

## Coast Guard, DHS

## § 5.205

the waiver of his or her right to a hearing.

[USCG-1998-3472, 64 FR 28075, May 24, 1999]

### Subpart E—Deposit or Surrender of Coast Guard Credential or Endorsement

#### § 5.201 Voluntary deposits in event of mental or physical incompetence.

(a) A holder may deposit a credential or endorsement with the Coast Guard in any case where there is evidence of mental or physical incompetence. A voluntary deposit is accepted on the basis of a written agreement, the original of which will be given to the holder, which specifies the conditions upon which the Coast Guard will return the credential or endorsement to the holder.

(b) Where the mental or physical incompetence of a holder of a credential or endorsement is caused by use of or addiction to dangerous drugs, a voluntary deposit will only be accepted contingent on the following circumstances:

(1) The holder is enrolled in a bona fide drug abuse rehabilitation program;

(2) The holder's incompetence did not cause or contribute to a marine casualty;

(3) The incompetence was reported to the Coast Guard by the individual or any other person and was not discovered as a result of a Federal, State or local government investigation; and

(4) The holder has not voluntarily deposited or surrendered a credential or endorsement, or had a credential or endorsement revoked for a drug related offense on a prior occasion.

(c) Where the mental or physical incompetence of a holder of a credential or endorsement is caused by use or addiction to alcohol, a voluntary deposit will only be accepted contingent on the following circumstances:

(1) The holder is enrolled in a bona fide alcohol abuse rehabilitation program;

(2) The holder's incompetence did not cause or contribute to a marine casualty; and

(3) The incompetence was reported to the Coast Guard by the individual or any other person and was not discov-

ered as a result of a Federal, State, or local government investigation.

(d) Where the conditions of paragraphs (b) and (c) of this section are not met, the holder may only surrender such credential or endorsement in accordance with § 5.203.

[CGD 84-099, 52 FR 47535, Dec. 14, 1987, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

#### § 5.203 Voluntary surrender to avoid hearing.

(a) Any holder may surrender a credential or endorsement to the Coast Guard in preference to appearing at a hearing.

(b) A holder voluntarily surrendering a credential or endorsement shall sign a written statement containing the stipulations that:

(1) The surrender is made voluntarily in preference to appearing at a hearing;

(2) All rights to the credential or endorsement surrendered are permanently relinquished; and,

(3) Any rights with respect to a hearing are waived.

(c) A voluntary surrender of a credential or endorsement to an investigating officer in preference to appearing at a hearing is not to be accepted by an investigating officer unless the investigating officer is convinced that the holder fully realizes the effect of such surrender.

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

#### § 5.205 Return or issuance of a credential or endorsement.

(a) A person may request the return of a voluntarily deposited credential or endorsement at any time, provided he or she can demonstrate a satisfactory rehabilitation or cure of the condition which caused the incompetence; has complied with any other conditions of the written agreement executed at the time of deposit; and complies with the physical and professional requirements for issuance of a credential or endorsement.

(b) Where the voluntary deposit is based on incompetence due to drug