

important to determining the character and habits of life of applicants for merchant mariner's credentials.

Four comments stated that denial of credentials on the grounds of a past offense is punishing an individual twice for the same offense, and for this reason the final rule is unconstitutional. The Coast Guard disagrees. Merchant mariner's credentials are certificates of qualification that authorize individuals to perform certain duties on a vessel. In the interest of marine safety, the Coast Guard examines applicants to determine their suitability to hold merchant marine credentials. Past offenses are a good indicator of whether a person is a possible threat to the safety of ship operation, personnel, the marine environment, or passengers. Basing the decision of whether to grant a merchant mariner's credentials on the factors articulated in this rule is not punishment of those whose applications are denied. It is instead a reasonable way to protect life and property at sea.

The Coast Guard added the statement, "Applicants must provide written disclosure for all prior convictions at the time of application," to § 10.201(h) and § 12.02-4(c). The sentence will provide consistency between this final rule and the current application procedures.

5. Assessment Periods

Five comments addressed the minimum and maximum assessment periods for which the OCMi will consider a conviction in the evaluation of an applicant for merchant mariner's credentials.

One comment expressed that the assessment periods appeared to be arbitrary. The Coast Guard has reviewed three reports from the U.S. Department of Justice, Bureau of Justice Statistics (BJS). These reports are entitled, "Recidivism of Prisoners Released in 1983", "Recidivism of Felons on Probation, 1988-1989," and "Recidivism of Young Parolees". The reports revealed high rates of rearrest for released prisoners, felons on probation, and young parolees. Based on a sample of State prisoners released in 1983, 62.5 percent were rearrested for a felony or serious misdemeanor within 3 years. Using a sample of felons sentenced to probation in 1986, a report found that 62 percent of the probationers either had a disciplinary hearing for violating a condition of their probation or were arrested for another felony within three years. Another BJS study, based on a sample of young parolees between the ages of 17 and 22, found that 69 percent of young parolees were rearrested for a serious crime within 6 years of their

release from prison. One of the reports found that of the prisoners in the study, those with a prior arrest for a violent offense had a greater likelihood of rearrest than other released prisoners. Therefore, the categories of violent crimes in Tables 10.201(h) and 12.02-4(c) have longer assessment periods. The Coast Guard determined that the assessment periods, as published in the NPRM, are a sufficient guideline for the OCMi to consider the convictions of applicants. The assessment periods take into account both recidivism of the categories of crimes and the consequences of their occurrence.

Several comments suggested reducing the length of the assessment periods and including supervised parole or probation as part of the assessment periods. The Coast Guard established the assessment periods as guidelines for the OCMi when evaluating an applicant with criminal convictions. The assessment periods do not prevent an individual from applying before the minimum assessment period has elapsed or between minimum and maximum assessment periods.

A person who applies before the minimum time period has elapsed must provide the OCMi with evidence of suitability for maritime employment. This final rule provides a list of factors in § 10.201(j) and § 12.02-4(e) for the OCMi to use as a guide in considering an applicant before the minimum assessment period has elapsed.

The applicant may also apply for merchant mariner's credentials between the minimum and maximum assessment periods. During this period, the Coast Guard will issue a license, COR, or MMD to the applicant unless there are offsetting factors. Type of offsetting factors are listed in § 10.201(h)(5) and § 12.02-4(c)(5).

After further review, the Coast Guard determined that the OCMi would benefit from examining periods of supervised probation and parole as part of the assessment periods. Periods of supervised probation and parole, like periods of unsupervised probation and parole, allow individuals to adjust to civilian life. Therefore, the OCMi may include periods of probation and parole in the assessment periods with a letter of recommendation from a parole or probation officer. The Coast Guard also revised § 10.201(h)(2) and § 12.02-4(c)(2) to clarify when the assessment period commences.

One comment objected to the evaluating factor in §§ 10.201(j) and 12.02-4(e) concerning membership in a rehabilitation group. The comment noted that many of these groups are anonymous and information on

membership and attendance is usually confidential or nonexistent. The Coast Guard will accept as proof of active membership a broad range of items, such as a letter from a counselor, or the signature or stamp of a secretary from the group an individual is attending.

6. Direct and Indirect Benefits

Three comments recommended supporting the benefit analysis in the NPRM with statistical data. The Coast Guard stated in the NPRM that the direct and societal benefits from this final rule are not quantifiable. Historical data are insufficient to perform an analysis of benefits. The Coast Guard concluded that even if maritime accidents are reduced by a small percentage, savings will accrue to the maritime industry through lower repair and medical costs and to the public through environmental protection.

7. Additional Comments and Changes

Another comment suggested that the OCMi consider dangerous drug offenses more than ten years prior to the application for a license, COR, or MMD if there are subsequent dangerous drug offenses. The Coast Guard determined that consideration of dangerous drug convictions occurring ten years before application combined with subsequent violations are helpful in establishing a behavior pattern. The Coast Guard is amending § 10.201(h)(2) and § 12.02-4(c)(2) to include dangerous drug convictions occurring more than 10 years prior to the date of application if an individual has subsequent violations. Tables 10.201(h) and 12.02-4(c) were also amended to reflect the consideration of dangerous drug offenses more than 10 years old if there are subsequent dangerous drug offenses.

The Coast Guard determined that some NDR convictions could also be criminal convictions. When deciding on an appropriate assessment period, the OCMi should be able to use the guidelines found in the criminal conviction table and the NDR conviction table. Therefore, § 10.201(h)(3) and § 12.02-4(c)(3) were revised to add Table 10.201(i) and Table 12.02-4(d), respectively. Also, § 10.201(i) and § 12.02-4(d) were revised to allow the OCMi to use criminal conviction assessment period guidelines where appropriate.

The Coast Guard revised Tables 10.201(i) and 12.02-4(d) to clarify the assessment period for 2 or more motor vehicle convictions. The phrase "which ever is longer" was deleted from the assessment period of applicants for merchant mariner's documents, licenses, and certificates of registry with