

that complies with this subpart and inform each Investigator of that policy, the Investigator's reporting responsibilities, and of these regulations. If the Institution carries out the PHS-funded research through subgrantees, contractors, or collaborators, the Institution must take reasonable steps to ensure that Investigators working for such entities comply with this subpart, either by requiring those Investigators to comply with the Institution's policy or by requiring the entities to provide assurances to the Institution that will enable the Institution to comply with this subpart.

(b) Designate an institutional official(s) to solicit and review financial disclosure statements from each Investigator who is planning to participate in PHS-funded research.

(c)(1) Require that by the time an application is submitted to PHS each Investigator who is planning to participate in the PHS-funded research has submitted to the designated official(s) a listing of his/her known Significant Financial Interests (and those of his/her spouse and dependent children):

(i) That would reasonably appear to be affected by the research for which PHS funding is sought; and

(ii) In entities whose financial interests would reasonably appear to be affected by the research.

(2) All financial disclosures must be updated during the period of the award, either on an annual basis or as new reportable Significant Financial Interests are obtained.

(d) Provide guidelines consistent with this subpart for the designated official(s) to identify conflicting interests and take such actions as necessary to ensure that such conflicting interests will be managed, reduced, or eliminated.

(e) Maintain records of all financial disclosures and all actions taken by the Institution with respect to each conflicting interest for at least three years from the date of submission of the final expenditures report or, where applicable, from other dates specified in 45 CFR 74.53(b) for different situations.

(f) Establish adequate enforcement mechanisms and provide for sanctions where appropriate.

(g) Certify, in each application for the funding to which this subpart applies, that:

(1) There is an effect at that Institution a written and enforced administrative process to identify and manage, reduce or eliminate conflicting interests with respect to all research projects for which funding is sought from the PHS,

(2) Prior to the Institution's expenditure of any funds under the award, the Institution will report to the PHS Awarding Component the existence of a conflicting interest (but not the nature of the interest or other details) found by the institution and assure that the interest has been managed, reduced or eliminated in accordance with this subpart; and, for any interest that the Institution identifies as conflicting subsequent to the Institution's initial report under the award, the report will be made and the conflicting interest managed, reduced, or eliminated, at least on an interim basis, within sixty days of that identification;

(3) The Institution agrees to make information available, upon request, to the HHS regarding all conflicting interests identified by the Institution and how those interests have been managed, reduced, or eliminated to protect the research from bias; and

(4) The Institution will otherwise comply with this subpart.

§ 50.605 Management of conflicting interests.

(a) The designated official(s) must: Review all financial disclosures; and determine whether a conflict of interest exists and, if so, determine what actions should be taken by the institution to manage, reduce or eliminate such conflict of interest. A conflict of interest exists when the designated official(s) reasonably determines that a Significant Financial Interest could directly and significantly affect the design, conduct, or reporting of the PHS-funded research. Examples of conditions or restrictions that might be imposed to manage conflicts of interest include, but are not limited to:

(1) Public disclosure of significant financial interests;

(2) Monitoring of research by independent reviewers;

(3) Modification of the research plan;

(4) Disqualification from participation in all or a portion of the research funded by the PHS;

(5) Divestiture of significant financial interests; or

(6) Severance of relationships that create actual or potential conflicts.

(b) In addition to the types of conflicting financial interests described in this paragraph that must be managed, reduced, or eliminated, an Institution may require the management of other conflicting financial interests, as the Institution deems appropriate.

§ 50.606 Remedies.

(a) If the failure of an Investigator to comply with the conflict of interest

policy of the Institution has biased the design, conduct, or reporting of the PHS-funded research, the Institution must promptly notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and, as necessary, take appropriate action, or refer the matter to the Institution for further action, which may include directions to the Institution on how to maintain appropriate objectivity in the funded project.

(b) The HHS may at any time inquire into the Institutional procedures and actions regarding conflicting financial interests in PHS-funded research, including a requirement for submission of, or review on site, all records pertinent to compliance with this subpart. To the extent permitted by law, HHS will maintain the confidentiality of all records of financial interests. On the basis of its review of records and/or other information that may be available, the PHS Awarding Component may decide that a particular conflict of interest will bias the objectivity of the PHS-funded research to such an extent that further corrective action is needed or that the Institution has not managed, reduced, or eliminated the conflict of interest in accordance with this subpart. The PHS Awarding Component may determine that suspension of funding under 45 CFR 74.62 is necessary until the matter is resolved.

(c) In any case in which the HHS determines that a PHS-funded project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment has been designed, conducted, or reported by an Investigator with a conflicting interest that was not disclosed or managed as required by this subpart, the Institution must require the Investigator(s) involved to disclose the conflicting interest in each public presentation of the results of the research.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 14

[CGD 94-004]

RIN 2115-AE72

Electronic Records of Shipping Articles and Certificates of Discharge

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Consistent with the President's Regulatory Reinvention Initiative, the Coast Guard is revising the way that information on the engagement (shipment) and discharge of merchant mariners is maintained and submitted. The Coast Guard is also making editorial and other minor changes throughout its governing rules. The revision is due to statutory amendments directing, in effect, that ship-operating companies (shipping companies) maintain shipping articles and certificates of discharge, and that they be able to submit the information, electronically, to the Coast Guard. The rule should reduce approximately 70 percent of the ship-operating companies burden of preparing articles and certificates, and should reduce proportionately the number of personnel manually entering data and manually filing documents for the Coast Guard.

EFFECTIVE DATE: January 3, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406) [CGD 94-004], U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Mrs. Justine Bunnell, Marine Personnel Division (NMC-4A), U.S. Coast Guard National Maritime Center, (703) 235-1951.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 28, 1996, the Coast Guard published a notice of proposed rulemaking entitled Electronic Records of Shipping Articles and Certificates of Discharge in Federal Register (61 FR 13796). The Coast Guard received 12 letters commenting on the proposal. No public meeting was requested, and none was held.

Background and Purpose

In 1937, the Coast Guard became custodian of the program for protection of merchant mariners ("mariners"). To ensure that mariners are employed of their own will, that they are properly paid for their service, and that their time in service is properly documented, they and the masters or other persons in charge of their vessels, or these persons' representatives, sign contracts, known as shipping articles ("articles"). From this point forward, in the preamble,

"masters" will stand for all of those persons other than mariners.

The content and form of articles for foreign and intercoastal voyages appear in 46 U.S.C. 10302, 10303, and 10304. The content of articles for coastwise voyages appears in 46 U.S.C. 10502, even as the form of these articles remains unspecified by statute, both the content and form of articles for voyages on the Great Lakes remain unspecified by statute. The articles consist of three parts: (1) features of the voyage and of several reciprocal duties, clear down to the caloric value of food served to each mariner daily; (2) particulars of engagement; and (3) particulars of discharge. Since 1937, usages or practices regarding articles have changed little. The same has been true regarding certificates of discharge.

When reporting for a foreign, intercoastal voyage, or for a coastwise voyage (including a voyage on the Great Lakes) aboard a vessel of 50 gross tons or more, the mariner presents to the master a valid merchant mariner's document (MMD), listing the mariner's qualifications. The master reviews the MMD, verifies the mariner's qualifications, and enters the information in the particulars of engagement (part 2 of the articles), then the master and the mariner sign the articles in the appropriate places. When finishing a foreign or intercoastal voyage, the master enters the mariner's wages and date for discharge in the particulars of discharge (part 3 of the articles), then the master and the mariner sign the articles in the other appropriate places. The master completes the certificate of discharge in the appropriate place, then the master and the mariner sign it in the appropriate place. The certificate indicates the mariner's name and identification number, the dates and places of shipment and discharge, the name and official number of the vessel, and the name of the shipping company. If the mariner holds a continuous discharge book, the master also completes and signs it in the appropriate place. The master ensures that the entries in the continuous discharge book (if held), on the certificate, and in the two particulars are proper, corresponding entries. The mariner keeps the continuous discharge book (if held). The mariner gets the original copy of the certificate of discharge.

When leaving the vessel before the end of the voyage, the mariner closes out the contract otherwise. The mariner and the master sign a "mutual agreement" as well as the particulars of discharge; the master notes in these

particulars that the reason for the mariner's leaving is mutual agreement. The master completes and signs a certificate of discharge, then the mariner signs it. If the mariner holds a continuous discharge book, the master completes and signs it.

At the end of the voyage, after all mariners have signed the particulars of discharge and received their certificates of discharge, the shipping company sends the articles and signed copies of the certificates to the Coast Guard. The Coast Guard reviews the articles and certificates to ensure that they are complete and accurate. Next, it manually enters the data off the certificates into its own sea-service database and manually files the certificates in the mariners' records. Last, it manually files the articles (alphabetically, by name of vessel).

These usages or practices have prevailed for two generations. On December 20, 1993, Congress enacted the Coast Guard Authorization Act for 1994 [Pub. L. 103-206]. Title IV, 411, of that Act added 46 U.S.C. 10302(d) and 10502(e), each to read as follows:

The owner, charterer, managing operator, master, or individual in charge shall maintain the shipping agreement ["articles"] and make [them] available to the [mariner].

The act added 46 U.S.C. 10320 to read as follows:

The Secretary shall prescribe regulations requiring vessel owners to maintain records of [mariners] on matters of engagement, discharge, and service. A vessel owner shall make these records available to the [mariner] and the Coast Guard on request.

The Act also added 46 U.S.C. 10502(f), to read the same, except that it substituted "shipping companies" for "vessel owners":

The Secretary shall prescribe regulations requiring shipping companies to maintain records of [mariners] on matters of engagement, discharge, and service. The shipping companies shall make these records available to the [mariner] and the Coast Guard on request.

The Act also raised the penalties in 46 U.S.C. 10321(a) and 10508(b), from \$500 to \$5,000 for violating any provision of these chapters or regulations prescribed under these chapters.

The Coast Guard had proposed the legislation because of budgetary constraints leading to cuts in its workforce and of the advent of computerization. Shipping companies will now be responsible for keeping articles and signed copies of certificates of discharge. They will still be free to submit them traditionally, but will now be free to submit just the data from them electronically. Either way, the Coast

Guard will now maintain its sea-service database electronically. The companies may develop their own software, use off-the-shelf software, or obtain software developed by the Coast Guard, to generate articles and certificates from existing records of personnel. Whichever of these three courses a particular company follows, the Coast Guard will provide standards that ensure compatibility for the electronic transfer of data from the company's system to the Coast Guard's sea-service database.

The primary purposes of this rule are to standardize the format of articles (for all voyages that require them), eliminate redundant forms such as masters' reports of mariners shipped or discharged, authorize persons acting as masters to initiate and sign articles and certificates of discharge, confer on shipping companies the legal and practical ability to transfer sea-service data electronically to the Coast Guard, and in general to lighten recordkeeping. The secondary purposes of this rule are to publish new statutory penalties, to remove gender-based language, and to clarify 46 CFR part 14.

Discussion of Comments and Changes

The Coast Guard received twelve responses to the Notice of Proposed Rulemaking. There were nine responses in support of the rulemaking with some corrections and minor changes to the written regulations. There were three responses that did not support the rulemaking.

The comment suggested that we add a statement to § 14.211, indicating that the next of kin information should not be included in the posted copy of the shipping articles. The Coast Guard agrees with this change and has incorporated the change in the regulations.

One comment suggested that in § 14.313, the report need not be sent more frequently than once per calendar month. The Coast Guard understands that some coastwise voyages, including those on the Great Lakes, are very short duration and would decrease the master's work if the information was transmitted on a monthly basis versus and voyage by voyage basis. The Coast Guard has changed the regulations to permit manual submission once per calendar month. Note: § 14.313 will be 14.311 in the final rule.

Three comments were received concerning §§ 14.303 and 14.305. Section 14.303 is revised to reflect the master's requirement to make the appropriate entries on the ships articles and consular's obligations, as specified in 46 U.S.C. 10318, to discharge a

seaman upon request. Section 14.305 has been deleted.

One comment requested that we consider alternative methods of data transfer such as E-mail. Due to the sensitivity of the records and security issues, E-mail is not a viable alternative at this time.

The Coast Guard received five comments concerning the retention period that the shipping companies retain certificates of discharge and originals of shipping articles. Several comments requested the period be reduced to 3 years and one comment suggested no retention by shipping companies. Although the statutory change and this rulemaking require process changes by the companies, based on correspondence and conversations with shipping company personnel and masters of vessels, the Coast Guard feels that the burden on the companies will be minimal. However, the Coast Guard will reduce the retention period to 3 years. The record of service will be maintained by the Coast Guard electronically, for 6 years after the last transaction, and will be archived and available for retrieval for 60 years.

One comment suggested that § 14.313 which authorizes the use of electronic transmission is misleading and that electronic data transmission will eventually be required. The Coast Guard is not requiring shipping companies to submit data electronically.

One comment disagreed with the Coast Guard analysis regarding the cost savings. The comment suggested that any savings is not a result of new rules, but a product of technology. The comment writers assessment is correct since much of the savings is a product of technology; however, if we do not allow the use of technology by changing the existing rules, there will be no savings.

One comment expressed the concern that access to and retrieval of needed historical information will be sorely compromised to the department of the mariner who needs to retrieve information if a centralized database is not maintained by the Coast Guard. The Coast Guard will maintain the existing paper copies of shipping articles and certificates of discharge. A centralized database created in 1981, contains historical data from 1937 to the present, and will continue to be maintained. One comment suggested that the Coast Guard change the Mariner's Employment Information System (MEIS) to make the program useful rather than a burden to the shipping companies. The Coast Guard is continuing to work with the shipping companies, masters, and union

representatives to insure that MEIS is a helpful tool, not a burden to the companies.

One comment recommended that the Coast Guard take this opportunity to allow use of individual articles. The Coast Guard must have a statutory change to allow individual articles, thus, we cannot address this suggestion in this rulemaking.

One comment suggested that the supplemental submission period be extended to at least 60 days. The Coast Guard will change § 14.213(b)(2), to extend the supplemental submission period to 60 days.

One comment recommended that the Coast Guard harmonize coastwise and foreign/intercoastal article formats using a format similar to coastwise articles. Section 14.207 provides for the use of form CG-705A for coastwise, foreign, intercoastal, and Great Lake voyages.

One comment suggested that all vessels under 1600 gross tons no longer be required to prepare certificates of discharge since masters/companies have difficulty obtaining the forms, that Congress make it illegal to withhold written sea service information, and that the Coast Guard discontinue collecting paperwork. Since all of these points require statutory changes, the Coast Guard will not address them in this rulemaking.

One comment urged the Coast Guard to ensure that they maintain adequate and reliable electronic sea-service database backup files in the event of a system breakdown, compromise, fire, or any other misfortune. The Coast Guard has an extensive Disaster Recovery Plan in place which addresses issues such as proper backups, off-site storage for backup tapes, and other security issues to insure that complete and adequate records are available.

The comment also recommended that the regulation include specific provisions that both shipping articles and certificates of discharge be available from the shipping company to the mariner upon request. The mariner may also obtain a printout of their sea service time from the Coast Guard.

One comment expressed concern that § 14.103 does not provide an electronic address. This electronic address was not included because the Coast Guard does not have this information currently available.

One comment requested the definition of an "unrigged vessel." "Unrigged vessel" refers to a class of vessel no longer categorized, consequently the term is obsolete and removed. The reference to seagoing barges is moved to § 14.201.

One comment suggested that in § 14.207 the Coast Guard use "approved" off-the-shelf software for the shipping articles/certificates of discharge versus obtaining approval on a case by case basis. Due to the current security needs of the Coast Guard, companies must receive approval individually.

One comment indicated that bays and sounds would be exempt under § 14.201(b)(3) since they are in either adjoining states or one state. This is not true in all cases, i.e., Chesapeake Bay from a port in Virginia to a port in Delaware, not same or adjoining States. Also, §§ 14.201 (2) and (3) were further clarified to eliminate confusion as to their meaning.

One comment requested a prescribed format for a certificate of discharge detailed in § 14.309(a). The Coast Guard agrees that a prescribed format in the rule would be beneficial to the public; therefore, they have added the prescribed format to § 14.307(a) in the final rule.

One comment requested the elimination of gender-based language in § 14.311(b). The Coast Guard agrees and made the change in the rule (now § 14.309(b) in the final rule).

One comment objected to rewriting of regulations to "eliminate gender-based language." The regulations were not rewritten to "eliminate gender-based language," but were rewritten to reflect statutory changes.

One comment interpreted § 14.207 to allow articles in any form as long as the content complies with 46 U.S.C. 10502, which ignores requirements of U.S. Customs. The format in form CG-705A, which is approved, meets the needs of U.S. Customs and conforms to 46 U.S.C. 10502, as well as 46 U.S.C. 10302, 10303, 10304, and 10305. One comment indicated that the Coast Guard is unrealistic when they propose that shipping companies maintain original sets of articles and other documentation and then expect those items to be sent to the Coast Guard when the companies go out of business. The commenter wanted to know what penalties would then be levied upon whom. The company that holds the records will be held responsible for sending the records to the Coast Guard for storage. As stated in 46 U.S.C. 10321, they would be liable for a civil penalty of not more than \$5,000.

One comment also stated that the Coast Guard incorrectly perceives that this regulation will reduce the workload on the ship's crew. Based on the Coast Guard's information, this rule will reduce the workload on most of the ships' crews.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and will not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget (OMB) under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) [44 FR 11040 (February 26, 1979)]. The Coast Guard expects the economic impact of this rule to be so minimal, that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Many shipping companies, for their own purposes and convenience, already maintain electronic records of employment, from which they can generate both articles and certificates of discharge. Until now they have had to generate both by writing or typing. Now they will be able to print both, when required, from the computer; transmit the data off the certificates directly to the Coast Guard, using the software developed by the Coast Guard if not software developed by themselves or bought off the shelf; and still provide original certificates to their mariners. Upgrades or enhancement to the software developed by the Coast Guard, and long-term support for it, may cost them \$250 a year. But initial issue of it, and first-year support of it, will cost them nothing. This new way of doing business will save them time, effort, and money, about \$1 million a year.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether this final rule, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Smaller shipping companies may lack the equipment necessary to prepare articles and certificates of discharge and to transmit the data from the certificates to the Coast Guard, electronically. But the Coast Guard will continue to accept copies of the certificates, by mail, and manually enter data into the database. Shipping companies will not need to buy computers. This will let the Coast Guard maintain an accurate sea-service database receiving data from all

companies required to submit them, by mail if not electronically.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule will does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. Subparagraphs 2.B.2.e. (34) (a) and (c) of that Instruction exclude, respectively, regulations that are editorial or procedural and those that concern maritime personnel. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

Collection of Information

Under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], the Office of Management and Budget (OMB) review each rule that contains a collection-of-information requirement to determine whether the practical value of the information would be worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This rule contains collection-of-information requirements in the following sections: 14.207, 14.209, 14.211, 14.213, 14.301, 14.303, 14.305, 14.307, 14.309, 14.311, 14.405, and 14.407. The following particulars apply: DOT No.: 2115.

OMB Control No.: 2115-0015 and 2115-0042.

Administration: U.S. Coast Guard.
Title: Electronic Records of Shipping Articles and Certificates of Discharge.

Need for Information: To protect merchant mariners by ensuring that records of their employment, wages, and next of kin are accurate and are available for their review.

Proposed Use of Information: To promote safety aboard domestic merchant vessels by ensuring that merchant mariners qualify by training and service for original or upgraded

credentials; to maintain sea-service data toward retirement benefits; and to furnish those data in the many cases litigated over collisions, injuries, or asbestosis.

Frequency of Response: Articles and copies of certificates of discharge have been due after each voyage. Articles and certificates would still have to be prepared for each voyage. Data from certificates would still have to reach the Coast Guard after each voyage. But now these data could move by wire rather than by mail; no forms would move, unless shipping companies chose not to avail themselves of the benefits of this rule, until after a lag of 3 years. The number and length of voyages depend on the companies.

Burden Estimate: The master of each vessel currently prepares, by hand, large, antiquated articles and certificates of discharge. The shipping companies send these records to the Coast Guard. The Coast Guard enters, by hand, sea-service data into its database, and files originals of articles (alphabetically, by names of vessels) and copies of certificates in individual mariners' records. It leaves the copies in the records. After 3 years, it transfers articles to the Federal Records Center in Suitland, Maryland, which stores them for 60 years. After 3 years of inactivity, it transfers the records themselves to that Center, which, again, stores them for 60 years.

In this final rule, the master of each vessel would still prepare articles and certificates of discharge. The shipping company would retain the option of his or her preparing both forms manually and sending copies of certificates to the Coast Guard for entry into its sea-service database. But it would gain that of his or her preparing both forms electronically on software developed by themselves or the Coast Guard, or bought from stock and of transmitting the data from certificates electronically to the Coast Guard. The Coast Guard would maintain the record of sea service in its database for 6 years after the mariner's last activity such as taking out an upgraded, renewed, modified, or duplicate license or MMD, or sailing and then transfer its record, in whatever electronic form, to the center.

The burden would decrease greatly for companies that already had, or that obtained, the capability of preparing articles and certificates electronically from their current records of employment. They would no longer collect data more than once and could collect them however they chose. It would decrease considerably even for companies lacking this capability. They would, while their masters continued

preparing articles and certificates manually, need only to send copies of certificates to the Coast Guard voyage by voyage; even they would not need to send articles to the Coast Guard voyage by voyage. So both the cost of sending articles oftener than once a year and the cost of sending them at all during the first 3 years would be eliminated for all companies. All would maintain files of articles and of copies of certificates for 3 years; then they would send the articles to the Coast Guard, which would prepare the articles for storage at that Federal Records Center, and the shipping companies would destroy their copies of certificates, since the Coast Guard would hold the record in its database. The added burden on these would take the forms of allotting more storage space in their offices to maintain the articles for 3 years and of, about one work week for one person per company per year after the first 3 years, both packing the articles to send to the Coast Guard for further storage and destroying their copies of discharges. The Coast Guard invites comments on the size of this added burden (or of any other burden, whether or not anticipated here).

Respondents: The chief regulatory impact would fall on the medium and large shipping companies because they operate most of the vessels required to execute articles and certificates of discharge. They would continue to prepare, issue, and keep files of articles and of copies of certificates. They would make these files accessible to the Coast Guard and mariners upon request and would send voyage by voyage, for the sea service database of the Coast Guard either copies of certificates, as they do now, though without articles, or data transmitted electronically from these files.

Form(s): The regulated community of shipping companies and mariners would be free to forgo the use of each of these records, in whole or in its current form: Forecastle Card, CG-704; Shipping Articles, CG-705A; Certificate of Discharge, CG-718A; Record of Entry, CG-718E; and Continuous Discharge Book, CG-719A; and (although OMB did not renew authority for its use after February 1995) Master's Report of Seamen Shipped or Discharged, CG-735T.

In this final rule, the regulated community would still have to deal with all of the data contained in these records, in some form: Shipping Articles, CG-705A; and Certificate of Discharge, CG-718A.

Average Burden Hours per Respondent: Each year, shipping companies prepare about 8,000 articles

with accompanying certificates of Discharge; this costs them almost \$1.43 million. Each year hereafter, they would still prepare about 8,000 articles with accompanying certificates, but this would cost them just about \$0.43 million. The reason is the efficiency that this rule would bring. For each voyage, masters need about 2.5 hours to prepare the articles with accompanying certificates and send them. For each voyage hereafter, those able to file electronically would need about 0.5 hour to prepare the documents and 0.25 hour to file the data from them. The burden-hours would diminish by just about 70 percent.

Savings

For Respondents

The average salary for the staff to prepare the articles and certificates of discharge is \$50 an hour. That staff could save 20,000 hours a year, though the exact figure would depend on two variables: the numbers and kinds of vessels and voyages; and the offsetting burden, in the fourth and later years, of purging 3-year-old copies of certificates and packing and sending 3-year-old articles. The Coast Guard invites comments on the sizes of these two variables.

For Coast Guard

The Coast Guard would save in three ways: (1) on its own personnel, (2) on its contractors' personnel, and (3) on storage space. Although some shipping companies may continue to submit paper copies of certificates of discharge requiring the Coast Guard to continue entering data from some records, the Coast Guard would save 950 hours or \$20,000 a year on its own personnel. The Coast Guard has eliminated 10 "positions" and saved 19,000 hours and has lost \$460,000 a year from its budget to support contractors' personnel. Also, the Coast Guard would need 15 or 20 fewer cubic feet of storage-space a year over the next 15 years and so would save \$7,500 at \$500 a year over those years on storage space.

Persons are not required to respond to a collection of information unless it displays a current valid Office Management Budget (OMB) control number. The Coast Guard has submitted the information collection requirements in this rule to OMB for review pursuant to The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) OMB has approved information collection for shipping articles and the section numbers are 46 CFR 14.207, 14.209, 14.211, 14.213, 14.309, and the corresponding OMB approval number is OMB control

number 2115-0015, and expires October 31, 1997. OMB approval for Certificate of Discharge expires on September 30, 1996, and the Coast Guard has asked for OMB approval to review that request. See notice, number CGD 96-056 for details.

Individuals and organizations may submit comments by January 29, 1997, on the information collection requirements for this portion of the final rule. Comments should be directed to the Executive Secretary, Marine Safety Council as indicated under addresses and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building, room 10235, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for DOT. The Coast Guard will publish a notice in the Federal Register of OMB's decision to approve, modify, or disapprove the pending information Collection requirements.

List of Subjects in 46 CFR Part 14

Oceanographic research vessels, Reporting and recordkeeping requirements, Seamen (merchant mariners).

For the reasons set out in the preamble, the Coast Guard revises 46 CFR part 14, to read as follows:

PART 14—SHIPMENT AND DISCHARGE OF MERCHANT MARINERS

Subpart A—General

- 14.101 Purpose of part.
- 14.103 Addresses of Coast Guard.
- 14.105 Disclosure and privacy.

Subpart B—Shipment of Merchant Mariners

- 14.201 Voyages upon which shipping articles are required.
- 14.203 Voyages upon which shipping articles are not required.
- 14.205 Production of credentials by merchant mariner signing shipping articles.
- 14.207 Content and form of shipping articles.
- 14.209 Preparation of shipping articles at beginning of voyage.
- 14.211 Posting of copy of shipping articles.
- 14.213 Report of shipment of merchant mariner.

Subpart C—Discharge of Merchant Mariners

- 14.301 Paying off of merchant mariner during or after voyage upon which shipping articles are required.
- 14.303 Discharge of merchant mariner in foreign port.
- 14.305 Entries in continuous discharge book.
- 14.307 Entries on certificate of discharge.
- 14.309 Entries in shipping articles at end of voyage.
- 14.311 Report of discharge of merchant mariner.

- 14.313 Storage of shipping articles and of certificates of discharge.

Subpart D—Oceanographic Research Vessels

- 14.401 General.
- 14.403 Exemptions.
- 14.405 Procedures.
- 14.407 Reports.

Authority: 5 U.S.C. 552; 46 U.S.C. Chapters 103 and 104.

Subpart A—General

§ 14.101 Purpose of part.

This part prescribes rules for the shipment and discharge of merchant mariners aboard certain vessels of the United States.

§ 14.103 Addresses of Coast Guard.

(a) By mail: National Maritime Center (NMC-4A), U.S. Coast Guard, Suite 510, 4200 Wilson Boulevard, Arlington, VA 22203-1804.

(b) By facsimile: 703-235-1062.

§ 14.105 Disclosure and privacy.

The Coast Guard makes information available to the public in accordance with 49 CFR part 7, including appendix B.

Subpart B—Shipment of Merchant Mariners

§ 14.201 Voyages upon which shipping articles are required.

(a) Before proceeding either upon a foreign, intercoastal, or coastwise voyage (including a voyage on the Great Lakes) listed in paragraph (b) of this section or with the engagement or replacement of a merchant mariner for such a voyage, each master or individual in charge of a vessel or seagoing barge of the United States shall execute shipping articles however prepared, manually or electronically. The master or individual in charge and each mariner engaged or replaced shall sign the articles.

(b) Except as provided by § 14.203, articles are required upon each voyage by a vessel of the United States—

(1) Of 100 gross tons or more, on a foreign voyage, which is a voyage from a port in the United States to any foreign port other than a port in—

- (i) Canada;
- (ii) Mexico; or
- (iii) The West Indies.

(2) Of 75 gross tons or more on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Coast; or

(3) Of 50 gross tons or more on a voyage between a port in one State and a port in another State other than an adjoining State.

§ 14.203 Voyages upon which shipping articles are not required.

Although they may be used for the voyage; shipping articles are not required for any voyage by—

- (a) A yacht;
- (b) A vessel engaged exclusively in fishing or whaling;
- (c) A vessel aboard which the merchant mariners are by custom or agreement entitled to participate in the profits or results of a cruise or voyage;
- (d) A vessel employed exclusively in trade on the navigable rivers of the United States; or
- (e) A ferry, or a tug used in ferrying, if the vessel is employed exclusively in trade on the Great Lakes, other lakes, bays, sounds, bayous, canals, or harbors.

§ 14.205 Production of credentials by merchant mariner signing shipping articles.

On engagement for a voyage upon which shipping articles are required, each merchant mariner shall present to the master or individual in charge of the vessel every document, certificate, or license required by law for the service the mariner would perform.

§ 14.207 Content and form of shipping articles.

(a)(1) The content and form of shipping articles for each vessel of the United States of 100 gross tons or more upon a foreign or intercoastal voyage must conform to the present shipping articles, form CG-705A, which meets the requirements of 46 U.S.C. 10302, 10303, 10304, and 10305. The articles must identify the nature of the voyage and specify at least the name, the number of the license or merchant mariner's document, the capacity of service, the time due on board to begin work, and the name and address of the next of kin of, and the wages due to each merchant mariner, either who was discharged or whose services were otherwise terminated during the month.

(2) The content and form of articles for each such vessel upon a coastwise voyage (including a voyage on the Great Lakes) must also conform to the present shipping articles, form CG-705A, which meet the requirements of 46 U.S.C. 10502. The articles must specify at least the matter identified by paragraph (a)(1) of this section, except that they must not specify the wages due to the mariner. The wages section of the form shall be left blank for coastwise voyages.

(b) Any shipping company that manually prepares the articles may, upon request, obtain Shipping Articles, Form CG-705A, from any Officer in Charge, Marine Inspection (OCMI), of the Coast Guard.

(c) Any company that electronically prepares the articles may, upon request

submitted to either address in § 14.103, obtain a copy of software developed by the Coast Guard to produce articles in the proper format. Alternatively, a company may develop its own software or buy it off the shelf; but, in either of these cases, it must secure approval of the software from the National Maritime Center at either address in § 14.103.

§ 14.209 Preparation of shipping articles at beginning of voyage.

Each master or individual in charge of a vessel when shipping articles are required shall prepare an original and two copies of the articles. The original and one copy must be signed by the master or individual in charge and by each merchant mariner; but the second copy must not be signed by any of them.

§ 14.211 Posting of copy of shipping articles.

On commencement of a foreign, intercoastal, or coastwise voyage (including a voyage on the Great Lakes), each master or individual in charge of a vessel when shipping articles are required shall ensure that a legible copy of the articles, unsigned by the mariner, and without the next of kin information, is posted at a place accessible to the crew.

§ 14.213 Report of shipment of merchant mariner.

(a) When a vessel of the United States sails upon a foreign, intercoastal, or coastwise voyage (excluding a voyage on the Great Lakes), each master or individual in charge shall, at the commencement of the voyage, send one copy of shipping articles, signed by the master and by each merchant mariner, to the owner, charterer, or managing operator. The master shall keep the original throughout the voyage and enter in it all charges made to the crew during the voyage.

(b) (1) When a vessel of the United States sails exclusively on the Great Lakes, each master or individual in charge shall, at the commencement of the season, or once the vessel is put into service, whichever occurs earlier, send one copy of articles, signed by the master and by each mariner, to the owner, charterer, or managing operator.

(2) The master or individual in charge shall every 60 days send supplementary particulars of engagement covering each mariner engaged during this period, signed by the master and by each mariner, to the owner, charterer, or managing operator.

(3) The master of individual in charge shall, at the close of the season, or once the vessel is withdrawn from service, whichever occurs later, send articles, signed by the master and by each

mariner, to the owner, charterer, or managing operator.

(c) When a vessel of the United States sails exclusively on bays or sounds, each master or individual in charge shall, at least every 60 days, send articles, signed by the master and by each mariner, to the owner, charter, or managing operator.

(d) Any person who fails to comply with the requirements of this section is subject to a civil penalty of \$5,000.

Subpart C—Discharge of Merchant Mariners

§ 14.301 Paying off of merchant mariner during or after voyage upon which shipping articles are required.

Each master or individual in charge of a vessel when shipping articles are required shall complete and sign, and each merchant mariner paid off during or after such a voyage shall sign the articles and otherwise comply with the requirements of this subpart. When signed by the master or individual in charge and by the mariner, the articles constitute a release from the duties to which they bound their parties.

§ 14.303 Discharge of merchant mariner in foreign port.

Upon the discharge of any mariner in a foreign port, the master shall make the required entries on the ship's articles. Upon the request of the master or a mariner, the consular officer shall discharge the mariner in accordance with the requirements of 46 U.S.C. 10318.

§ 14.305 Entries in continuous discharge book.

If the merchant mariner holds a continuous discharge book, the master or individual in charge of the vessel shall make the proper entries in it.

§ 14.307 Entries on certificate of discharge.

(a) Each master or individual in charge of a vessel shall, for each merchant mariner being discharged from the vessel, prepare a certificate of discharge and two copies; whether by writing or typing them on the prescribed form with permanent ink or generating them from computer in the prescribed format; and shall sign them with permanent ink. The prescribed format for a certificate of discharge is the same as the present form CG-719A (Rev. 8-80). The left portion of the form has the mariner's printed name, signature, citizenship, and merchant mariner's document number; the certification statement, date and the master's signature. The right portion of the form contains the rate/rank the mariner is

serving on the voyage, date and place of shipment, date and place of discharge, name of the vessel, name of the operating company, official number of the vessel, class of the vessel, and the nature of the voyage.

(b) Each mariner being discharged shall sign the certificate and both copies with permanent ink.

(c) When the mariner leaves the vessel, the master or individual in charge shall give the original certificate to the mariner.

(d) Except as directed by § 14.313, the shipping company shall keep both copies of the certificate.

(e) The company shall provide copies of certificates of discharge to the mariner and the Coast Guard upon request.

§ 14.309 Entries in shipping articles at end of voyage.

(a) At the end of each voyage upon which shipping articles are required, the master or individual in charge of the vessel shall—

(1) Complete the articles, conforming the pertinent entries in them to those on the certificate of discharge and its copies;

(2) Note in the articles the execution of each Mutual Release;

(3) Attach to the articles each Mutual Release and a copy of each certificate; and

(4) Pay to each merchant mariner all wages due.

(b) When paid off, each mariner shall sign the articles.

§ 14.311 Report of discharge of merchant mariner.

(a) At the end of each foreign, intercoastal, and coastwise voyage by a vessel of the United States, or of each voyage by such a vessel that sails exclusively on bays or sounds (or by such a vessel at the close of the season on the Great Lakes, or once the vessel is withdrawn from service there, whichever occurs later), the shipping company shall electronically transmit the data from the certificates of discharge via modem to an electronic address which the shipping company may request from the National Maritime Center.

(b) If the data is submitted manually, the shipping companies shall provide the data for foreign and intercoastal voyages at the end of each voyage. For coastwise voyages or of each voyage by such a vessel that sails exclusively on bays or sounds (or by such a vessel at the close of the season of the Great Lakes, or once the vessel is withdrawn from service there, whichever occurs later), the shipping companies shall

submit a copy of each certificate of discharge to the address in § 14.103(a) at least once per calendar month.

§ 14.313 Storage of shipping articles and of certificates of discharge.

(a) Each shipping company shall keep all original shipping articles and copies of all certificates of discharge for 3 years. After 3 years the shipping companies shall prepare the original shipping articles in alphabetical order by vessel name and send to the address in § 14.103(a) for storage at the Federal Records Center at Suitland, Maryland. The company may dispose of the copies of certificates of discharge. The Coast Guard will dispose of copies of certificates submitted manually, once the data are entered into its sea-service database and are validated.

(b) Each shipping company that goes out of business or merges with another company shall send all original articles to the address in § 14.103(a) within 30 days of the transaction.

(c) The shipping company must provide copies of shipping articles and certificates of discharge to the mariner and the Coast Guard upon request.

Subpart D—Oceanographic Research Vessels

§ 14.401 General.

Unless otherwise provided by Title 46 United States Code, by any act amending or supplementing that Title, or by this subpart, that Title as far as it governs the employment of merchant mariners remains, and any act amending or supplementing that title becomes, applicable to oceanographic research vessels.

§ 14.403 Exemptions.

(a) Certain requirements of Title 46, United States Code do not apply to the employment of merchant mariners on oceanographic research vessels. These requirements are those concerned with, among other things, the shipment and discharge of mariners, their pay and allotments, and the adequacy of their clothing. 46 U.S.C. 2113(2) allows exemptions of oceanographic research vessels from certain requirements of parts B, C, F, or G of subtitle II of 46 U.S.C., upon such terms as the Secretary of the Department of Transportation deems suitable. The exemptions available under this subpart are subject to the following terms:

(1) No use of any exemption relieves the owner, charterer, managing operator,

master, or individual in charge of the vessel of other statutory responsibilities for the protection of every mariner under his or her command.

(2) If it is presented at a reasonable time and in a reasonable manner, the master or individual in charge shall receive, consider, and appropriately address the legitimate complaint of any mariner.

(b) For any oceanographic research vessel sailing with any mariner employed by any firm, association, corporation, or educational or governmental body or agency, the Commandant may grant exemptions from—

- (1) 46 U.S.C. 10301, Application;
- (2) 46 U.S.C. 10302, Shipping articles (for foreign and intercoastal voyages);
- (3) 46 U.S.C. 10307, Posting of articles;
- (4) 46 U.S.C. 10308, Foreign engagements;
- (5) 46 U.S.C. 10311, Certificates of discharge;
- (6) 46 U.S.C. 10313 and 10504, Wages;
- (7) 46 U.S.C. 10314 and 10505, Advances;
- (8) 46 U.S.C. 10315, Allotments;
- (9) 46 U.S.C. 10316 and 10506, Trusts;
- (10) 46 U.S.C. 10321 and 10508, General penalties;
- (11) 46 U.S.C. 10502, Shipping articles (for coastwise voyages); and
- (12) 46 U.S.C. 10509, Penalty for failure to begin coastwise voyages.

§ 14.405 Procedures.

(a) Upon written request for the owner, charterer, managing operator, master, or individual in charge of the vessel to the OCMI of the Coast Guard in whose zone the vessel is located, the Commandant may grant an exemption of any oceanographic research vessel designated by 46 U.S.C. 2113(2) from any requirement of any section listed by § 14.403(b).

(b) The request must state—

- (1) Any requirement of any section listed in § 14.403(b) from which the applicant wishes an exemption; and
- (2) What business practices regarding, among other things, the shipment and discharge of merchant mariners, their pay and allotments, and the adequacy of their clothing would justify the exemption.

(c) The OCMI will forward the request, along with his or her recommendation, to the Commandant, who will determine whether to grant any exemption of any vessel from any

requirement. The OCMI will issue a letter indicating any exemption granted. The master or individual in charge of the vessel shall keep the letter aboard the vessel.

(d) If operating conditions change, the owner, charterer, managing operator, master, or individual in charge of the vessel shall so advise the OCMI. The OCMI will forward pertinent information on how the conditions have changed, along with his or her recommendation, to the Commandant, who will determine whether any exemption should remain granted.

§ 14.407 Reports.

(a) The owner, charterer, managing operator, master, or individual in charge of each oceanographic research vessel of 100 gross tons or more shall maintain a record of the employment, discharge, or termination of service of every merchant mariner in the crew. At least every 6 months, the person maintaining this record shall transmit it to the Coast Guard, either manually, in the form of a copy of a certificate of discharge, or electronically.

(b) The owner, charterer, managing operator, master, or individual in charge of the vessel shall keep original shipping articles and a copy of each certificate ready for review by the Coast Guard or the concerned mariner upon request. After January 3, 1997, the Coast Guard will no longer keep either original articles or copies of certificates; it will keep only electronic records of employment.

(c) The master or individual in charge of the vessel shall ensure that every entry made in the articles agrees with the corresponding entry made in a continuous discharge book, on a certificate, or in any other proof of sea service furnished to the mariner.

(d) Each oceanographic company shall keep all original articles and copies of all certificates for 3 years. After that each such company shall send all articles to the address in § 14.103(a).

(e) Each oceanographic company that goes out of business or merges with another company shall send all original articles to the address in § 14.103(a) within 30 days of the transaction.

Dated: October 28, 1996.

J.C. Card,

*Rear Admiral, U.S. Coast Guard, Chief,
Marine Safety and Environmental Protection.*
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