

(i) Operating a motor vehicle in violation of a posted sign or traffic control device.

■ 9. Amend § 261.15 by revising paragraphs (e) and (g) to read as follows:

§ 261.15 Use of vehicles off roads.

* * * * *

(e) While under the influence of an alcoholic beverage or a controlled substance in violation of State law.

* * * * *

(g) Carelessly, recklessly, or in a manner or at a speed that endangers or is likely to endanger any person or property.

* * * * *

■ 10. Amend § 261.50 by revising paragraphs (a) and (b) to read as follows:

§ 261.50 Orders.

(a) The Chief, each Regional Forester, each Experiment Station Director, the head of each administrative unit, their deputies, or persons acting in these positions may issue orders, consistent with their delegations of authority, that close or restrict the use of described areas by applying the prohibitions authorized in this subpart, individually or in combination.

(b) The Chief, each Regional Forester, each Experiment Station Director, the head of each administrative unit, their deputies, or persons acting in these positions may issue orders, consistent with their delegations of authority, that close or restrict the use of any National Forest System road or National Forest System trail.

* * * * *

■ 11. Revise § 261.52 to read as follows:

§ 261.52 Fire.

When provided by an order, the following are prohibited:

(a) Building, maintaining, attending, or using a fire, campfire, or stove fire.

(b) Using an explosive.

(c) Smoking.

(d) Smoking, except within an enclosed vehicle or building, at a recreation site, or while stopped in an area at least 3 feet in diameter that is barren or cleared of all flammable material.

(e) Entering or being in an area.

(f) Entering an area without any firefighting tool prescribed by the order.

(g) Operating an internal combustion engine.

(h) Welding or operating an acetylene or other torch with open flame.

■ 12. Amend § 261.53 by revising the title and introductory text to read as follows:

§ 261.53 Special closures or restrictions.

When provided by an order, it is prohibited to go into or be in any area

which is closed or restricted for the protection of:

* * * * *

§ 261.54 [Amended]

■ 13. Amend § 261.54 by removing paragraph (f).

■ 14. Amend § 261.58 by revising paragraphs (b), (d), and (bb) to read as follows:

§ 261.58 Occupancy and use.

* * * * *

(b) Entering or using a recreation site or portion thereof.

* * * * *

(d) Occupying a recreation site with prohibited camping equipment prescribed by the order.

* * * * *

(bb) Possessing an alcoholic beverage.

* * * * *

Homer Wilkes,

Under Secretary, Natural Resources and Environment.

[FR Doc. 2023–21563 Filed 10–2–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 10

[Docket No. USCG–2021–0288]

RIN 1625–AC83

Exemption for Active-Duty Uniformed Service Members From Merchant Mariner Credentialing Fees

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to exempt certain members of the uniformed services from Merchant Mariner Credential (MMC) fees for the evaluation of an MMC application, the administration of an examination required for an MMC endorsement, and the issuance of an MMC. This proposal is in response to Executive Order 13860, “Supporting the Transition of Active-Duty Service Members and Military Veterans Into the Merchant Marine,” and section 3511 of the National Defense Authorization Act for Fiscal Year 2020. Under this proposal, members of the uniformed services would be exempt from paying fees for an MMC.

DATES: Comments and related material must be received by the Coast Guard on or before January 2, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0288 using the Federal Decision Making Portal at www.regulations.gov. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

Collection of information. Submit comments on the collection of information discussed in section VI.D of this preamble both to the Coast Guard’s online docket and to the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget (OMB) using their website www.reginfo.gov/public/do/PRAMain. Comments sent to OIRA on the collection of information must reach OMB on or before the comment due date listed on their website.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. James Cavo, U.S. Coast Guard Office of Merchant Mariner Credentialing; telephone 202–372–1205, email James.D.Cavo@uscg.mil.

SUPPLEMENTARY INFORMATION:

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- I. Public Participation and Request for Comments
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I. Public Participation and Request for Comments

The Coast Guard views public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at www.regulations.gov. To do so, go to

www.regulations.gov, type USCG–2021–0288 in the search box, and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using www.regulations.gov, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the www.regulations.gov Frequently Asked Questions web page. That FAQ page also explains how to subscribe for email alerts that will notify you when comments are posted or if a final rule is published. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to www.regulations.gov will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see the DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Public meeting. We do not plan to hold a public meeting, but we will consider doing so if we determine from public comments that a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

CATEX Categorical exclusion
CFR Code of Federal Regulations
CG–MMC U.S. Coast Guard Office of Merchant Mariner Credentialing
DHS Department of Homeland Security
GS General Schedule
MMC Merchant Mariner Credential
MLLD Merchant Mariner Licensing Documentation
NDAA 2020 National Defense Authorization Act for Fiscal Year 2020
NOAA National Oceanic and Atmospheric Administration
NMC National Maritime Center
OMB Office of Management and Budget
OPM Office of Personnel Management
RA Regulatory analysis
§ Section

STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
USPHS U.S. Public Health Service
U.S.C. United States Code

III. Background

As described in title 46 of the Code of Federal Regulations (CFR), section 10.107, a Coast Guard-issued Merchant Mariner Credential (MMC) serves as a mariner’s qualification document and certificate of identification. Mariners employed aboard most U.S. merchant vessels are required to hold a valid MMC.

As mandated by title 46 of the United States Code (U.S.C.), section 2110, and in accordance with the Independent Offices Appropriations Act (31 U.S.C. 9701), the Coast Guard has established fees associated with MMC applications, which are codified in table 1 to 46 CFR 10.219(a). There are three types of credentialing fees: an evaluation fee, an examination fee, and an issuance fee. The fee amount varies based on the individual credential transaction that an applicant seeks.

Evaluation fees for MMCs range from \$50 to \$100, and the applicant must pay the fee at the time an application is submitted to the Coast Guard. Examination fees range from \$45 to \$140, depending on the endorsement sought, and must be paid before the professional examination for an endorsement is taken.¹ If an applicant applies for an MMC with both a rating and an officer endorsement, the higher evaluation fee is charged. Issuance fees are \$45 and must be paid before an MMC is issued.²

The original issuance of an MMC, as well as any subsequent credential transactions, such as increasing the scope of authority, raising the grade of authority, or renewing an MMC, all require a fee.³ MMCs are valid for a period of 5 years and may be renewed at any time during the validity period of the credential and for 1 year after expiration.

Mariners typically seek additional endorsements after accruing the required sea service and completing required training. There are no fees

¹ An *endorsement* is a “statement of a mariner’s qualifications.” 46 CFR 10.107(b). The particular endorsement(s) on each mariner’s MMC indicate what capacities they may serve in, such as a “barge supervisor” or a “lifeboatman.” See *id.*; 46 CFR 10.109(a)–(b).

² A *rating endorsement* is an annotation on an MMC that allows a mariner to serve in those capacities set out in 46 CFR 10.109(b). 46 CFR 10.107(b). *Officer endorsement* means an annotation on an MMC that allows a mariner to serve in the capacities listed in 46 CFR 10.109. *Id.*

³ “Increase in scope” and “raise of grade” are defined at 46 CFR 10.107.

associated with the issuance of mariner medical certificates or International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) endorsements.

The Coast Guard does not require a fee for MMC transactions if one of the following three conditions is met:

(1) The application is for a Document of Continuity, as specified in 46 CFR 10.219(e)(3).

(2) The credential is a duplicate of a credential lost in a shipwreck or other casualty under 46 CFR 10.229(c) and reflected in table 1 to § 10.219(a).

(3) The applicant qualifies for a “no-fee” Merchant Mariner Credential under 46 CFR 10.219(h).

Currently, an applicant only qualifies for a “no-fee” MMC if they are a volunteer for or an employee of an organization that is youth-oriented, not-for-profit, and charitable, 46 CFR 10.219(j). The holder of a “no fee” MMC is restricted to using vessels owned or operated by the sponsoring organization, 46 CFR 10.219(k).

In March 2019, Executive Order 13860, “Supporting the Transition of Active-Duty Service Members and Military Veterans Into the Merchant Marine,” directed the Coast Guard to waive the fees associated with MMC applications “for active duty service members, if a waiver is authorized and appropriate.”⁴ The Executive Order applied only to members of the armed forces.

Subsequently, in December 2019, Congress enacted the National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020).⁵ Building upon Executive Order 13860, section 3511(c)(1) of the NDAA 2020 directed the Coast Guard to waive evaluation, examination, and issuance fees associated with MMCs, if a waiver is authorized and appropriate, not just for the armed forces (Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard), but for all “members of the uniformed services on active duty.” The uniformed services include the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA) and the Commissioned Corps of the U.S. Public Health Service (USPHS) in addition to the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.⁶

In accordance with Executive Order 13860 and section 3511 of the NDAA 2020, on May 26, 2020, the Coast Guard’s Office of Merchant Mariner

⁴ E.O. 13860, section 3, paragraph (a)(ii) (84 FR 8407 (Mar. 7, 2019)).

⁵ Public Law 116–92, Dec. 20, 2019.

⁶ Section 3511 of the NDAA 2020 is codified as a note to 46 U.S.C. 7302: “Uniformed services” defined at 10 U.S.C. 101(a)(5).

Credentialing (CG–MMC) issued Policy Letter 02–20, “Waiver of Fees Associated with Merchant Mariner Credential Applications for Active Duty Members of the Uniformed Services.”⁷ CG–MMC Policy Letter 02–20 provides guidance for the waiver of MMC fees for active duty members of the uniformed services. The policy provided a waiver of fees for mariners who provide documentation evidencing their eligibility for the fee waiver. This documentation may include active-duty orders or a letter from their command or personnel office on official letterhead that states the applicant is a current member of the uniformed services on active duty or a member of the Selected Reserve of the Ready Reserve of any of the armed forces or the Ready Reserve Corps of the USPHS.

IV. Legal Authority

Section 3511(c)(1) of the NDAA 2020 directed the Coast Guard to waive evaluation, examination, and issuance fees associated with MMCs for members of the uniformed services on active duty, if a waiver is authorized and appropriate. The Coast Guard has found that such a waiver is authorized and appropriate. Under 46 U.S.C. 2110(g), the Secretary of the Department of Homeland Security (DHS) may exempt a person from paying such a fee if the Secretary determines that it is in the public interest to do so. The Secretary has delegated this authority to the Coast Guard through article II, paragraph 92, subparagraph (a) of DHS Delegation No. 00170.1, Revision No. 01.3. The Coast Guard concludes that it is in the public interest to exempt members of the uniformed services (Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, Commissioned Corps of the NOAA, and Commissioned Corps of USPHS) on active duty; members of the Selected Reserve of the Ready Reserve of any of the armed forces (Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve, and Coast Guard Reserve); and the Ready Reserve Corps of the USPHS from fees associated with obtaining an MMC. As discussed in Executive Order 13860, it is the policy of the United States to establish and maintain an effective merchant marine and to provide sufficient support and resources to active duty and separating service members who pursue or possess MMCs.

The goals of not requiring these fees are to: (1) help attract active-duty service members with the appropriate skills and expertise to obtain an MMC for employment in the maritime industry; (2) support U.S. national security requirements; and (3) provide meaningful, well-paying jobs to U.S. veterans.⁸

V. Discussion of Proposed Rule

The Coast Guard is proposing to amend 46 CFR 10.219 and codify this MMC fee waiver in the regulations. Specifically, the Coast Guard proposes to exempt members of the uniformed services on active duty, members of the Selected Reserve of the Ready Reserve of any of the armed forces (Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve), and the Ready Reserve Corps of the USPHS from paying evaluation, examination, or issuance fees for an MMC.

For purposes of this rule, “uniformed services” would have the same meaning as defined at 10 U.S.C. 101(a)(5): the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard, as well as members of the NOAA and USPHS Commissioned Corps. Members of the Selected Reserve of the Ready Reserve of a reserve component named in 10 U.S.C. 10101 and members of the Ready Reserve Corps of the USPHS would also be eligible for the exemption. (The NOAA Commissioned Corps does not have a reserve component.)

For members of the armed forces, “active duty” would have the same meaning as under 10 U.S.C. 101(d)(1). For members of the NOAA commissioned corps, “active duty” would have the same meaning as under 33 U.S.C. 3002(b)(1). For members of the USPHS Commissioned Corps, “active duty” would have the same meaning as “active service” under 42 U.S.C. 212(d). “Selected Reserve” would have the same meaning as under 10 U.S.C. 10143(a).

This fee exemption would be located in a new paragraph, paragraph (m), in 46 CFR 10.219.

VI. Regulatory Analysis

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. A summary of our analyses based on these statutes and Executive orders follows.

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. Accordingly, OMB has not reviewed this rule.

The Coast Guard has developed an analysis of the costs and benefits of the proposed rule to assess its impacts. The regulatory analysis (RA) follows.

The rule is being proposed in response to two items. The first is section 3, paragraph (a)(ii) of Executive Order 13860, “Supporting the Transition of Active-Duty Service Members and Military Veterans Into the Merchant Marine,” signed March 4, 2019.⁹ The second is section 3511(c)(1) of the NDAA 2020.¹⁰

For purposes of the analysis, this RA is presented in two parts. Part I examines the impacts of CG–MMC Policy Letter 02–20, which was issued on May 26, 2020.¹¹ Part II examines the impacts of the proposed rulemaking post the issuance of the CG–MMC Policy Letter 02–20. The policy letter and the proposed rulemaking cover different populations. The difference between the two populations arises from which components of the reserves are eligible for a waiver of fees under the policy letter and which would be eligible under this proposed rule. The policy letter covers all reservists on active duty currently and in the past. The proposed rulemaking, however, would cover only those reservists who are currently members of the Selected Reserve, as described in 10 U.S.C.

⁹ 84 FR 8407 (Mar. 7, 2019) (“With respect to National Maritime Center license evaluation, issuance, and examination, [the Coast Guard shall] take all necessary and appropriate actions to provide for the waiver of fees for active-duty service members.”).

¹⁰ Public Law 116–92, Dec. 20, 2019.

¹¹ Section 5e of the policy letter. A copy of the policy letter can be found in the docket.

⁷ CG–MMC Policy Letter 02–20 is available at <https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/5ps/MMC/CG-MMC-2%20Policies/CG-MMC-Policy-Letter-02-20.pdf>.

⁸ Executive Order 13860, section 1.

10143(a), or a reserve component named in 10 U.S.C. 10101, or the Ready Reserve of the USPHS. The in-scope population of the proposed rulemaking is a subset of that of the policy letter.

The Coast Guard does not have data on the number of Selected Reservists or Ready Reservists who were granted fee exemptions under the policy letter, nor does it have data on the number of the reservists who were granted fee exemptions while on active-duty status. Due to this lack of data, it is not possible to estimate the differences in the affected populations between the policy letter and the proposed rulemaking.¹² Therefore, the Coast Guard is treating the estimated difference as an unquantified impact of the proposed rule, though the Coast Guard explores potential cost savings effects in its

analysis. Further discussion can be found below.

Since the policy letter and proposed rulemakings are implemented at different time periods (the policy letter was implemented in 2020, and the proposed rulemaking is expected to be implemented in 2024), two different baselines need to be examined. The first is that associated with the pre-policy baseline (covering 2020–2033), and the second is that associated with the proposed rulemaking baseline (covering 2024–2033). The pre-policy baseline analyzes the effects of the Policy Letter 02–20 published in 2020 which allowed certain eligible applicants to receive an MMC fee exemption. The pre-policy baseline estimates the costs and savings that applicants and the Coast Guard received as a result of the policy letter

as well as the costs and savings from this proposed rulemaking. The second baseline, the proposed rulemaking baseline, estimates the costs and savings that would occur as the result of this proposed rulemaking only. However, since we are unable to determine the change in population there are no additional costs or savings that can be attributed to the proposed rulemaking baseline.

Table 1, below, provides a summary of all impacts from Policy Letter 02–20 and the proposed rulemaking on a per-applicant basis. Section 1a of that table discusses the impacts of the policy letter, and section 1b discusses those of the proposed rulemaking. The dollar figures are presented in both nominal and discounted terms (7 percent on an annualized basis) for a 10-year period.

TABLE 1a—SUMMARY OF THE IMPACTS OF POLICY LETTER 02–20

Category	Impacts
Applicability	46 U.S.C. 2110, Executive Order 13860, and NDAA 2020.
Affected Population	Members of the uniformed services (Army, Navy, Air Force, Space Force, Marine Corps, Coast Guard, Commissioned Corps of NOAA, Commissioned Corps of USPHS), including reservists and members of the National Guard, who are on active duty at the time of application, or are current members of the reserve forces and were previously on active duty.
Estimated Fee Waivers (annually)	The estimated number of fee waivers in the future is 622 (annually).
Labor costs for applicants to provide documentation of eligibility for an MMC fee exemption.	\$9.87 per application. The 14-year documentation cost for the 622 yearly applicants is \$85,948 (in total nominal dollars) and \$61,468 and \$6,139 annualized (discounted at 7%).
Labor costs to the Coast Guard to evaluate applicant's eligibility for MMC fee exemption.	\$7.82 per application. The 14-year cost to the Coast Guard is \$68,097 (in total nominal dollars) and \$48,702 and \$4,864 annualized (discounted at 7%).
Transfer payments (eliminated applicant's MMC fees paid to the Federal Government).	The mean estimated transfer is \$159.38 per MMC. Over the 14-year period, the transfers are estimated at \$1,387,881 (in total nominal dollars) and \$992,601 and \$99,134 on an annualized basis (discounted at 7%).
Unquantified benefits	May provide uniformed services members greater flexibility with respect to pursuing careers after leaving the uniformed services.

TABLE 1b—SUMMARY OF THE IMPACTS OF PROPOSED RULE

Category	Impacts
Applicability	46 U.S.C. 2110, Executive Order 13860, and NDAA 2020.
Affected Population	The proposed rulemaking covers only uniformed service members and reservists on active duty, members of the Selected Reserve, and members of the Ready Reserve Corps of the Public Health Service. The proposed rulemaking involves a narrower in-scope population, as Policy Letter 02–20 covers reservists currently on active duty as well as those who were on active duty in the past.
Estimated Fee Waivers (annually)	The number of fee waivers in the future is estimated, for purposes of our analysis, at 622 (annually). However, as the only change from Policy Letter 02–20 involves a potential decrease in the reservist population, the actual number may be smaller. Due to a lack of data, it is not possible to quantify this number.
Labor costs for applicants to provide documentation of eligibility for an MMC fee exemption.	\$9.87 per application. There are no labor costs to the applicants to provide documentation as the proposed rulemaking codifies the already existing Policy Letter 02–20.
Labor costs to the Coast Guard to evaluate applicant's eligibility for MMC fee exemption.	\$7.82 per application. There are no labor costs expected from the implementation of the proposed rulemaking as it codifies the already existing Policy Letter 02–20.
Transfer payments (eliminated applicant's MMC fees paid to the Federal Government).	Codifies MMC Fee Waiver. The mean estimated transfer is \$159.38 per MMC. There are no transfer payments expected from the implementation of the proposed rulemaking as it codifies the already existing Policy Letter 02–20.

¹² Although the NMC has data on the aggregate number of applicants for the fee waiver, it does not have data on the applicants broken out by sub-categories such as what service they are in (or were

in) or their active or reserve status. Executive Order 13860 does not require the Coast Guard to collect this data. As a result, the Coast Guard does not collect it. In addition, the Department of Defense,

as of when this proposed rule was written, did not publish data on the number of Selected Reservists or Ready Reservists who are currently on active duty or who were in the recent past.

TABLE 1b—SUMMARY OF THE IMPACTS OF PROPOSED RULE—Continued

Category	Impacts
Unquantified benefits	May provide increased clarity and transparency to the affected public as a published rule in the CFR as opposed to a standalone guidance document. ¹

Note: all dollar figures are rounded to the closest whole dollar.

¹ The proposed rulemaking also incorporates the greater flexibility with respect to pursuing careers. Due to the fact that this has already been achieved by the policy letter, independent of the proposed rulemaking, we only list the increased clarity and transparency obtained through the codification of the MMC Fee Waiver. These are the additional benefits obtained through the creation of the proposed rulemaking.

Part I. CG—MMC Policy Letter 02–20 (Pre-Policy Baseline)

A policy letter was published to immediately implement Executive Order 13860, section 3511(c)(1) of the NDAA 2020. The implementation of the policy letter had three impacts. The first impact is the time that applicants are required to provide documentation to show eligibility for the MMC fee exemption.¹³ Prior to the implementation of the policy letter, applicants did not need to provide such documentation. The second impact involves the labor costs to the Coast Guard to evaluate documentation for eligibility of the fee exemption. Prior to the policy letter, the Coast Guard did not have to evaluate such documentation, so there was no cost to the Government. The third impact of the policy letter was in the form of transfer payments, which are monetary payments from one group to another

that do not affect the total resources available to society. Prior to the implementation of the policy letter, the affected population were required to pay the MMC fees. Following publication of the Policy Letter, the Federal Government incurs the cost of those fees. These three factors comprise the effects of the of Policy Letter 02–20.

The population will be discussed in greater detail below in the “Affected Population” section of this RA.

Affected Population for Policy Letter 02–20

In accordance with Executive Order 13860 and section 3511 of the NDAA 2020, and the authority under 46 U.S.C. 2110(g), the Coast Guard waived MMC fees for members of the uniformed services (Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, and the Commissioned Corps of NOAA and the USPHS), including reservists and

members of the National Guard, if they are currently on active duty at the time of application, or are a current member of the reserve forces and were previously on active duty.¹⁴ The waiver was implemented through Policy Letter 02–20. This policy letter took effect on May 26, 2020. Data is available for all these categories of personnel except the Ready Reserve Corps of the USPHS. The Ready Reserve Corps of the USPHS was authorized and funded by the Coronavirus Aid, Relief and Economic Security Act and signed into law on March 27, 2020. It only began to accept applications in the fall of 2020.¹⁵ With respect to the other groups mentioned above, the maximum potentially affected population is 2,145,035. This is the total number of personnel who may be eligible for an MMC fee exemption. A detailed breakdown of this population can be found below in Table 2.

TABLE 2—MAXIMUM TOTAL POTENTIALLY AFFECTED POPULATION BY POLICY LETTER 02–20

Service branch	Number	Source	Notes
Members of Uniformed Services			
Army	466,172	Defense Manpower Data Center (DMDC) website, (https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports , downloaded September 1, 2022). Downloaded from section “military personal, Military and civilian personnel by service/agency by state/country, March 2022”.	This data is as of the quarter ending March 2022. ¹
Navy	340,390	Information from NOAA, provided May 27, 2021.	
Air Force and Space Force.	329,257		
Marines	176,259		
Coast Guard	40,308		
Commissioned Corps of NOAA.	327		
Commissioned Corps of USPHS.	6,100	Department of Health and Human Services website (https://www.hhs.gov/about/news/2020/06/30/trump-administration-re-establishes-ready-reserve-corps-as-part-of-the-us-phs.html , downloaded January 4, 2021).	
Total Active Uniformed Service Members.	1,358,813		

¹³ Applicants must submit documentation consistent with CG—MMC Policy Letter 02–20 to show that they are eligible for the fee exemption. This may include a copy of active-duty orders citing

Titles 10 or 14 of the United States Code or a letter from the relevant command or personnel office on official letterhead stating that the applicant is a current member of the uniformed services.

¹⁴ The legal authority is discussed in greater detail in section III of this preamble, “Background”.

¹⁵ <https://www.usphs.gov/ready-reserve>, accessed June 20, 2023.

TABLE 2—MAXIMUM TOTAL POTENTIALLY AFFECTED POPULATION BY POLICY LETTER 02–20—Continued

Service branch	Number	Source	Notes
Members of Selected Reserve of the Ready Reserve			
Army Reserve	180,647	Defense Manpower Data Center (DMDC) website, (https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports , downloaded September 1, 2022). Downloaded from section “military personal, Military and civilian personnel by service/agency by state/ country, March 2022”.	This data is as of March 2022. ²
Army National Guard of the U.S.	333,182		
Navy Reserve	56,017		
Air Force Reserve	69,697		
Air National Guard of the U.S.	106,964		
Marine Corps Reserves	33,607		
Coast Guard Reserves ..	6,108		
Commissioned Corps of USPHS (Ready Reserve).	N.A. ³		
Space Force Reserve	0 ⁴		
Total Members of Selected Reserve of the Ready Reserve.	786,222		
Total Active Uniformed Service Members + Members of Selected Reserve of the Ready Reserve.	2,145,035		

¹ The table does not include personnel on temporary duty or deployed in support of contingency operations. The data is the latest available as of June 2022.

² Latest available data as of the search date, September 1, 2022.

³ USPHS Ready Reserve was created in March 2020 and only started to take applications in the Fall of 2020.

⁴ Space Force, as of September 1, 2022, does not have a reserve element.

Of the 2,145,035 eligible persons, only a small number applied for an MMC and received a fee waiver. Based on available data, 2020 through 2022 (inclusively), an average of 622 eligible persons were granted a waiver of MMC fees (per year). The Coast Guard assumes that, in the 10-year period

following implementation of Policy Letter 02–20, an average of 622 persons will continue to annually request and receive a waiver of MMC fees.

MMC Fees To Be Exempted

Table 3 provides the MMC evaluation, examination, and issuance fees waived

for qualifying individuals for the policy letter.¹⁶ The column on the right side shows the aggregated evaluation, examination, and issuance fees for each type of credential transaction. The average fee for an MMC, as can be seen at the bottom of table 3, is \$159.38.

TABLE 3—FEE FOR MMCs AND ASSOCIATED ENDORSEMENTS FROM TABLE 1 OF 46 CFR 10.219(a)

If you apply for	Evaluation, then the fee is . . .	Examination, then the fee is . . .	Issuance, then the fee is . . .	Total
MMC with officer endorsement:				
Original:				
Upper level 1	\$100	\$110	\$45	\$255
Lower level 2	100	95	45	240
Renewal	50	45	45	140
Raise of grade	100	45	45	190
Modification or removal of limitation or scope	50	45	45	140
Radio officer endorsement:				
Original	50	45	45	140
Renewal	50	n/a	45	95
Staff officer endorsements:				
Original	90	n/a	45	135
Renewal	50	n/a	45	95
MMC with rating endorsement:				
Original endorsement for ratings other than qualified ratings	95	n/a	45	140
Original endorsement for qualified rating	95	140	45	280
Upgrade or raise of grade	95	140	45	280
Renewal endorsement for ratings other than qualified ratings	50	n/a	45	95
Renewal endorsement for qualified rating	50	45	45	140
Modification or removal of limitation or scope	50	45	45	140

¹⁶ Table 1 of 46 CFR 10.219(a).

TABLE 3—FEE FOR MMCs AND ASSOCIATED ENDORSEMENTS FROM TABLE 1 OF 46 CFR 10.219(a)—Continued

If you apply for	Evaluation, then the fee is . . .	Examination, then the fee is . . .	Issuance, then the fee is . . .	Total
STCW endorsement:				
Original	0	0	0	n/a
Renewal	0	0	0	n/a
Reissue, replacement, and duplicate	n/a	n/a	45	45
			Summation Statistics	
			Mean	\$159.38
			Lower Bound	\$45.00
			Upper Bound	\$280.00
			Credential transaction types that require Fees.	16

Cost and Transfer Impacts of Policy Letter 02–20

As stated previously, there were three impacts of the policy letter. The first was that it resulted in a cost to applicants to provide the documentation needed to show eligibility for the MMC fee exemption. The second was the cost to the Coast Guard to process this documentation. The third was the transfer price associated with the costs of the fees being shifted from individual applicants to the Federal Government. The costs to applicants are discussed in detail in section (1), below. Costs to the Coast Guard are discussed in section (2). Section (3) discusses the combined costs to applicants and the Coast Guard, and section (4) details the transfer costs.

(1) Labor Costs to Applicants Providing Documentation Showing Eligibility for MMC Fee Waiver

Applicants for an MMC fee waiver, under Policy Letter 02–20, need to provide documentation to show

eligibility. Examples of documentation include, but are not limited to, active-duty orders citing Titles 10 or 14 of the United States Code, a letter from the command or personnel office on official letterhead stating that the applicant is currently serving under Titles 10 or 14, or similar documentation. The applicant should submit the documentation with their application for an MMC.¹⁷

The National Maritime Center (NMC) estimates that it would take applicants 15 minutes to obtain eligibility documentation and include it with an MMC application.¹⁸ The Coast Guard estimates the mean hourly rate of active duty uniformed service members at \$39.48 per hour.²⁰ The Coast Guard estimates the mean monthly pay of active duty uniformed service members at \$6,865.77.²¹ That figure, \$6,865.77, is multiplied by 12 to obtain an annual figure of \$82,389.24 (\$6,865.77 × 12). To estimate hourly rates, the Coast Guard divides \$82,389.24 by 2,087, which the Office of Personnel and Management (OPM) uses as the number of working

hours in a year, per 5 U.S.C. 5504(b)(1). Hence, the Coast Guard estimates the average hourly rate of active-duty uniformed service members at \$39.48²² (\$82,389.24 ÷ 2,087) and estimates the cost to this population to provide documentation showing eligibility for the fee waiver at \$9.87 ((15 minutes ÷ 60 minutes) × \$39.48 = \$9.87). As the Coast Guard forecasts 622 applicants per year, the total nominal cost is estimated at \$6,139 per annum (622 × \$9.87 = \$6,139.14, rounded to \$6,139). Table 4 shows the estimated nominal cost over a 14-year period, including discounted and annualized figures. As the policy letter became effective in 2020, table 4 shows the estimated costs for the 14-year period covering 2020 through 2033 (the 14-year period following the implementation of the policy letter).²³ Table 4 is showing the pre-policy letter baseline. All dollar figures in Table 4, and all other tables in this regulatory analysis, are in 2021 terms unless otherwise stated.

¹⁷ In order to provide maximum flexibility to applicants, for the proposed rulemaking the acceptable forms of documentation will be provided in updated guidance that the Coast Guard is planning to publish when a final rule is published.

¹⁸ The NMC is responsible for receiving and evaluating MMC applications and issuing MMCs to qualified mariners.

¹⁹ The Coast Guard, in its calculations, has assumed that applicants provide their own documentation as opposed to command personnel providing the documentation on their behalf. The Coast Guard does not have information on the breakdown between the two groups.

²⁰ This dollar figure for uniformed service members is provided in nominal terms, as opposed to a loaded rate (adjusted for benefits). This is due to the complexity of measuring and obtaining readily available data on the uniformed service members benefit compensation package. We

compared civilian employees and uniformed service members and concluded that the comparison is not appropriate, since civilian employees and uniformed service members receive significantly different benefits. Uniformed personnel, for example, are provided full housing (or equivalent financial compensation), food or partial food stipend, full medical coverage for themselves and their families, significant educational benefits during their time in service and, upon completing terms of military service, pensions (for those who complete the requisite amount of service) complete moving expenses throughout their careers, and other benefits that are dependent upon an individual's assignment. By comparison, few employees in the private sector receive such benefits.

²¹ We calculated this figure using the Jan. 2021 Monthly Basic Pay Table on the Department of Defense website, <https://militarypay.defense.gov/>

[Portals/3/Documents/2021%20Pay%20Table%203%20percent%20-%20FINAL.pdf](https://militarypay.defense.gov/Portals/3/Documents/2021%20Pay%20Table%203%20percent%20-%20FINAL.pdf) (accessed Nov. 10, 2021), which in turn was found under “active-duty pay” at <https://militarypay.defense.gov/Pay/Basic-Pay/Active-Duty-Pay/>. In calculating this average, we excluded all zero cells in the table, as they are fields for which wages cannot exist. For example, it is not possible to obtain a 0–10 rating with fewer than 20 years of experience. Hence the zeros in the table for that rating, for years of experience under 20, were excluded from our calculations.

²² Rounded to nearest whole cent.

²³ It should be noted that for the 3 years 2020–2022 (inclusively), we are implicitly applying our assumptions regarding in-scope population numbers and costs for the years 2022 and going forward. The same reasoning applies to analysis later on in this RA on the 2020–2022 periods examined for Policy Letter 02–20.

TABLE 4—LABOR COSTS TO IN-SCOPE APPLICANTS OF COMPLETING MMC FEE WAIVER DOCUMENTATION (POLICY LETTER 02–20 IMPACT) (PRE-POLICY LETTER IMPLEMENTATION BASELINE)

Year	Nominal	3%	7%
Year 1 (2020)	\$6,139	\$6,323	\$6,569
Year 2 (2021)	6,139	6,139	6,139
Year 3 (2022)	6,139	5,960	5,737
Year 4 (2023)	6,139	5,787	5,362
Year 5 (2024)	6,139	5,618	5,011
Year 6 (2025)	6,139	5,454	4,683
Year 7 (2026)	6,139	5,296	4,377
Year 8 (2027)	6,139	5,141	4,091
Year 9 (2028)	6,139	4,992	3,823
Year 10 (2029)	6,139	4,846	3,573
Year 11 (2030)	6,139	4,705	3,339
Year 12 (2031)	6,139	4,568	3,121
Year 13 (2032)	6,139	4,435	2,917
Year 14 (2033)	6,139	4,306	2,726
Total	85,948	73,570	61,468
Annualized		6,139	6,139

(2) Labor Costs to the Coast Guard To Evaluate and Process Documentation Showing Eligibility for MMC Fee Waivers

Just as there are labor costs for applicants to submit documentation, there are labor costs to the Coast Guard to evaluate and process the documentation showing eligibility for an MMC fee waiver. The NMC estimates that the time to process the typical documentation is 10 minutes, or 0.17

hours (10 ÷ 60). The processing is performed by personnel holding positions at the government General Schedule (GS) pay scale of GS–07. According to Commandant Instruction 7310.1U, the hourly loaded rate for a GS–07 Coast Guard employee is \$46.²⁴ Thus, the labor cost to the Coast Guard to process the eligibility documentation is \$7.82 (0.17 hours × \$46 per hour) per applicant. As stated previously, the Coast Guard assumes 622 applicants would receive a MMC fee waiver each

year. Given this, the Coast Guard predicts it would spend \$4,864 per year to evaluate and process documentation provided by applicants showing eligibility for fee exemptions (622 × \$7.82 = \$4,864.04, rounded to the nearest whole dollar). The Coast Guard estimates that the aggregate 14-year cost to the Government is \$48,702, with an annualized figure of \$4,864, discounted at 7 percent. These numbers can be seen in table 5.

TABLE 5—LABOR COSTS TO COAST GUARD TO EVALUATE ELIGIBILITY FOR MMC FEE WAIVER (POLICY LETTER 02–20 IMPACT) (PRE-POLICY LETTER IMPLEMENTATION BASELINE)

Year	Nominal	3%	7%
Year 1 (2020)	4,864	5,010	5,205
Year 2 (2021)	4,864	4,864	4,864
Year 3 (2022)	4,864	4,722	4,546
Year 4 (2023)	4,864	4,585	4,248
Year 5 (2024)	4,864	4,451	3,971
Year 6 (2025)	4,864	4,322	3,711
Year 7 (2026)	4,864	4,196	3,468
Year 8 (2027)	4,864	4,074	3,241
Year 9 (2028)	4,864	3,955	3,029
Year 10 (2029)	4,864	3,840	2,831
Year 11 (2030)	4,864	3,728	2,646
Year 12 (2031)	4,864	3,619	2,473
Year 13 (2032)	4,864	3,514	2,311
Year 14 (2033)	4,864	3,412	2,160
Total	68,097	58,291	48,702
Annualized		4,864	4,864

²⁴ Page two of enclosure 2 to Commandant Instruction 7310.1U (<https://www.uscg.mil/Portals/>

0/NPFC/docs/7310/CI_7310_1U.pdf?ver=2020-04-06-135219-117).

(3) Aggregated Labor Costs of Applicants and the Coast Guard Associated With Documentation of Eligibility for an MMC Fee Waiver

The Coast Guard estimates the total costs related to the documentation of eligibility, for applicants and the Coast Guard (shown in tables 4 and 5), for the 14-year period following the implementation of the policy letter, in

table 6. The estimated total costs to evaluate and process the documentation for the applicants and the Coast Guard for the 14-year period is \$110,171, with an annualized cost of \$11,003, discounted at 7 percent.

TABLE 6—TOTAL COSTS TO APPLICANTS AND COAST GUARD TO EVALUATE AND PROCESS DOCUMENTATION OF ELIGIBILITY FOR MMC FEE WAIVER (IMPACT OF POLICY LETTER 02–20) (PRE-POLICY LETTER IMPLEMENTATION BASELINE)

Year	Nominal	3%	7%
Year 1 (2020)	\$11,003	\$11,333	\$11,773
Year 2 (2021)	11,003	11,003	11,003
Year 3 (2022)	11,003	10,683	10,283
Year 4 (2023)	11,003	10,372	9,611
Year 5 (2024)	11,003	10,069	8,982
Year 6 (2025)	11,003	9,776	8,394
Year 7 (2026)	11,003	9,491	7,845
Year 8 (2027)	11,003	9,215	7,332
Year 9 (2028)	11,003	8,947	6,852
Year 10 (2029)	11,003	8,686	6,404
Year 11 (2030)	11,003	8,433	5,985
Year 12 (2031)	11,003	8,187	5,593
Year 13 (2032)	11,003	7,949	5,228
Year 14 (2033)	11,003	7,717	4,886
Total	154,045	131,862	110,171
Annualized		11,003	11,003

(4) Elimination of Transfer Payments to Federal Government of Providing MMC Fee Waivers

Prior to the implementation of the policy letter, applicants had to pay evaluation, examination, and issuance fees to obtain an MMC.²⁵ The implementation of the policy letter eliminated this requirement for applicants eligible for a fee waiver. The elimination of the payment of MMC fees represents a loss of revenue to the Federal Government and an equal gain to eligible MMC applicants. This is

referred to as a transfer payment. For those MMC fees that were eliminated by the policy letter, the Federal Government will face a shortfall in revenues. The revenues from those fees will need to be made up through alternative means (*i.e.*, increased taxes, new or increased fees for other services or similar sources of revenue or in some other manner). Thus, there would be no net social benefit or cost with respect to transfer payments.

As stated previously, the average annual number of uniformed service members who received a waiver of

MMC fees between 2020 and 2022 (inclusively) was 622. The estimated average fee associated with the applications for these MMCs was \$159 each.²⁶ For this population, the cost was \$99,134 per year in nominal terms ($622 \times \$159.38 = \$99,134.36$, rounded to the nearest whole number). Thus, for the 14 years after the implementation of the policy letter, the Coast Guard estimates transfer payments would total \$992,601, with an annualized amount of \$99,134, discounted at 7 percent. These estimates can be seen in table 7.

TABLE 7—TRANSFER PAYMENTS—ELIMINATED (IMPACT OF POLICY LETTER 02–20) (PRE-POLICY LETTER IMPLEMENTATION BASELINE)

Year	Nominal	3%	7%
Year 1 (2020)	\$99,134	\$102,108	\$106,074
Year 2 (2021)	99,134	99,134	99,134
Year 3 (2022)	99,134	96,247	92,649
Year 4 (2023)	99,134	93,444	86,588
Year 5 (2024)	99,134	90,722	80,923
Year 6 (2025)	99,134	88,080	75,629
Year 7 (2026)	99,134	85,514	70,681
Year 8 (2027)	99,134	83,023	66,057
Year 9 (2028)	99,134	80,605	61,736
Year 10 (2029)	99,134	78,258	57,697
Year 11 (2030)	99,134	75,978	53,923
Year 12 (2031)	99,134	73,765	50,395
Year 13 (2032)	99,134	71,617	47,098
Year 14 (2033)	99,134	69,531	44,017
Total	1,387,881	1,188,027	992,601

²⁵ Listed in table 3 of this RA.

²⁶ This number is rounded to the closest whole number. The number can be found in table 3 of this RA.

TABLE 7—TRANSFER PAYMENTS—ELIMINATED (IMPACT OF POLICY LETTER 02–20) (PRE-POLICY LETTER IMPLEMENTATION BASELINE)—Continued

Year	Nominal	3%	7%
Annualized		99,134	99,134

Benefits of Policy Letter 02–20

The Coast Guard has identified one qualitative benefit of Policy Letter 02–20 stemming from the elimination of the MMC fees referred to in Executive Order 13860. The fee waiver may provide eligible uniformed service members greater flexibility with respect to pursuing careers after leaving the uniformed services.

Part II. Proposed Rule

The Coast Guard expects the proposed rulemaking to have an impact for two reasons. First, it would implement Policy Letter 02–20 in terms of required actions.²⁷ Second, the proposed rulemaking only covers a subset of the affected population of the policy letter. The proposed rulemaking covers Selected or Ready Reservists while the policy letter covered all reservists who were on active duty in the past. As a result, the proposed rule covers a smaller portion of the affected population than the policy letter. However, as discussed previously, there is no available data to accurately estimate this difference. The reason there is no available data is because the NMC only collects data, on those receiving the NMC fee exemptions, on an aggregate basis. The NMC only collects data on the number of those who receive the fee exemption. The NMC does not collect more detailed data such as what branch they are in or whether they are in the reserves or not. Due to the smaller number of eligible applicants, the Coast Guard surmises that, when compared to the policy letter, the proposed rule would result in a small cost savings to the applicant and the Coast Guard for no longer needing to provide and review the documentation for the fee waiver.

The following cost analysis discusses the impact of the difference in the reservist populations on the number of MMC applications. However, due to a lack of data, it is not possible to quantify the cost difference.

Affected Population for Proposed Rule

As the proposed rulemaking covers a narrower definition of reservists than Policy Letter 02–20, it may cover fewer

than 622 persons per year. Due to a lack of data, the Coast Guard assumes that, for the proposed rulemaking, the number of applicants for MMC exemptions is 622.

Cost Analysis for Proposed Rule

Since the proposed rule covers a narrower population of reservists, it may decrease the number of MMC exemptions per year. Therefore, the Coast Guard assumes that the aggregate reduction in exemptions between the policy letter and the proposed rulemaking is unquantifiable and could be zero.²⁸ In other words, the proposed rulemaking may have no impact on the number of exemption requests.

If the number of applicants seeking exemptions under the proposed rulemaking is fewer than under the policy letter, there will be a decrease in the costs of the proposed rulemaking when compared to the costs of the policy letter. For every applicant that does not seek an exemption under the proposed rulemaking (as opposed to the policy letter), the proposed rule would result in a cost savings of \$9.87 per applicant related to providing the necessary documentation, and a cost savings of \$7.82, per applicant, for the Coast Guard related to reviewing that documentation. If the proposed rule results in any decrease in the number of individuals seeking an exemption from MMC fees, that amount would be \$159 per applicant (the average MMC fee paid by an applicant).

As stated previously, the proposed rulemaking is codifying an already existing policy letter. The only differences between the policy letter and the proposed rulemaking is that the proposed rulemaking covers a subset of the reserve forces that the policy letter covers. Due to a lack of data regarding this potential difference it is not possible to estimate differences in costs or benefits. The lack of data also makes it impossible to even determine whether there actually is a difference in populations between the proposed rulemaking and the policy letter. If there is a difference between the policy letter and proposed rulemaking in

populations, the costs and cost savings differences would amount to the figures cited in the previous paragraph on a per individual basis.

Benefits of the Proposed Rule

The Coast Guard believes the proposed rulemaking may reduce the burden on the affected public by increasing efficiency and transparency as a result of being in the Code of Federal Regulations, as opposed to being a standalone policy letter.²⁹

Regulatory Alternatives Considered

In developing this proposed rule, the Coast Guard considered three alternatives to the proposed exemption.

The first alternative would be to not exempt the MMC fees listed in table 1 of 46 CFR 10.219(a), as shown in table 3 of this proposal. As this alternative would not fulfill the requirements of Executive Order 13860 or NDAA 2020, the Coast Guard rejected this alternative.

The second alternative would be to make no change to the user fee schedule for members of the uniformed services, but to establish an MMC fee reimbursement program for uniformed service members. Under this alternative, the population applying for MMCs would initially pay MMC fees and then file a request for reimbursement with their service in order to be compensated for the cost. Under this alternative, the fee compensation process would be a greater burden than the proposed rule's framework for eligible applicants, who would pay MMC fees out of pocket and then request compensation through their service. Filing a request for reimbursement would increase the amount of documentation applicants would be required to file and would add an administrative burden to the services in establishing and implementing reimbursement programs. The Coast Guard rejected this alternative.

The third alternative would be to extend the exemption only to the portion of the population consisting of members of the Selected Reserve of the

²⁷ This is as opposed to in-scope population. The issues regarding the in-scope population are discussed below.

²⁸ See the cost difference discussions between the proposed rulemaking and the policy letter in the "Cost and Transfer Impacts of Cost Analysis of Policy Letter 02–20" section of the RA.

²⁹ The proposed rulemaking would also incorporate greater flexibility with respect to pursuing careers. As this has already been achieved by issuance of the policy letter, independent of the proposed rulemaking, we only list the increased clarity and transparency that would be obtained through codification of the Coast Guard's MMC fee exemption policy through the proposed rulemaking.

Ready Reserve of any of the armed forces (Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve), and the Ready Reserve Corps of the USPHS who are on “active duty,”³⁰ while excluding those simply in an “active status.”³¹ The Coast Guard rejected this alternative, as it does not best support the intent of Executive Order 13860 and NDAA 2020 to help attract active duty service members to obtain an MMC, and provide meaningful, well-paying jobs to U.S. veterans in support of U.S. national security requirements.

The Coast Guard believes that the intent of Executive Order 13860 and NDAA 2020 is best supported through a fourth alternative—extending the eligibility for MMC fee exemptions to members of the Selected Reserve of the Reserves of the Army, Navy, Air Force, Marines, Coast Guard and Space Force (such as Selected and Ready Reservists) and not limiting eligibility to only members of the uniformed services on active duty. This alternative best supports the intent of Executive Order 13860 and the NDAA 2020 by ensuring a wide range of service members who wish to pursue an MMC are provided support and by expanding the population eligible to receive an exemption from MMC fees, and ultimately resulting in a larger number of credentialed mariners available to support U.S. national security requirements and provide meaningful, well-paying jobs to U.S. veterans.

B. Small Entities

Below are the small business entity impacts for Policy Letter 02–20 and for the proposed rulemaking on a separate basis.

Small Business Impacts of Policy Letter 02–20

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Coast Guard has considered whether Policy Letter 02–20 would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-

profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Policy Letter waived fees for the evaluation of an MMC application, the administration of a required examination, and the issuance of an MMC for members of the uniformed services. Since the impacts discussed above in the RA affect individuals and not business (firms), not-for-profit entities and State or Local governmental jurisdictions, the proposed rule would not impact small entities as defined by the Small Business Administration in 13 CFR 121.201. Based on this analysis, this proposed rule would not affect a substantial number of small entities.

Small Business Impacts of the Proposed Rulemaking

This proposed rulemaking codifies certain actions taken in the previously implemented Policy Letter 02–20. In addition, the population in the proposed rulemaking is defined more narrowly than in the policy letter. However, due to the fact that the proposed rulemaking, like the policy letter, only affects individuals and not business (firms), not-for-profit entities and State or Local governmental jurisdictions, the proposed rule would not impact small entities as defined by the Small Business Administration in 13 CFR 121.201. Based on this analysis, this proposed rule would not affect a substantial number of small entities.

For the aforementioned reasons, the Coast Guard certifies under 5 U.S.C. 605(b) that Policy Letter 02–20 and this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment to the docket at the address listed in the **ADDRESSES** section of this preamble. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or

governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

Policy Letter 02–20 called for a change to an existing collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

The information collection associated with Policy Letter 02–20 is the currently approved collection, OMB Control Number 1625–0040, “Application for Merchant Mariner Credential (MMC), Application for Merchant Mariner Medical Certificate, Application for Merchant Mariner Medical Certificate for Entry Level Ratings, Small Vessel Sea Service Form, DOT/USCG Periodic Drug Testing Form, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions, Merchant Mariner Medical Certificate, Recognition of Foreign Certificate.” In order to process the fee exemptions proposed in this rule, the Coast Guard would require eligible applicants for an MMC to provide documentation of their eligibility for a fee exemption.³² In

³⁰ Active duty is defined here as under 10 U.S.C. 101(d)(1). Under that section it means “full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.”

³¹ All members of the Ready Reserve are in active status. Selected Reserves are only part of that group. Individual ready reserves are also active status.

³² In order to provide maximum flexibility to applicants, for the proposed rulemaking the acceptable forms of documentation will be provided in updated guidance that the Coast Guard is planning to publish when a final rule is published.

addition, it would require the NMC to evaluate and process this documentation part of an evaluation for an MMC.

With respect to the proposed rulemaking, no new or additional documentation related to collection of information would be required (relative to the policy letter). The number of respondents may decrease from the policy letter. This is because the proposed rulemaking codifies what the policy letter currently requires in terms of collection of information documentation and applies to a potentially narrower in-scope population.

Title: Application for Merchant Mariner Credential (form CG-719B), Application for Medical Certificate (form CG-719K), Application for Medical Certificate, Short Form (form 719K/E), Small Vessel Sea Service Form (form CF-719S), DOT/USCG Periodic Drug Testing Form (form CG-719P), Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions (form CG-719C).

OMB Control Number: 1625-0040.

Summary of the Collection of Information: The Coast Guard currently collects information from individuals seeking to obtain an MMC, renew an MMC, and obtain a merchant mariner medical certificate. Policy Letter 02-20 would require applicants who are members of the uniformed services (622 persons per year), and who wish to be exempted from MMC fees, to provide documentation of eligibility for the MMC fee exemption as part of an MMC application (form CG-719B).

As the proposed regulation only currently codifies current practices, regarding the collection of information, stated in Policy Letter 02-20 (and makes no changes to these requirements), as well as having between the same or fewer applicants than the MMC fee waivers, it would be expected to have no impact on the collection of information. The only reason for any reduction in documentation would be due to the fact that the proposed rulemaking covers a narrower in-scope definition than does the policy letter. However, there is no data available to the Coast Guard to determine how small the decrease would be or even, for that matter, if there even is one.

Need for Information: Title 46 CFR, section 10.217(a), requires MMC applicants to apply at one of the Coast Guard's 17 Regional Exam Centers, located nationwide or any other location designated by the Coast Guard. MMCs are established for individuals who are required to hold a credential under 46 U.S.C. subtitle II. The Coast Guard has

the responsibility of issuing MMCs to applicants found qualified as to age, character, and habits of life, experience, professional qualifications, and physical fitness. The instruments contained within OMB Control No. 1625-0040 serve as a means for the applicant to apply for an MMC and a merchant mariner medical certificate.

Proposed Use of Information: The Coast Guard conducts this collection of information solely for the purposes of determining eligibility for issuance of an MMC in accordance with applicable statutes and regulations. This evaluation is performed on occasion, meaning as submitted by the respondents when they apply for an MMC. Applicants for an MMC must apply using the Form CG-719-B for an original MMC and every 5 years for renewal, or when seeking a new endorsement or a raise of grade of an existing endorsement. The Coast Guard evaluates the collected information to determine whether applicants are qualified to serve under the authority of the requested credential with respect to their professional qualifications and suitability.

Description of the Respondents: All applicants for an MMC, whether original, renewal, duplicate, raise of grade, or to add a new endorsement on a previously issued MMC, are included in this collection. The population covered by Policy Letter 02-20 includes the number of uniformed service members applying for MMCs who receive an exemption of MMC fees (622 annually). The population covered by the proposed rulemaking is expected to remain the same or be less, because the proposed rulemaking codifies the Policy Letter in terms of documentation requirements but applies to a narrower in-scope population.

Number of Respondents: The number of respondents from the policy letter are estimated at 622 per year. The proposed rule would either not increase the annual number of respondents or be expected to only decrease them.³³

Frequency of Response: The frequency of response is once per year.

Burden of Response: The collection of information from both the policy letter and the proposed rule requires the population to spend 15 minutes (0.25 hours) to provide evidence of eligibility for an MMC fee exemption (622 persons

per year), which would be submitted with the requisite Form CG-719B.

Estimate of Total Annual Burden: The Coast Guard estimates that the total annual burden, for the implementation of the policy letter, has increased by 156 ($0.25 \times 622 = 155.5$, rounded up to nearest whole number) hours.³⁴

As the proposed rulemaking covers the same documentation and has a narrower definition with respect to in-scope population, it is expected to have either no impact on these hours or to reduce the burden level already existing under the policy letter.

As required by 44 U.S.C. 3507(d), we will submit a copy of this proposed rule to OMB for its review of the collection of information. We ask for public comment on the proposed collection of information to help us determine, among other things—

- How useful the information is;
- Whether the information can help us perform our functions better;
- How we can improve the quality, usefulness, and clarity of the information;
- Whether the information is readily available elsewhere;
- How accurate our estimate is of the burden of collection;
- How valid our methods are for determining the burden of collection; and
- How we can minimize the burden of collection.

If you submit comments on the collection of information, submit them to both the OMB and to the docket where indicated under **ADDRESSES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this proposed rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and

³³ Information collections normally list the total number of annual respondents. However, there is currently a periodic renewal under review at OMB, and another proposed rulemaking expected to change the number of annual respondents is expected to be submitted to OMB. Therefore, the total number of annual respondents is not included in this RA.

³⁴ As there is currently a periodic renewal under review at OMB, and another proposed rulemaking that is expected to change the total annual burden is expected to be submitted to OMB, it is not possible to list the total current annual burden.

preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See United States v. Locke*, 529 U.S. 89, 99–101 (2000).

Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this proposed rule would have implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531; 1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100 million (adjusted for inflation) or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this proposed rule under Executive Order 13045

(Protection of Children from Environmental Health Risks and Safety Risks). This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this proposed rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a

preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This proposed rule would be categorically excluded under paragraphs L54 and L56 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. The categorical exclusion (CATEX) L54 pertains to regulations which are editorial or procedural; and CATEX L56 pertains to regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel.

This proposed rule involves the fees for MMCs and associated endorsements. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 46 CFR Part 10

Penalties, Personally identifiable information, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 10 as follows:

■ 1. The authority citation for part 10 is revised to read as follows:

Authority: 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2104, 2110; 46 U.S.C. chapters 71, 73, and 75; 46 U.S.C. 7701, 8903, 8904, and 70105; Executive Order 10173; DHS Delegation No. 00170.1, Revision No. 01.3.

■ 2. Amend § 10.219 by adding paragraph (m) to read as follows:

§ 10.219 Fees.

* * * * *

(m) *Members of the uniformed services.* A qualified applicant under this subsection is exempt from paying evaluation, examination, or issuance fees for an MMC as described in (b)(2) of this section.

(1) For purposes of paragraph (m) of this section, *qualified applicant* means an individual who, at the time of submission of an application, is:

(i) A member of the uniformed services listed in 10 U.S.C. 101(a)(5) on active duty;

(ii) A member of the Selected Reserve, as described in 10 U.S.C. 10143(a), of a reserve component named in 10 U.S.C. 10101; or

(iii) A member of the Ready Reserve Corps of the Public Health Service established in 42 U.S.C. 204(a)(1).

(2) For purposes of paragraph (m)(1)(i) of this section:

(i) For the members of the armed forces, as defined in 10 U.S.C. 101(a)(4), active duty is defined by 10 U.S.C. 101(d)(1);

(ii) For the commissioned corps of the National Oceanic and Atmospheric Administration, active duty has the same meaning as found in 33 U.S.C. 3002(b)(1); and

(iii) For the members of the commissioned corps of the Public Health Service, active duty has the meaning defined in 42 CFR 21.72(f).

Dated: September 21, 2023.

W.R. Arguin,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 4, 7, 10, 11, 12, 39, and 52

[FAR Case 2021-017; Docket No. FAR-
2021-0017; Sequence No. 1]

RIN 9000-AO34

Federal Acquisition Regulation: Cyber Threat and Incident Reporting and Information Sharing

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to partially implement an Executive order on cyber threats and incident reporting and information sharing for Federal contractors and to implement related cybersecurity policies.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before December 4, 2023 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2021-017 to the Federal eRulemaking portal at <https://www.regulations.gov> by searching for “FAR Case 2021-017”. Select the link “Comment Now” that corresponds with “FAR Case 2021-017”. Follow the instructions provided on the “Comment

Now” screen. Please include your name, company name (if any), and “FAR Case 2021-017” on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite “FAR Case 2021-017” in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at <https://www.regulations.gov/faq>). To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Marissa Ryba, Procurement Analyst, at 314-586-1280 or by email at Marissa.Ryba@gsa.gov. For information pertaining to status, publication schedules, or alternate instructions for submitting comments if <https://www.regulations.gov> cannot be used, contact the Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov. Please cite FAR Case 2021-017.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to increase the sharing of information about cyber threats and incident information between the Government and information technology and operational technology service providers, pursuant to Executive Order (E.O.) 14028, Improving the Nation's Cybersecurity. The E.O. was signed by the President on May 12, 2021, and published in the **Federal Register** at 86 FR 26633 on May 17, 2021.

The E.O. is focused on improving the nation's cybersecurity, in part through increased protection of Government networks. As directed in sections 2(d) and 2(g)(ii) of the E.O., this proposed rule implements Office of Management and Budget (OMB) recommendations from section 2(b) of the E.O., and Cybersecurity and Infrastructure Security Agency (CISA) recommendations from section 2(g)(i) of the E.O. This proposed rule considers recommendations issued by the Department of Homeland Security (DHS) pursuant to section 8(b). CISA is an agency within DHS. Additionally,

this proposed rule supports implementation of the National Cyber Strategy by strengthening and standardizing contract requirements for cybersecurity and by providing mechanisms to help ensure that entities or individuals that knowingly put U.S. information or systems at risk, by violating these cybersecurity requirements, are held accountable. Finally, this proposed rule implements OMB Memorandum M-21-07, Completing the Transition to internet Protocol Version 6 (IPv6), dated November 19, 2020.

Recent cybersecurity incidents such as those involving SolarWinds, Microsoft Exchange, and the Colonial Pipeline incident are a sobering reminder that U.S. public and private sector entities increasingly face sophisticated malicious cyber activity from both nation-state actors and cyber criminals. These incidents share commonalities, including insufficient cybersecurity defenses that leave public and private sector entities more vulnerable to incidents. The E.O. makes a significant contribution toward modernizing cybersecurity defenses by protecting Federal networks, improving information sharing between the U.S. Government and the private sector on cyber issues, and strengthening the United States' ability to respond to incidents when they occur. This proposed rule underscores that the compliance with information-sharing and incident-reporting requirements are material to eligibility and payment under Government contracts.

II. Discussion and Analysis

The following summarizes the proposed changes to the FAR:

FAR 2.101 currently defines *information and communication technology* as information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples include, but are not limited to, the following: Computers and peripheral equipment; information kiosks and transaction machines; telecommunications equipment; customer premises equipment; multifunction office machines; software; applications; websites; videos; and electronic documents. This definition was implemented in FAR case 2017-011 (August 11, 2021, 86 FR 44229, effective September 10, 2021). It has examples primarily aimed at section 508 of the