

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 10

[Docket No. USCG–2018–0041]

#### Draft Merchant Mariner Medical Manual

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notification of availability and request for comments.

**SUMMARY:** The Coast Guard is seeking public comment regarding the draft Merchant Mariner Medical Manual. The guidance in this Manual should assist medical practitioners, the maritime industry, individual mariners, and Coast Guard personnel in evaluating a mariner applicant's physical and medical status to meet the requirements of the merchant mariner medical certificate. This draft Commandant Instruction Manual incorporates and consolidates prior guidance on the medical evaluation of merchant mariners contained in several Coast Guard documents. The Manual includes guidance on the medical certificate and related processes, including procedures for application, issuance, and cancellation of the medical certificate.

**DATES:** Comments must be submitted to the online docket, via <http://www.regulations.gov>, on or before January 14, 2019.

**ADDRESSES:** You may submit comments identified by docket number USCG–2018–0041 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Adrienne Buggs, M.D., United States Coast Guard, Office of Merchant Mariner Credentialing; telephone: 202–372–2357, email: [MMCPolicy@uscg.mil](mailto:MMCPolicy@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Comments

We encourage you to submit comments (or related material) on the draft Merchant Mariner Medical Manual. We will consider all submissions and may adjust our final action based on your comments. If you submit a comment, please include the docket number for this document, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notification, and all public comments, will be posted in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or the Coast Guard publishes any additional documents related to this notification of availability.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

##### Background and Discussion of Draft Manual

The Coast Guard provided guidance on the medical and physical requirements for merchant mariners in the Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials, Navigation and Inspection Circular (NVIC) 04–08, Commandant Publication (COMDTPUB) 16700.4; and in Part A of the Marine Safety Manual, Volume III, Marine Industry Personnel, COMDTINST M16000.8 (Series) [MSM]. In the years since publication of NVIC 04–08, information received from public comment, medical appeals, and federal advisory committee recommendations highlighted the need for additional specificity and clarity in the medical

guidance document. It also underscored the potential for confusion caused by having medical evaluation guidance contained in multiple guidance documents. For example, Part A of the MSM, Volume III, which has not been updated since 1999, may contain some information that conflicts with the guidance in NVIC 04–08. In response to these concerns, the Coast Guard began a series of revisions to the medical evaluation guidelines, published as Change 1 to NVIC 04–08, in June 2013, and Change 2 to NVIC 04–08, in April 2016.

In addition to the revisions needed for improved clarity and specificity, the medical guidance also required new policy following publication of the Coast Guard's final rule on the Implementation of the Amendments to the International Convention on Standards for Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements (78 FR 77795, Dec. 24, 2013). Specifically, the Coast Guard needed to develop new guidance to address the medical certificate and related processes required by these regulations. The Coast Guard provided this new guidance through a separate document, titled NVIC 01–14, Guidance on the Issuance of Medical Certificates. With the experience gained since the publication of NVIC 01–14, the Coast Guard has identified areas of the medical certificate policy that are in need of clarification, particularly with respect to some entry-level mariners, and procedures related to mariners who become unfit while in possession of a valid medical certificate. Rather than issuing a change to NVIC 01–14, the Coast Guard will include the revised medical certificate guidance with the medical evaluation guidance in a new policy document called the Merchant Mariner Medical Manual, also known as Commandant Instruction M16721.48.

The draft Merchant Mariner Medical Manual revises, updates and combines the medical evaluation guidance previously published in NVIC 04–08, Part A of the MSM, Volume III, and NVIC 01–14. The Coast Guard developed the draft Manual in consultation with experienced maritime community medical practitioners and industry stakeholders serving on the Merchant Mariner Medical Advisory Committee (MEDMAC) and the

Merchant Marine Personnel Advisory Committee (MERPAC). The draft Manual reflects a synthesis of their recommendations and the medical requirements of Title 46 Code of Federal Regulations (CFR) part 10, subpart C. Members of the public participated in the development of medical policy by providing comment and serving on working groups at the public meetings of MEDMAC and MERPAC. Additionally, the public had the opportunity to comment on drafts of policies contained in this Manual, and its predecessor, NVIC 04–08. See requests for comment on proposed policies regarding: Diabetes, cardiomyopathy, and sleep disorders (80 FR 8586, Feb. 18, 2015); Medications (80 FR 4582, Jan. 28, 2015); Seizures (78 FR 17917, Mar. 25, 2013); and Implantable cardioverter defibrillators (77 FR 55174, Sep. 7, 2012). The Coast Guard considered these public comments when developing this draft Manual.

Changes made in this draft Manual seek to improve ease of use, clarify and update prior guidance, and provide more transparency to the regulated community. Major changes include (1) use of a single manual format; (2) clarification of medical certificate requirements for certain entry-level mariners; and (3) the proposed medical certificate cancellation policy.

*Manual Format:* The Coast Guard reorganized the material into a manual format instead of a NVIC to improve utility and ease of use for the regulated community and others who reference the document. Additionally, in issuing a Commandant Instruction Manual, the name and number of the document will not change with every future issuance of the document, reducing the risk of confusion.

*Entry-level Mariners:* This draft adds provisions that clarify confusion between 46 CFR 15.401(c), which requires a medical certificate in order to serve in a position requiring a merchant mariner credential (MMC), and other provisions in 46 CFR part 10 that indicate entry-level mariners do not require a medical examination except in certain circumstances (see, e.g., Table 1 to 46 CFR 10.239, which marks entry-

level ratings “N/A” as to medical and physical exam requirements, and Table 1 to 46 CFR 10.302(a), which is silent as to medical requirements for certain entry-level mariners). The draft Manual will clarify that the Coast Guard does not require medical certificates for entry-level mariners on vessels not subject to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, who do not serve as food handlers.

*Medical Certificate Cancellation Policy:* The guidance now includes the process to be followed when the Coast Guard receives information indicating that a medical certificate holder has developed a medical condition that poses significant risk of sudden incapacitation, or is taking medication that poses significant risk of impairment. This process includes procedures for cancelling medical certificates, rather than merchant mariner credentials (MMCs), for mariners who no longer meet medical certification criteria.

The Coast Guard began issuing medical certificates in January 2014. The medical certificate is a certificate issued by the Coast Guard under 46 CFR part 10, subpart C, that serves as proof that the seafarer meets the medical and physical standards for merchant mariners. The medical certificate is not a credential (see definitions of medical certificate and credential in 46 CFR 10.107). Prior to the establishment of the medical certificate, a merchant mariner’s certification of medical and physical fitness was embedded in the MMC. Under that system, if the Coast Guard received credible information that a mariner no longer met the medical and physical standards, the Coast Guard’s only option was to declare the mariner medically incompetent and take suspension and revocation action against the MMC, the mariner’s professional credential.

However, not all medical concerns require revocation of the professional credential. In most cases, once it is determined that a medical certificate holder no longer meets the standards for medical certification, it is more appropriate for the agency to take action

against the certificate that serves as proof of the mariner’s medical fitness. The proposed medical certificate cancellation policy describes the procedures that the Coast Guard would use to cancel a medical certificate if it receives credible information that a medical certificate holder no longer meets the standards for medical fitness. The process involves providing notice to the involved mariner about the information received, and allowing them the opportunity to respond and provide additional information. The proposed policy preserves the mariner’s right to reconsideration and appeal under 46 CFR 1.03–15, and, allows the involved mariner to continue to work until final agency action, except in cases where there is evidence of compelling and substantial risk of imminent harm. Furthermore, the policy allows the mariner to retain their MMC, simplifying their return to work when their medical condition improves and allowing them to continue to work in the industry in positions that do not require a medical certificate.

#### Questions for Public Comment

The Coast Guard requests public comment on the draft Medical Manual, with emphasis on its readability, clarity, and ease of use. We welcome suggestions on how the Manual can be improved.

We are particularly interested in whether the draft Manual adequately addresses safety concerns in situations where the Coast Guard receives information indicating that a medical certificate holder has developed a medical condition that poses a significant risk of sudden incapacitation, or is taking a medication that poses a significant risk of impairment.

This document is issued under the authority of 5 U.S.C. 552(a), 46 U.S.C. 7101, and 46 U.S.C. 7302.

Dated: November 5, 2018.

**J.G. Lantz,**

*Director, Commercial Regulations and Standards, U.S. Coast Guard.*

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