## **Court Convictions and Assessment Periods**

When applying for a deck license you will be required to answer a series of questions on various forms. The topics will include issues that relate to your use of any dangerous drugs or convictions by any court for offenses other than minor traffic violations.

Many first time offenders have their records expunged after a court set period of good behavior. Having a past conviction on your record may not be reason for a license not being issued. The Coast Guard is very specific with its definition of a conviction:

Conviction means the applicant for a merchant mariner's document has been found guilty by judgment or plea by a court of record of the United States, the District of Columbia, any State, territory, or possession of the United States, a foreign country, or any military court, of a criminal felony or misdemeanor or of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304). If an applicant pleads guilty or no contest, is granted deferred adjudication, or is required by the court to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court's conviction, then the Coast Guard will consider the applicant to have received a conviction. A later expungement of the conviction will not negate a conviction unless the Coast Guard is satisfied that the expungement is based upon a showing that the court's earlier conviction was in error.

If anything in your past meets the terms of this definition report it. You will be going through a background check and the information will likely be revealed. Even if the courts said the offense will be expunged or erased after a period of time. The Coast Guard is not asking did it go away... They are asking if it ever occurred. If you do not report a *Conviction* the Coast Guard will most likely be looking into the fact that you have now submitted a fraudulent application.

If there are issues in your past the Coast Guard will evaluate any offense using the guidelines published in the tables found in 46 CFR 10.201(h). These guidelines set out the minimum and maximum "assessment periods" that will affect when your license application may be processed.

These tables are used by the Coast Guard as guidelines and you must remember that they are just that guidelines. The assessment period may vary depending on the nature and number of convictions in your past. In addition these tables do not list all of the offenses that could affect a license being issued in the first place.

When you submit your paperwork make sure you include any court papers documenting the offense, financial penalties, or the sentence you may have served.

Offenses that have occurred after the maximum assessment period will not prevent a license from being issued providing you have been honest and accurate with reporting your conviction.

Table 10.201(h)—Guidelines for Evaluating Applicants for Licenses and Certificates of Registry Who Have Criminal Convictions

Crime <sup>1</sup>	Assessment periods	
Crinic	Minimum	Maximum
Crimes Against Persons		
Homicide (intentional)	7 years	20 years.
Homicide (unintentional)	5 years	10 years.
Assault (aggravated)	5 years	10 years.
Assault (simple)	1 year	5 years.
Sexual Assault (rape, child molestation)	5 years	10 years.
Robbery	5 years	10 years.
Other crimes against persons <sup>2</sup>		
Crimes Against Property		
Burglary	3 years	10 years.
Larceny (embezzlement)	3 years	5 years.
Other crimes against property <sup>2</sup>		
Vehicular Crimes		
Conviction involving fatality	1 year	5 years.
Reckless Driving	1 year	2 years.
Racing on the Highways	1 year	2 years.
Other vehicular crimes <sup>2</sup>		
Crimes Against Public Safety		
Destruction of Property	5 years	10 years.
Other crimes against public safety <sup>2</sup>		
Crimes Involving National Security		
Terrorism, Acts of Sabotage, Espionage and related offenses	7 years	20 years.
Criminal Violations of Environmental Law	S	
Criminal violations of environmental laws involving improper handling of pollutants or hazardous materials	1 year	10 years.
Dangerous Drug Offenses <sup>3,4,5</sup>		1
Trafficking (sale, distribution, transfer)	5 years	10 years.
Dangerous drugs (Use or possession)	1 year	10 years.
Other dangerous drug convictions <sup>6</sup>		J

<sup>1</sup>Conviction of attempt, solicitation, aiding and abetting, accessory after the fact, and conspiracy to commit the criminal conduct listed in this table carry the same minimum and maximum assessment periods provided in the table.

<sup>2</sup>Other crimes are to be reviewed by the OCMI to determine the minimum and maximum assessment periods depending on the nature of the crime.

<sup>3</sup>Applicable only to original applications for licenses or CORs. Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements of paragraph (b) of this section. Note: Applicants for reissue of a license or COR with a new expiration date including a renewal or a raise of grade, who have been convicted of a dangerous drug offense while holding a license or COR, may have their applications withheld until appropriate action has been completed by the OCMI under the regulations which appear in 46 CFR part 5 governing administrative actions against merchant mariner credentials.

<sup>4</sup>The OCMI may consider dangerous drug convictions more than 10 years old only if there has been a dangerous drug conviction within the past 10 years.

<sup>5</sup>Applicants must demonstrate rehabilitation under paragraph (j) of this section, including applicants with dangerous drug use convictions more than ten years old.

<sup>6</sup>Other dangerous drug convictions are to be reviewed by the Officer in Charge, Marine Inspection on a case by case basis to determine the appropriate assessment periods depending on the nature of the offense.

- (i) National Driver Register. A license or certificate of registry will not be issued as an original or reissued with a new expiration date unless the applicant consents to a check of the NDR for offenses described in section 205(a)(3) (A) or (B) of the NDR Act (i.e., operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; and any traffic violations arising in connection with a fatal traffic accident, reckless driving, or racing on the highways). The OCMI will not consider NDR listed civil convictions that are more than 3 years old from the date of request unless that information relates to the current suspension or revocation of the applicant's license to operate a motor vehicle. The OCMI may determine minimum and maximum assessment periods for NDR listed criminal convictions using table 10.201(h). An applicant conducting simultaneous merchant mariner's credential transactions is subject to only one NDR check.
- (1) Any application may be disapproved if information from the NDR check leads the OCMI to determine that the applicant cannot be entrusted with the duties and responsibilities of the license or certificate of registry for which the application is made. If an application is disapproved, the OCMI will notify the applicant in writing of the reason(s) for disapproval and advise the application that the appeal procedures in §1.03 of this chapter apply. No examination will be given pending decision on appeal.
- (2) Prior to disapproving an application because of information received from the NDR, the OCMI will make the information available to the applicant for review and written comment. The applicant may submit records from the applicable State concerning driving record and convictions to the Coast Guard Regional Examination Center (REC) processing the application. The REC will hold an application with NDR listed convictions pending the completion of the evaluation and delivery by the individual of the underlying State records.
- (3) The guidelines in table 10.201(i) will be used by the OCMI in evaluating applicants for licenses and certificates of registry who have drug or alcohol related NDR listed convictions. Non-drug or alcohol related NDR listed convictions will be evaluated by the OCMI under table 10.201(h) as applicable.

- (4) An applicant may request an NDR file check for *personal* use in accordance with the Federal Privacy Act of 1974 (Pub. L. 93–579) by contacting the NDR at the following address: National Driver Register, Nassif Building, 400 7th Street, SW., Washington, DC 20590.
- (i) Applicants should request Form NDR-PRV or provide the following information on a notarized letter:
- (A) Full legal name;
- (B) Other names used;
- (C) Complete mailing address;
- (D) Driver license number;
- (E) Eye color;
- (F) Social security number;
- (G) Height;
- (H) Weight; and
- (I) Sex.
- (ii) The NDR will respond to every valid inquiry including requests which produce no record(s) on the NDR file. Records can be made available, within a reasonable amount of time after the request, for personal inspection and copying during regular working hours at 7:45 a.m. to 4:15 p.m., each day except Federal holidays.

Table 10.201(i)—Guidelines for Evaluating Applicants for Licenses and Certificates of Registry Who Have NDR Motor Vehicle Convictions Involving Dangerous Drugs or Alcohol<sup>1</sup>

No. of convictions	Date of conviction	Assessment period
1	Less than 1 year	1 year from date of conviction.
1	More than 1, less than 3 years	Application will be processed, unless suspension or revocation <sup>2</sup> is still in effect. Applicant will be advised that additional conviction(s) may jeopardize merchant mariner credentials.
1	More than 3 years old	Not necessary unless suspension or revocation is still in effect.
2 or more	Any less than 3 years old	1 year since last conviction and at least 3 years from 2nd most recent conviction, unless suspension or revocation is still in effect.
2 or more	All more than 3 years old	Application will be processed unless suspension or revocation is still in effect.

Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug shall meet the requirements in this section.

Suspension or revocation, when referred to in table 10.201(i), means a State suspension or revocation of a motor vehicle operator's license.

If an applicant has one or more alcohol or dangerous drug related criminal or NDR listed convictions; if the applicant has ever been the user of, or addicted to the use of, a dangerous drug; or if the applicant applies before the minimum assessment period for his or her conviction has elapsed; the OCMI may consider the following factors, as applicable, in assessing the applicant's suitability to hold a license or certificate of registry. This list is intended as a guide for the OCMI. The OCMI may consider other factors which he or she judges appropriate to a particular applicant, such as:

- (1) Proof of completion of an accredited alcohol- or drug-abuse rehabilitation program.
- (2) Active membership in a rehabilitation or counseling group, such as Alcoholics Anonymous or Narcotics Anonymous.
- (3) Character references from persons who can attest to the applicant's sobriety, reliability, and suitability for employment in the merchant marine including parole or probation officers.
- (4) Steady employment.
- (5) Successful completion of all conditions of parole or probation.

## § 10.201 Eligibility for licenses general.

The applicant for a license or certificate of registry, whether original, renewal, duplicate, or raise of grade, must establish to the satisfaction of the Coast Guard that he or she possesses all the qualifications necessary (including but not limited to age, experience, character references and recommendations, physical health, citizenship, approved training, passage of a professional examination, a test for dangerous drugs, and when required by this part, a practical demonstration of skills) before the Coast Guard will issue a license or certificate of registry.

No person who has been convicted of a violation of the dangerous drug laws of the United States, the District of Columbia, any State, territory, or possession of the United States, or a foreign country, by any military or civilian court, is eligible for a license or certificate of registry, except as provided by the provisions of this section. No person who has ever been the user of, or addicted to, a dangerous drug, or has ever been convicted of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304) because of addiction to or abuse of alcohol is eligible for a license or certificate of registry, unless he or she furnishes satisfactory evidence of suitability for service in the merchant marine as provided in this section.

*Criminal record review*. The Coast Guard will review the criminal record of an applicant before the issuance of a license or certificate of registry. An applicant conducting simultaneous transactions for merchant mariner's credentials will undergo only one criminal record check. Applicants must provide written disclosure of all prior convictions at the time of application.

The Coast Guard will use the fingerprints submitted pursuant to §10.105(b) to obtain a criminal record report. An applicant's criminal record report may be used to determine that an applicant's character and habits of life are such that the applicant cannot be entrusted with the duties and responsibilities of the license or certificate of registry. Should such a determination be made, the application may be disapproved. If an application is disapproved, the Coast Guard will advise the applicant in writing that the reconsideration and appeal procedures in subpart 1.03 of this chapter apply and will, in appropriate circumstances, notify the applicant of the reason(s) for disapproval. The Coast Guard will not administer a written examination until final agency action has been made on the applicant's appeal.

The OCMI may use table 10.201(h) to evaluate applicants for licenses and certificates of registry who have criminal convictions. The table lists major categories of criminal activity and is not to be construed as an all-inclusive list. If an applicant is convicted of an offense that does not appear on the list, the OCMI will establish an appropriate assessment period using the list as a guide. The assessment period commences when an applicant is no longer incarcerated. The applicant must establish proof of the time incarcerated and periods of probation and parole to the satisfaction of the OCMI. The assessment period may include supervised or unsupervised probation or parole. A conviction for a drug offense more than 10 years prior to the date of application will not alone be grounds for denial.

When an applicant has convictions for more than one offense, the minimum assessment period will be the longest minimum in table 10.201(h) and table 10.201(i) based upon the applicant's convictions; the maximum assessment period will be the longest shown in table 10.201(h) and table 10.201(i) based upon the applicant's convictions.

If a person with a criminal conviction applies for a license or certificate of registry before the minimum assessment period shown in table 10.201(h), or established by the OCMI under paragraph (h)(2) of this section has elapsed, then the applicant must provide evidence of suitability for service in the merchant marine. Factors which are evidence of suitability for service in the merchant marine are listed in paragraph (j) of this section. The OCMI will consider the applicant's evidence and may issue the license or certificate of registry in less than the listed minimum assessment period if the OCMI is satisfied that the applicant is suitable to hold the license or certificate of registry for which he or she has applied. If an applicant does not provide evidence of suitability for service in the merchant marine, then the application will be considered incomplete and will not be processed by the OCMI.

If a person with a criminal conviction applies for a license during the time between the minimum and maximum assessment periods shown in table 10.201(h) or established by the OCMI. The OCMI will consider the conviction and, unless there are offsetting factors, may grant the applicant the license or certificate of registry for which he or she has applied. Offsetting factors include multiple convictions, failure to comply with court orders (e.g., child support orders), previous failures at rehabilitation or reform, inability to maintain steady employment, or any connection between the crime and the safe operation of a vessel. If the OCMI considers the applicant unsuitable for service in the merchant marine at the time of application, the OCMI will disapprove the application.

If a person with a criminal conviction applies for a license after the maximum assessment period shown in table 10.201(h) or established by the OCMI has elapsed, then the OCMI will grant the applicant the license for which he or she has applied unless the OCMI has reason to believe the applicant is still unsuitable for service in the merchant marine. If the OCMI disapproves an application based upon a conviction older than the maximum assessment period, the OCMI will notify the applicant in writing of the reason(s) for the disapproval. The OCMI will also inform the applicant, in writing, that the reconsideration and appeal procedures contained in §1.03 of this chapter that apply.