. 14, 1987; USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

### § 5.903 Application procedures.

(a) An application form for a new credential or endorsement may be obtained from any Officer in Charge, Marine Inspection.

(b) The completed application and letter must be addressed to the Commandant, U.S. Coast Guard, 2100 2nd St. SW., Stop 7121, Washington, DC 20593-7121, and must be delivered in person to the nearest Officer in Charge, Marine Inspection.

(c) The letter is an informal request for the issuance of a new credential or endorsement and should include the following:

(1) A letter from each employer during the last three years attesting to the individual's work record;

(2) Information supportive of rehabilitation or cure when the credential or endorsement was revoked because of incompetency or association with dangerous drugs; and

(3) Any other information which may be helpful in arriving at a determination in the matter.

(d) The Officer in Charge, Marine Inspection, forwards the letter and application, together with an evaluation

## § 5.905

and recommendation, to the Commandant.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009; USCG-2009-0702, 74 FR 49224, Sept. 25, 2009]

### § 5.905 Commandant's decision on application.

(a) The applicant's letter and application form, as well as the evaluation and recommendation, are referred to a special board appointed by the Commandant. The board examines all the material submitted with the application and such other information as may, in the judgment of the board, be considered appropriate. The board shall submit its findings and recommendation to the Commandant.

(b) The Commandant shall determine whether or not a new credential or endorsement will be issued. The applicant will be notified by letter of such determination.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

## PART 6—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS<sup>1</sup>

Sec.

6.01 Procedures for effecting individual waivers of navigation and vessel inspection laws and regulations.

6.04 Vessels requisitioned by the United States for emergency evacuation.

6.06 Vessels operated by or chartered to Military Sealift Command.

6.07 Chronological record of seaman's previous employment.

AUTHORITY: Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (*see* 46 U.S.C. App. note prec. 1); Department of Homeland Security Delegation No. 0170.1.

### § 6.01 Procedures for effecting individual waivers of navigation and vessel inspection laws and regulations.

(a) It is hereby found necessary in the interest of national defense to waive compliance with the navigation and vessel inspection laws administered by the Coast Guard, as well as the regulations issued thereunder and

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

published in 33 CFR chapter I or in this chapter, to the extent and in the manner and upon the terms and conditions as set forth in this section.

(b) An application requesting that a waiver be made effective, with respect to a particular vessel, may be made by any authorized representative of an agency of the United States Government or any other interested person (including the master, agent, or owner of the vessel involved). Except as provided in paragraph (d) of this section, the application shall be in writing. The application shall be delivered to the Coast Guard District Commander or to his designated representative at the port or place where the vessel is located. In the case of a vessel in any foreign port or place, the application shall be made to the designated representative of the Commandant at such port or place, or if the Coast Guard has not established facilities in such port or place, to the nearest designated representative of the Commandant at a port or place where such facilities have been established. Every application shall contain a statement of the particular provisions of law with respect to which waiver of compliance is requested, a certification that the waiver of compliance with such laws with respect to the vessel involved is necessary in the interest of national defense and, an outline of the facts upon which such certification is based. The Coast Guard District Commander (or his designated representative or the designated representative of the Commandant, as the case may be) shall promptly examine every application for the purpose of determining whether the necessity for prompt action is such as to require that the waiver be made effective by him without reference to the Commandant. In any case in which it appears to the Coast Guard officer concerned that reference of the application to the Commandant for action would not delay the sailing of the vessel or otherwise be contrary to the interest of national defense, the application shall be so referred. In all other cases, such Coast Guard officer shall give immediate consideration to the

<sup>1</sup>This is also codified in 33 CFR part 19.