

will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

**PART 380—PROCEDURES**

■ 18. The authority citation for part 380 continues to read as follows:

**Authority:** Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114.

■ 19. Section 380.22 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 380.22 Responsibility.**

(b) With respect to books, records, and accounts which, subject to the provision of paragraph (a) of this section, are to be disposed of upon the expiration of the minimum retention period prescribed herein, there shall be filed with the Records Officer, Maritime Administration, Washington, DC, 20590, a written notification, at least thirty (30) days prior to the contemplated, disposal requesting permission to dispose of records. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable. The request shall be in such form that the books, records, and accounts can be readily identified. Within thirty (30) days after receipt of such notification the Records Officer shall grant approval for disposal, or advise the necessity for continued retention of all or any specified portion thereof. Failure of the Record Officer to reply within the thirty (30) days period following receipt by the Administration of such request shall constitute approval.

(c) Applications for special authority to dispose of certain books, records, and accounts prior to the expiration of prescribed minimum retention periods, and any inquiries as to the interpretation or applicability of this subpart to specific items shall be submitted to the Records Officer, Maritime Administration. MARAD will accept written or electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable. The applicant shall describe in detail the items to be disposed of and explain why continued retention is unnecessary.

■ 20. Section 380.23 is revised to read as follows:

**§ 380.23 Supervision of records.**

(a) Contractors and others subject to the provisions of this subpart shall designate, through formal action, the official company position by title, the incumbent of which shall be responsible

for supervision of its document retention and disposal program. Immediately upon designation of the position, a copy of the formal action and name of the incumbent shall be filed with the Records Officer, Maritime Administration. MARAD will accept written or electronic options (such as facsimile and Internet) for transmission of required information, if practicable.

(b) The person in charge of the retention and disposal program shall maintain a record of all books, records, and accounts held in storage, and in such form that the items and their location are readily identifiable. A copy of the written, or by electronic options (such as facsimile and Internet), if practicable, notification requesting permission to dispose of any books, records, and accounts, and the original approval from the Administration, as required in § 380.22(b), together with a statement showing date, place and method of disposal will suffice as a record of such disposed items. These retention and disposal records shall be available at all times for inspection by Administration officials and auditors.

**PART 390—CAPITAL CONSTRUCTION FUND**

■ 21. The authority citation for part 390 continues to read as follows:

**Authority:** Sections 204(b) and 607, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114(b) and 1177); 49 CFR 1.66.

■ 22. Section 390.2 is amended by revising paragraph (a)(1) to read as follows:

**§ 390.2 Application for an agreement.**

(a) *In general*—(1) *Application instructions.* The Maritime Administrator has adopted instructions for making application for an agreement. These instructions are contained in appendix I to this part. MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable.

\* \* \* \* \*

By Order of the Maritime Administrator.

Dated: October 13, 2004.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

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**DEPARTMENT OF TRANSPORTATION**

**Maritime Administration**

**46 CFR Part 310**

[Docket Number: MARAD-2004-17185]

RIN 2133-AB66

**Amended Service Obligation Reporting Requirements for U.S. Merchant Marine Academy Graduates**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, the Maritime Administration (MARAD, we, us, or our) amends the service obligation reporting requirements for United States Merchant Marine Academy (USMMA) graduates. The new reporting requirements create standard reporting dates that coincide with the U.S. Naval Reserve/Merchant Marine Reserve (USNR/MMR) service reporting dates, which will make reporting to the USNR and to MARAD less burdensome. This final rule also corrects an error that appeared in the interim final rule that preceded this action, which mistakenly indicated that it applied to both USMMA graduates as well as to State maritime academy graduates. Finally, this rulemaking provides for the electronic submission of reports as the primary means of submission to MARAD.

**DATES:** This final rule is effective October 19, 2004.

**ADDRESSES:** This final rule is available for inspection and copying between 10 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays at the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590. An electronic version of this document along with all documents entered into this docket are available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Brenda Reed-Perry, Compliance Specialist, Office of Policy and Plans, Maritime Administration, Department of Transportation, 400 7th St., SW., Room 7123, Washington, DC 20590; telephone: (202) 366-0845; FAX: (202) 366-7403; and e-mail: [maritime.graduate@marad.dot.gov](mailto:maritime.graduate@marad.dot.gov).

**SUPPLEMENTARY INFORMATION:** On March 2, 2004, MARAD published an interim final rule entitled Amended Service Obligation Reporting Requirements for U.S. Merchant Marine Academy and State Maritime Academy Graduates (69

FR 9758). Despite this title, and other references to State maritime academy graduates that appeared in the rulemaking, MARAD only intended to change the reporting requirements of USMMA graduates, and not State academy graduates. This intent is reflected by the fact that the interim final rule only changed 46 CFR section 310.58(d), which governs USMMA reporting requirements, and not 46 CFR section 310.7(b)(6), which governs State academy reporting requirements. In this final rule, MARAD is amending the service obligation reporting requirements for USMMA graduates only. MARAD has issued a separate rulemaking to address the reporting requirements of State academy graduates.

In the interim final rule, MARAD changed the requirement that USMMA graduates submit their service obligation report forms thirteen (13) months following graduation and each succeeding twelve (12) months for five (5) consecutive years thereafter to a system where graduates would submit reports on March 31 following graduation and six (6) consecutive years thereafter.

Comments on the interim final rule were due by April 1, 2004, and two sets of comments were timely filed.

#### **Public Comments on the Interim Final Rule**

The first commenting party recommended that MARAD make reports due by March 31, rather than on March 31. The commenting party also recommended that MARAD provide a ninety (90) day period in which to submit reports, noting that many graduates, while out at sea, may have difficulty submitting their reports by a specified due date, rather than during a reporting period. MARAD agrees with this recommendation and has decided to adopt a reporting period rather than a specified due date. However, instead of a ninety (90) day reporting period, MARAD has decided to adopt a sixty (60) day reporting period (or 61 days, during leap years) that coincides with the USNR/MMR's reporting period. MARAD believes that the sixty (60) day reporting period provides ample time for graduates to submit their reports. Additionally, since the reporting period coincides with the USNR/MMR's reporting period, submitting reports should be less burdensome because graduates will be able to compile and submit information to both MARAD and the USNR during the same time frame.

The second commenting party addressed issues related to Student Incentive Payments such as default of

service obligations, recoupment of funds from defaulting students, and other issues, none of which are addressed in this rulemaking. Thus, MARAD will not address the issues raised by the second commenting party at this time.

As indicated above, based on comments received and on further consideration, MARAD has decided to adopt a reporting period that coincides with the USNR/MMR's reporting period. Under this new reporting system, graduates will file reports between January 1 and March 1 following graduation, and during the same time frame between January 1 and March 1 for six (6) consecutive years thereafter (or until all components of the service obligation are fulfilled, whichever is latest). Graduates will file a minimum of seven (7) reports in order to give information on all six (6) years of the service obligation. Graduates must submit annually the Maritime Administration Service Obligation Compliance Report and Merchant Marine Reserve, U.S. Naval Reserve (USNR), Annual Report (Form MA-930). Graduates may submit their Service Obligation Compliance Reports electronically via the Maritime Service Compliance System at <https://mscs.marad.dot.gov>.

#### **Regulatory Analyses and Notices**

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This final rule is not likely to result in an annual effect on the economy of \$100 million or more. This final rule is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and overall economic impact associated with this rulemaking are considered to be so minimal that no further analysis is necessary.

##### *Administrative Procedure Act*

The Administrative Procedure Act (5 U.S.C. 553) provides an exception to notice and comment procedures when they are unnecessary or contrary to the public interest. MARAD finds that under 5 U.S.C. 553(b)(3)(B), good cause exists for not providing notice and comment since this final rule merely changes the service obligation reporting dates of USMMA graduates and provides for the electronic submission of reports as the primary means of submission to MARAD. For the same

reasons, MARAD finds good cause under 5 U.S.C. 553(d) to make this final rule effective upon publication.

##### *Regulatory Flexibility Act*

The Maritime Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule merely changes the service obligation reporting dates for USMMA graduates and thus only affects USMMA graduates and has no effect on small businesses or other entities.

##### *Federalism*

We have analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 (Federalism) and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. These regulations have no substantial effect on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among local officials. Therefore, consultation with State and local officials is not necessary.

##### *Executive Order 13175*

MARAD does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

##### *Environmental Impact Statement*

We have analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and have concluded that under the categorical exclusions in section 4.05 of Maritime Administrative Order (MAO) 600-1, "Procedures for Considering Environmental Impacts," 50 FR 11606 (March 22, 1985), neither the preparation of an Environmental Assessment, an Environmental Impact Statement, nor a Finding of No Significant Impact for this final rule is required. This final rule involves administrative and procedural regulations that have no environmental impact.

##### *Unfunded Mandates Reform Act of 1995*

This final rule does not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or

more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule is the least burdensome alternative that achieves this objective of U.S. policy.

*Paperwork Reduction Act*

This final rule contains information collection requirements covered by the Office of Management and Budget approval number 2133-0509. The changes have no impact on the reporting burden.

**List of Subjects in 46 CFR Part 310**

Federal Aid Programs, Reporting and recordkeeping requirements, Schools, and Seamen.

■ Accordingly, for the reasons discussed in the preamble, 46 CFR 310.58 is amended as follows:

**PART 310—[AMENDED]**

■ 1. The authority citation for part 310 continues to read as follows:

**Authority:** 46 App. U.S.C. 1295; 49 CFR 1.66.

■ 2. Amend § 310.58 by revising paragraph (d) to read as follows:

**§ 310.58 Service obligation for students executing or reexecuting contracts**

\* \* \* \* \*

(d) Reporting requirements. (1) Each graduate must submit an annual Service Obligation Compliance Report form (MA-930) to the Maritime Administration between January 1 and March 1 following his or her graduation. After the initial report is submitted, each graduate must continue to submit annual reports during the same time frame between January 1 and March 1 for six (6) consecutive years thereafter, or until all components of the service obligation are fulfilled, whichever is latest. Each graduate will file a minimum of seven (7) reports in order to give information on all six (6) years of the service obligation. Graduates are encouraged to submit their Service Obligation Compliance Report forms (MA-930) to MARAD using the web-based Internet system at <https://mscs.marad.dot.gov>. Reports may also be mailed to: Compliance Specialist, Office of Policy and Plans, Maritime Administration, Department of Transportation, 400 7th St., SW., Room 7123, Washington, DC 20590.

(i) Example 1: Midshipman graduates on June 30, 2004. His or her first reporting date is between January 1, 2005 and March 1, 2005 and thereafter between January 1 and March 1 for six (6) consecutive years (or until all components of the service obligation are fulfilled, whichever is latest) for a minimum of seven (7) reports.

(ii) Example 2: Midshipman has a deferred graduation on November 30, 2004. His or her first reporting period is between January 1, 2005 and March 1, 2005 and thereafter between January 1 and March 1 for six (6) consecutive years (or until all components of the service obligation are fulfilled, whichever is latest) for a minimum of seven (7) reports.

(iii) Example 3: Midshipman graduated in June 2003 and has already begun his or her service obligation reporting. His or her reports are now due between January 1 and March 1 of each reporting year.

(2) The Maritime Administration will provide reporting forms upon request. However, non-receipt of such forms will not exempt a graduate from submitting service obligation information as required by this paragraph. Graduates are encouraged to submit their Service Obligation Compliance Report forms (MA-930) electronically at <https://mscs.marad.dot.gov>. The reporting form has been approved by the Office of Management and Budget (2133-0509).

\* \* \* \* \*

Dated: October 13, 2004.

By Order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

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