

party in writing that it does not desire the Agreement to be extended for such additional one (1) year period. This Agreement, as extended year-to-year as aforesaid, may be amended, modified or supplemented in writing at any time by the mutual consent of the parties hereto.

Art. 14. *Assignment Prohibited.*

It is hereby agreed by the school that the Agreement, or any interest herein, shall not be assigned to any other person without the prior written consent of the Administration, which consent may be subject to such terms and conditions as the Administration deems appropriate.

Art. 15. *Availability of Funds.*

It is understood and agreed by and between the parties hereto that the obligations under this Agreement shall be deemed executory to the extent of the monies available to said parties for the purpose thereof and no liability on account thereof shall be incurred beyond such available monies by either of said parties.

Art. 16. *Prior Agreement.*

It is hereby understood and agreed by and between the parties hereto that the agreement in effect between the parties on the date prior to the effective date of this Agreement is superseded by this Agreement but only as to obligations not incurred prior to the expiration date of said prior agreement under the provisions of said prior agreement.

In witness whereof, the UNITED STATES OF AMERICA, represented as aforesaid, has caused this Agreement to be executed on its behalf in three counterparts as of the day and year first written hereinabove and actually on the ___ day of ___ 19__.

Attest:

United States of America, Department of Transportation, Maritime Administration.

Secretary. _____
By: _____

Maritime Administrator of Maritime Affairs.
[Seal]

Attest:

State of _____
_____ Maritime Academy

By: _____
[Seal]

Approved as to form:

General Counsel, Maritime Administration.

[46 FR 37694, July 22, 1981. Redesignated at 48 FR 24081, May 31, 1983]

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

AUTHORITY: Secs. 204(b) and 1301–1308, Merchant Marine Act, 1936, as amended, (46 U.S.C. 1114(b) and 1295–1295g); 49 CFR 1.66 (46 FR 47458, September 28, 1981).

SOURCE: 47 FR 21812, May 20, 1982, unless otherwise noted.

§ 310.50 Purpose.

The regulations in this subpart govern the nomination, admission and appointment of midshipmen to the United States Merchant Marine Academy,

§ 310.51 Definitions.

(a) *Academy* means the United States Merchant Marine Academy.

(b) *Act* means the Maritime Education and Training Act of 1980, Pub. L. 96–453, 94 Stat. 1997, 46 U.S.C. 1295–1295g.

(c) *Administration* means the Maritime Administration, Department of Transportation.

(d) *Administrator* means the Administrator of the Maritime Administration.

(e) *Citizen* means an individual who, by birth or naturalization, owes national allegiance to the United States, but the term excludes United States nationals.

(f) *Foreign student* means an individual who owes national allegiance to a country or political entity other than the United States, and the term includes United States nationals.

(g) *NOAA* means the National Oceanic and Atmospheric Administration.

(h) *USNR* means the United States Naval Reserve.

§ 310.52 General.

(a) Midshipmen are appointed to the Academy for training to prepare them to become officers in the U.S. merchant marine. The Academy, located at Kings Point, New York, is maintained by the Government as a part of the Administration. After successful completion of the 4-year course of study, a graduate of the Academy shall receive a Bachelor of Science degree and a merchant marine license as either a

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third officer or third assistant engineer (or both licenses upon completion of a special curriculum and passing the respective license examinations) issued by the U.S. Coast Guard. If qualified, a graduate may be commissioned as an officer in a reserve component of an armed force of the United States.

(b) Midshipmen entering the Academy after April 1, 1982, are required by the Act to sign an agreement committing them to service obligations following the date of graduation. The terms of the service obligation contract are set forth in § 310.58 of this subpart.

§ 310.53 Nominations and vacancies.

(a) *Nominating officials.* (1) Each Senator and Member of the House of Representatives (including delegates from Guam, the Virgin Islands and the District of Columbia and the Resident Commissioner from Puerto Rico), the Panama Canal Commission, the Governor of the Northern Mariana Islands, and the Delegate to the House of Representatives from American Samoa may nominate ten (1) candidates to compete for admission to the Academy.

(2) In accordance with the Act (46 U.S.C. 1295b (b)(1)), nominating officials may only nominate candidates who are residents of the State or other geographic area which the particular nominating official represents, as follows:

The candidate must be a resident of—	To be nominated by—
The State	A Member of the U.S. Senate representing that State.
The State	A Member of the U.S. House of Representatives whose Congressional District is located in that State.
Guam	The Delegate to the U.S. House of Representatives representing Guam.
Virgin Islands	The Delegate to the U.S. House of Representatives representing the Virgin Islands.
District of Columbia	The Delegate to the U.S. House of Representatives representing the District of Columbia.
Commonwealth of Puerto Rico.	The Resident Commissioner to the United States from Puerto Rico.
American Samoa	The Delegate to the House of Representatives representing American Samoa.

The candidate must be a resident of—	To be nominated by—
Any area or installation located in the Republic of Panama which is made available to the United States pursuant to the (i) the Panama Canal Treaty of 1977, (ii) the agreements relating to and implementing the Treaty signed September 7, 1977, and (iii) the Agreement between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; <i>Provided</i> , That no residence in the Republic of Panama is required if nomination is due to his or her parent's employment in the Panama Canal or in the Republic of Panama by the United States Government or the Panama Canal Commission.	Panama Canal Commission.
Northern Mariana Islands	Governor of the Northern Mariana Islands. Secretary of the Interior.
Trust Territory of the Pacific Islands.	

(3) Individuals must be residents of the Trust Territory of the Pacific Islands to qualify for designation by the Secretary of the Interior.

(4) Nominating officials may select nominees, and the Secretary of the Interior may select designees, by any method they wish, including a screening examination.

(5) Candidates from nations other the United States must be nominated by an official of their home government and have their applications approved by the United States Government official specified in § 310.66 (a), or (c) or (d).

(b) *Vacancies.* (1) The number of vacancies in each entering class allocated to each State is in proportion to the representation in Congress from that State.

(2) In each entering class, two vacancies shall be allocated each year for individuals nominated by the Panama Canal Commission; one vacancy each to nominees from Puerto Rico, Guam, Virgin Islands, Northern Marian Islands and American Samo; and four vacancies to nominees from the District of Columbia.

(3) Not to exceed four (4) individuals at any one time may be admitted from

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the Trust Territory of the Pacific Islands and twelve (12) individuals from nations located in the Western Hemisphere, other than the United States, but not more than two (2) individuals from any one of such nations shall receive training at the same time.

(4) The Administrator may permit, upon approval of the Secretary of State, not more than thirty (30) individuals at one time from nations other than the United States to receive instruction at the Academy, subject to the condition that the foreign nations reimburse the Administrator for the cost of such training.

(5) The distribution of each entering class by State is:

Alabama	4
Alaska	1
Arizona	3
Arkansas	2
California	19
Colorado	4
Connecticut	4
Delaware	1
Florida	10
Georgia	5
Hawaii	2
Idaho	2
Illinois	9
Indiana	3
Iowa	4
Kansas	3
Kentucky	2
Louisiana	4
Maine	2
Maryland	5
Massachusetts	5
Michigan	7
Minnesota	3
Mississippi	3
Missouri	3
Montana	2
Nebraska	2
Nevada	2
New Hampshire	2
New Jersey	6
New Mexico	2
New York	15
North Carolina	6
North Dakota	1
Ohio	8
Oklahoma	2
Oregon	3
Pennsylvania	10
Rhode Island	2
South Carolina	4
South Dakota	1
Tennessee	4
Texas	13
Utah	2
Vermont	1
Virginia	5

Washington	5
West Virginia	2
Wisconsin	4
Wyoming	1

(6) The distribution of each entering class otherwise provided under the Act is:

Northern Mariana Islands	1
Puerto Rico	1
District of Columbia	4
Republic of Panama	2
Guam	1
American Samoa	1
Virgin Islands	1
Administrator	Not to exceed 40.

(7) The distribution of students provided for under the Act without reference to entering class is:

	Not to exceed at any one time
Trust Territory of the Pacific Islands	4
Western Hemisphere nations (other than U.S.)	12
Foreign nations	30

(c) *Request for nomination.* A person interested in admission to the Academy who feels that he or she meets the requirements in this subpart should request a nomination from his or her Senator or Representative or other appropriate nominating official listed in paragraph (a) of this section.

(d) *Date for nominations.* The nominating official will send a nomination form for each nominee to the Admissions Office, U.S. Merchant Marine Academy, Kings Point, Long Island, New York 11024, normally between August 1 and December 31 of the school year preceding that in which admission to the Academy is desired.

(e) *Appointments.* (1) The Administrator shall make appointments to fill the vacancies allocated pursuant to paragraph (b) of this section from among qualified nominees, in order of merit, from each geographical area. The order of merit shall be established according to the procedure as specified in §310.57(b). Such appointments first shall be made from among residents of each geographic area listed in paragraph (b) of this section. Thereafter, appointments shall be made from among residents of each geographic area listed in paragraph (b) of this section. Thereafter appointments shall be made from among remaining qualified nominees (national alternates) in order

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of merit regardless of the area of residence.

(2) The Administrator may appoint, without competition, not more than forty (40) qualified citizens who possess qualities deemed to be of special value to the Academy. In making these appointments, the Administrator shall give special consideration to achieving a national demographic balance and to recognizing individuals with qualities deemed to be of special value to the Academy.

[47 FR 21812, May 20, 1982, as amended at 51 FR 17741, May 15, 1986; 60 FR 44438, Aug. 28, 1995]

§ 310.54 General requirements for eligibility.

(a) *Citizenship.* All candidates shall be citizens of the United States except: (1) Nominees from foreign nations; (2) nominees from the Northern Mariana Islands; (3) designees from the Trust Territory of the Pacific Islands; and (4) nominees from American Samoa, who may be American nationals. No person who is not a citizen shall be entitled to any office or position in the U.S. merchant marine by reason of his or her graduation from the Academy, until such person shall have become a citizen.

(b) *Age.* On July 1 of the year of admission to the Academy, a candidate shall be not less than seventeen (17) years of age and shall not have passed his or her twenty-fifth (25) birthday.

(c) *Character.* A candidate shall be of good moral character. The Administrator may reject the nomination of any candidate whose character is incompatible with the Academy's standards. No person who has been dismissed or compelled to resign from the U.S. Military Academy, the U.S. Naval Academy, the U.S. Air Force Academy, the U.S. Coast Guard Academy, the Academy or a State maritime academy for improper conduct shall be eligible for appointment as a midshipman at the Academy. No person whose last discharge from any armed force was under conditions other than honorable or who has had a merchant mariner document removed or suspended for cause shall be eligible for appointment as a midshipman.

(d) *Investigation.* To be eligible for appointment, all candidates who are United States citizens shall be completely loyal to the United States and shall meet the requirements established by the Department of the Navy for designation as Midshipman, USNR (including the Merchant Marine Reserve, USNR). Candidates for appointment shall execute documents approved by the Administrator for the purpose of a security and suitability investigation. Appointment as a Midshipman, USNR (including the Merchant Marine Reserve, USNR) shall be a condition of admission for an individual who is a citizen. A candidate who is conditionally appointed to the Academy pending completion of a Navy security and suitability investigation shall be subject to immediate separation should the candidate, as a result of the investigation, fail to meet the requirements established for appointment as Midshipman, USNR.

(e) *Waivers.* There shall be no waivers of general eligibility requirements.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Pub. L. 97-31 (August 6, 1981); 49 CFR 1.66)

[47 FR 21812, May 20, 1982, as amended at 49 FR 45858, Nov. 21, 1984]

§ 310.55 Scholastic requirements.

(a) *Academic requirements*—(1) *Credits.* Applicants shall have satisfactorily completed their high school education at an accredited secondary school, or equivalent, and shall present at least 15 units of credit for subjects acceptable to the Academy, comprised of:

(i) 7 required units, as follows:

(A) 3 units of Mathematics (from algebra, geometry and trigonometry);

(B) 3 units of English; and

(C) 1 unit of Physics or Chemistry.

(ii) 8 other units, preferably chosen from the following fields:

(A) Additional mathematics and science;

(B) Foreign language;

(C) Economics; and,

(D) Social science.

(2) *Evidence of academic work.* Before approval of an application, each applicant shall submit evidence showing completion of high school education, or showing that such education will be

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completed no later than June 30 of the year in which admission is sought.

(b) *Scholastic examinations*—(1) *Required entrance examinations.* Applicants shall qualify in either the College Board's Scholastic Aptitude Tests (SAT) or the American College Testing Program (ACT) examinations, administered nationally on scheduled dates at convenient testing centers. A candidate electing to use the College Board shall take both the mathematics and the verbal section of the SAT. A candidate electing to use the ACT, shall take all the tests, namely, English, Mathematics, Social Sciences and Natural Sciences. Minimum qualifying scores on the entrance examinations will be determined by the Superintendent of the Academy for each entering class prior to any offers of appointment for the particular class. Any score below the minimum on any one section of an examination shall make the nominee ineligible for admission. All examination costs shall be borne by the applicant. Nominees shall take all the required examinations by the February testing date in the year for which they seek appointment, unless the Academy's Admissions Office grants special authorization to take later examinations.

(2) *Forwarding test results.* Candidates shall be responsible for requesting the testing services to submit their scores directly to the Academy.

(3) *Test information.* Information on the entrance examinations may be obtained from—

The candidate's high school guidance office; or,
College Board, P.O. Box 592, Princeton, N.J. 08540; or,
College Board, P.O. Box 1025, Berkeley, CA. 94701; or,
American College Testing Program, P.O. Box 168, Iowa City, IA 52240.

(c) *Prior Scholastic Record.* Applicants shall demonstrate scholastic achievement by having attained a relatively high standing in relation to their fellow students and by having shown proficiency in mathematics and science courses. With respect to applicants who completed high school at least one year before applying for admission to the Academy, consideration will be given to satisfactory college level study or

any special study undertaken to strengthen their academic backgrounds, particularly in respect to determining whether such supplementary academic activity offsets any deficiency in high school scholastic records.

(d) *Waivers.* No waivers of scholastic requirements will be granted.

§ 310.56 Physical requirements.

(a) *Physical standards.* (1) A candidate shall meet the physical requirements prescribed by the Department of the Navy for appointment as Midshipman, USNR (including the Merchant Marine Reserve, USNR) and the requirements prescribed by the U.S. Coast Guard for original licensing as a third mate and third assistant engineer. All candidates shall have color perception and refractive error within the limits prescribed by the Department of the Navy or by the U.S. Coast Guard, whichever are higher.

(2) The requirement to meet these standards is a continuing one and shall apply through graduation from the Academy. Failure to meet the standards while attending the Academy is grounds for, and may lead to disenrollment. Individuals who have completed at least two years of study and, as a result of an accident, illness or other cause (during official duty), fail to meet this requirement may be permitted to remain at the Academy at the discretion of, and under conditions set by, the Administrator. Those individuals permitted to remain through graduation will agree to fulfill aspects of the service obligation which they are capable of, as deemed appropriate by the Administrator.

(b) *Qualifying physical examinations.* All candidates for the Academy shall have a physical and dental examination conducted by a service academy examining facility designated by the Service Academies Central Medical Review Board. The required physical examination shall occur within 1 year preceding the date of admission to the Academy. Although there is no charge for such examination, all expenses (including travel, meals and hotel accommodations) incurred in obtaining such examination shall be borne by the applicant. Candidates may be subject to reexamination upon reporting to the

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Academy and at any time while attending the Academy.

(c) *Physical reexamination.* A candidate who is rejected for failure to meet the physical requirements may request either a reevaluation of the examination results or a reexamination. A midshipman failing to meet the physical requirements while attending the Academy is entitled to make the same request.

(d) *Waivers.* Some medical requirements may be waived for enrolled students and applicants to the USMMA who require such a medical waiver to qualify for admission and/or retention. Since commissioning in the United States Navy, or any other branch of the Armed Forces, is a requirement for graduation, no waivers will be granted for medical conditions which would prevent commissioning in at least a restricted status in the U.S. Navy Reserve. Individuals interested in waiver consideration may request a waiver by writing to the Superintendent, USMMA. The granting of medical waivers will be based on U.S. Navy guidelines and regulations for waiver consideration for admission to the U.S. Naval Academy and the physical requirements consistent with commissioning as a reserve officer in the U.S. Navy in a restricted line program. Individuals requesting medical waivers must be able to meet all other admission requirements, including the physical examination requirement for an original U.S. Coast Guard merchant marine license as a third mate and/or third assistant engineer. The decision of the Superintendent on any requested waiver is administratively final.

[47 FR 21812, May 20, 1982, as amended at 55 FR 46952, Nov. 8, 1990]

§ 310.57 Application and selection of midshipmen.

(a) *Application.* All candidates shall submit an application for admission to the Academy's Admissions Office. Prospective candidates also should submit an application, but are not considered official candidates until their nominations are received. Candidates shall submit with their applications an official transcript and personality record from the candidate's high school and, if applicable, such records from any

school attended after high school graduation. Application forms are available upon request by writing to the Admissions Office at the Academy.

(b) *Selection of Midshipmen.* Selection of midshipmen for appointment to fill vacancies allotted to the various States and other locations, as specified in § 310.53(b) (1) and (2) of this subpart, shall be in order of merit. The order of merit shall be determined on the scores of the required entrance examinations, on assessment of the academic background of the individual and on such other factors as are considered by the Academy to be effective indicators of motivation and the probability of successful completion of training at the Academy. No preference shall be granted in selecting individuals for appointment because one or more members of their immediate families are alumni of the Academy.

(c) *Notification of selection.* Results of the selection process will be made known about May 1 each year. The Academy shall advise each candidate and his or her nominating official of his or her status as a principal candidate, as an alternate candidate or as an unqualified candidate. Alternates will replace principal candidates who decline appointment or fail to meet the physical requirements or the security and suitability investigation.

(d) *Service obligation agreement.* Each candidate selected for appointment to the Academy after April 1, 1982, who is a citizen of the United States, shall sign a service obligation contract as a condition of admission. The contract is prescribed in § 310.58 of this subpart.

(e) *Reporting to the Academy.* Candidates who accept offers of appointment shall, pursuant to instructions issued by the Academy, report to the Academy on a specified date in mid-July for orientation and induction.

(f) *Oath.* Each midshipman who is a citizen of the United States shall take the following oath of office at the Academy:

"I, _____, having been appointed a midshipman to the U.S. Merchant Marine Academy, accept appointment and do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to

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the same; that I will comply with all the regulations of the U.S. Merchant Marine Academy; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God."

(g) *Birth Certificate.* Each candidate shall present a certificate of birth authenticated by an authorized official.

§ 310.58 Service obligation for students enrolled after April 1, 1982.

(a) *Form of service obligation contract.* The service obligation contract shall obligate each midshipman who is a citizen and who enters the Academy after April 1, 1982, to:

(1) Complete the course of instruction at the Academy, unless sooner separated by the Academy;

(2) Fulfill the requirements for a license as an officer in the merchant marine of the United States on or before the date of graduation from the Academy;

(3) Maintain a license as an officer in the merchant marine of the United States for at least six (6) years following the date of graduation from the Academy;

(4) Apply for an appointment as, accept any tendered appointment as and serve as a commissioned officer in the USNR (including the Merchant Marine Reserve, USNR), the United States Coast Guard Reserve, or any other Reserve component of an armed force of the United States for at least six (6) years following the date of graduation from the Academy;

(5) Serve the foreign and domestic commerce and the national defense of the United States for at least five (5) years following the date of graduation from the Academy:

(i) As a merchant marine officer serving on vessels documented under the laws of the United States or on vessels owned and operated by the United States or by any State or territory of the United States;

(ii) As an employee in a United States maritime-related industry, profession or marine science (as determined by the Administrator), if the Administrator determines that service under paragraph (a)(5)(i) of this section is not available;

(iii) As a commissioned officer on active duty in an armed force of the United States or NOAA; or

(iv) By combining the services specified in paragraphs (a)(5) (i), (ii) and (iii) of this section; and,

(6) Submit periodic reports to the Administration to establish compliance with all the terms of the contract.

(b) *Service as a merchant marine officer.* For purposes of the service obligation, a satisfactory year of service on vessels as a merchant marine officer shall be the lesser of—

(1) 150 days; or

(2) The number of days that is at least equal to the median number of days of seafaring employment under articles achieved by deck or engine officers in the most recent calendar year for which statistics are available.

(c) *Marine-related employment.* (1) Graduates who do not meet the sea service requirement in paragraph (b) of this section and who claim employment in a United States maritime-related industry, profession or marine science as meeting all or part of the service obligation under paragraph (a)(5) of this section and the service obligation contract shall submit evidence to the Administration that they have conscientiously sought employment as a merchant marine officer, and that such employment is not available. Such evidence submitted, and other information available to the Administration, shall be considered in any finding. In view of current and projected employment opportunities afloat, the Administrator will grant the shoreside employment option infrequently and only on the basis of comprehensive evidence.

(2) The Administrator may consider positions of operational, management or administrative responsibility, including, but not limited to, the following marine-related categories, to be under the provisions of § 310.58(a)(5)(ii) of this subpart and the service obligation contract: Civilian employment in Federal and State agencies related to maritime affairs; steamship companies; stevedoring companies; vessel chartering and operations; cargo terminal operations; naval architecture; shipbuilding and repair; municipal and

State port authorities; and port development, marine engineering, and tug and barge companies.

(d) *Reporting requirements.* (1) Each graduate must submit an employment report form 13 months following his or her graduation and each succeeding 12 months for a total of five consecutive years to: Academies Program Officer, Office of Maritime Labor and Training, Maritime Administration, NASSIF Building, 400 7th St., SW., Washington, DC 20590.

Example 1: Midshipman graduates on June 30, 2001. His first reporting date is July 1, 2002 and thereafter for 5 consecutive years.

Example 2: Midshipman has a deferred graduation on November 30, 2001. His first reporting date is December 1, 2002 and thereafter for 5 consecutive years.

(2) The Maritime Administration will provide reporting forms. However, non-receipt of such form will not exempt a graduate from submitting employment information as required by this paragraph. The reporting form has been approved by the Office of Management and Budget (2133-0509).

(e) *Breach of contract.* (1) If the Administration determines that any individual who has attended the Academy for not less than 2 years has failed to complete the course of instruction at the Academy, the Secretary of the Navy may order that individual to active duty in the U.S. Navy, at a rating determined by the U.S. Navy, to serve for a period of time not to exceed 2 years. The Administration shall submit the list of those who have breached their service obligation contract to the Chief of Naval Education and Training, Naval Air Station, Pensacola, Florida 32508.

(2) If the Administration determines that a graduate of the Academy has broken his or her agreement under paragraphs (a)(2) through (6) of this section and the service obligation contract, such individual may be ordered to active duty to serve a period of time not less than three (3) years and not more than the unexpired portion of the service required under said subparagraph (5) and the contract. The Administrator, in consultation with the Department of Defense and the U.S. Coast Guard, shall determine in which service the graduate shall serve and the pe-

riod of time. The branch of service in which the individual serves shall determine the rank or rating of the individual. If the Secretary of Defense is unable or unwilling to order an individual to active duty, the Secretary of Transportation may recover from the individual the cost of education provided by the Federal Government by requesting the Attorney General to begin court proceedings to recover the costs of that education.

(f) *Waivers.* The Administrator shall have the discretion to grant waivers of the service obligation contract in cases where there would be undue hardship or impossibility of performance due to accident, illness or other justifiable reason. Applications for waivers shall be submitted to the Academies Program Officer, Office of Maritime Labor and Training, Maritime Administration, NASSIF Building, 400 7th St., SW, Washington, DC 20590.

(g) *Deferments.* In exceptional cases, the Administration may grant a deferment of all or part of the agreement under paragraph (a)(5) of this section and the service obligation contract, for a period not to exceed 2 years, only for graduates considered to have superior academic and conduct records while at the Academy and only for the purpose of entering a marine or maritime-related graduate course of study approved by the Administrator; *Provided,* That any deferment of service as a commissioned officer under paragraph (a)(5)(iii) of this section and the service obligation contract shall be subject to the sole approval of the Secretary of the department which has jurisdiction over such service (including the Secretary of the department in which the U.S. Coast Guard is operating and the Secretary of Commerce with respect to NOAA). A graduate shall make application for such deferment through the Superintendent of the Academy, who shall forward each application, together with the Superintendent's recommendation for approval or disapproval and an evaluation of the applicant's academic and conduct records, to the Academies Program Officer, Office of Maritime Labor and Training, Maritime Administration, NASSIF Building, 400 7th St., SW,

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Washington, DC 20590 for appropriate action.

(h) *Determination of compliance with service obligation contract; deferment; waiver; and appeal procedures.* (1) A designated official of the Administration shall:

(i) Determine whether a student or graduate has breached his or her service obligation contract;

(ii) Grant or deny a deferment of the service obligation, except for obligations otherwise a part of the graduate's commissioned officer status; and,

(iii) Grant or deny a waiver of the requirements of the service obligation contract in cases of undue hardship or impossibility of performance due to accident, illness or other justifiable reason.

(2)(i) If a student or graduate disagrees with the decision of the designated official, the student or graduate may appeal that decision to the Maritime Administrator. The appeal will set forth all the legal and factual grounds on which the student or graduate bases the appeal. Any grounds not set forth in the appeal are waived.

(ii) Appeals must be filed with the Maritime Administrator within 30 calendar days of the date of receipt by such student or graduate of the written decision of the designated official. Appeals must be filed at the Office of the Secretary, Maritime Administration, Room 7210, 400 7th St. SW., Washington, DC 20590. Each decision will include a notice of appeal rights.

(iii) A decision is deemed to be received by a student or graduate five (5) working days after the date it is mailed by first class mail, postage prepaid, to the address for such student or graduate listed with the Office of Maritime Labor, Training, and Safety. It is the responsibility of such student or graduate to ensure that their current mailing address is on file with the Office of Maritime Labor, Training, and Safety, Room 7302, 400 7th St., SW., Washington, DC 20590.

(iv) If the appeal is sent by conventional mail (through the United States Postal Service), the date of filing is determined by the postmark date. If no legible postmark date appears on the mailing, the appeal is deemed to be filed five (5) working days before the

date of its receipt in the Office of the Secretary. If delivered by other than the United States Postal Service, an appeal is filed with the Maritime Administrator on the date it is physically delivered to the Office of the Secretary at the address referenced in paragraph (h)(2)(ii) of this section. The date of filing by commercial delivery (not United States Postal Service) is the date it is received at the address for the Office of the Secretary set forth in paragraph (h)(2)(ii) of this section. Appeals may not be submitted by facsimile or by electronic mail. Requests for extension of the time to file an appeal may be submitted by facsimile or electronic mail to the Office of the Secretary. Requests for extension of time do not stop or toll the running of the time for filing an appeal. Appeals may only be filed after the deadline if the Maritime Administrator or his designee, in their sole discretion, grants an extension.

(v) In computing the number of days, the first day counted is the day after the event from which the time period begins to run. If the date that ordinarily would be the last day for filing falls on a Saturday, Sunday, or Federal holiday, the filing period will include the first workday after that date.

Example to paragraph (b)(10)(v): If a graduate receives a decision on July 1, the 30-day period for filing an appeal starts to run on July 2. The appeal would ordinarily be timely only if postmarked on or physically delivered by July 31. If July 31 is a Saturday, however, the last day for obtaining a postmark by mailing or physical delivery would be Monday, August 2.

(3) The Maritime Administrator will issue a written decision for each timely appeal. This decision constitutes final agency action.

(4) If a student or graduate fails to appeal within the time set forth in paragraph (h)(2) of this section, the decision of the designated official will be final and constitute final agency action.

[47 FR 21812, May 20, 1982, as amended at 60 FR 44438, Aug. 28, 1995; 65 FR 39558, June 27, 2000; 66 FR 36177, July 11, 2001]

§ 310.59 Courses of instruction.

(a) *At Academy.* Three major curriculums are offered: Nautical Science, for

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the preparation of deck officers; Marine Engineering, for the preparation of engineering officers; and the Dual License Program, a combined course which leads to licenses in both specialties. All midshipmen who are citizens shall take naval science courses prescribed by the Department of the Navy. All curriculums include general education courses and electives.

(b) *Sea year.* Midshipmen spend one-half of their sophomore (third class) year and one-half of their junior (second class) year training at sea aboard one or more merchant vessels. In addition to practical shipboard assignments, midshipmen are required to complete written study assignments incorporating material from the major segments of the Academy curriculums.

§ 310.60 Training on subsidized vessels.

All operators of subsidized merchant vessels, in accordance with contractual arrangements, are required to employ for training at least two midshipmen, as assigned by the Superintendent of the Academy, which employment shall be in accordance with the following provisions.

(a) *Work assignments.* All practical work assignments for midshipmen shall be in accordance with courses prescribed by the Superintendent of the Academy.

(b) *Working hours.* In order to permit midshipmen to complete their academic assignments, vessel employers shall not require midshipmen to work more than 8 hours each day. Midshipmen shall devote at least 3 hours of their own time each day to study.

(c) *Pay.* Midshipmen shall receive pay while employed aboard merchant vessels directly from the steamship company employers at the same rate received by cadets and midshipmen at the other Federal academies. A change in the rate of pay for midshipmen at the Academy shall occur after a change in the rate of pay for cadets/midshipmen at the other Federal academies and shall be effective either on June 15th or on December 15th of the same calendar year, whichever occurs first. While aboard ship, they shall be berthed in single-occupancy rooms or in rooms with other midshipmen in

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that part of the vessel designated for licensed officers (or in first-class passenger quarters) and shall mess with the licensed officers. The steamship company employers shall also pay the midshipmen such subsistence and room allowance in port, transportation allowances, and other bonuses or allowances as are paid to the licensed officers of the vessel in which the midshipmen are employed.

(d) *Berthing and messing.* While aboard ship, midshipmen shall be berthed in single-occupancy rooms or in rooms with other midshipmen in that part of the vessel designated for licensed officers (or in first-class passenger quarters) and shall mess with the licensed officers.

(Secs. 204(b) and 1301-1308, Merchant Marine Act, 1936, as amended, (46 U.S.C. 1114(b); and 1295 through 1295g); Pub. L. 96-453; Pub. L. 97-31; 49 CFR 1.66 (46 FR 47458, Sept. 28, 1981); EO 12387 (47 FR 44981, Oct. 13, 1982)

[47 FR 21812, May 20, 1982, as amended at 52 FR 21534, June 8, 1987]

§ 310.61 Training on other vessels and by other facilities or agencies.

The Administrator may arrange for training of midshipmen on Government-owned vessels, in cooperation with other governmental and private agencies, and on other vessels documented under the laws of the United States if the owner of such vessel cooperates in such use. Midshipmen may be assigned for training in shipyards, plants, and industrial and educational organizations for instructional purposes only.

§ 310.62 Allowances and expenses; required deposit.

(a) *Items furnished.* Each midshipman shall receive: Free tuition, quarters and subsistence; limited medical and dental care; and certain travel expenses, in accordance with chapter 5, part A, of the Joint Travel Regulations For Members Of Uniform Services, Vol. 1 (U.S. Department of Defense publication, Serial No. 0516-LP-255-0265), while traveling under official Academy orders.

(b) *Required Deposit.* Prior to admission to the Academy, each midshipman shall make a specified deposit, as established by Academy regulations, to

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help defray the cost of items and services generally of a personal nature which are not provided by the Academy. Additional deposits, as prescribed in Academy regulations, are required to be made in subsequent years. Failure to make any required deposit will result in denial of admission, suspension or disenrollment.

§ 310.63 Uniforms and textbooks.

The Academy shall supply midshipmen uniforms and textbooks in accordance with Academy regulations.

§ 310.64 Privileges.

(a) Midshipmen may be granted a leave of absence of approximately four (4) weeks after completing each of the first, second and third years of training.

(b) Classes and exercises are suspended on New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day and such other days as may be designated by the President as holidays for Federal employees.

(c) Midshipmen may be granted approximately 2 weeks leave during the period which includes Christmas Day and New Year's Day.

(d) Liberty and other privileges are granted to midshipmen meriting them under Academy regulations.

(e) Relatives and friends of midshipmen may visit at the Academy during such hours as the Superintendent may prescribe.

(f) There shall be a Ship's Service Store maintained as a non-appropriated fund activity at the Academy primarily to serve the needs of the midshipmen.

§ 310.65 Graduation.

(a) *Classes enrolled prior to April 1, 1982.* (1) A midshipman will be graduated from the Academy upon the successful attainment of the following requirements:

(i) Completion of the required course of study;

(ii) Fulfillment of the requirements for a license as an officer in the merchant marine of the United States;

(iii) Filing for a commission in the USNR (including the Merchant Marine Reserve, USNR); and

(iv) Compliance with the prescribed midshipman disciplinary and honor systems.

(2) Graduates receive the degree of Bachelor of Science and a U.S. Coast Guard license either as third officer or third assistant engineer or both. They also may be granted commissions as Ensign, USNR (including the Merchant Marine Reserve, USNR) by the Department of the Navy.

(3) In return for the education received at Government expense, each applicant shall sign an agreement to serve in one of the following categories immediately after graduation:

(i) Sail on his or her license at sea for not less than six (6) months each year for three (3) consecutive years; or

(ii) Sail on his or her license at sea for not less than four (4) months each year for four (4) consecutive years; or

(iii) Apply for and serve on active duty for training on board a U.S. Navy ship for a minimum period of thirty (30) consecutive days each year for a period of three (3) consecutive years, and be either employed ashore for the balance of each year in some phase of the maritime industry or engaged in full-time graduate studies related to the maritime field; or

(iv) Apply for and serve on full-time active duty as a commissioned officer in a uniformed service of the United States for a period of 3 consecutive years.

(b) *Classes enrolled after April 1, 1982.* (1) A midshipman will be graduated from the Academy upon the successful attainment of the following requirements:

(i) Completion of the required course of study;

(ii) Fulfillment of the requirements for a license as an officer in the merchant marine of the United States;

(iii) Application for an appointment, and acceptance if tendered of an appointment, as a commissioned officer in the USNR (including the Merchant Marine Reserve, USNR), the U.S. Coast Guard Reserve, or any other Reserve component of an armed force of the United States; and,

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(iv) Compliance with the prescribed midshipman disciplinary and honor systems.

(2) Graduates receive the degree of Bachelor of Science and a U.S. Coast Guard license either as third officer or third assistant engineer or both. They also may be commissioned as a reserve officer in an armed force as described in paragraph (b)(1) of this section.

(3) The service obligation incurred by graduates is prescribed in § 310.58 of this subpart.

§ 310.66 Foreign students.

(a) *Appointments from the Trust Territory of the Pacific Islands.* The Administrator may permit, upon designation by the Secretary of the Interior, individuals from the Trust Territory of the Pacific Islands to receive instruction at the Academy. Not more than 4 such individuals may receive instruction at any one time. Residents of the Trust Territory of the Pacific Islands are neither citizens nor nationals of the United States.

(b) *Appointments from the Northern Mariana Islands.* The Governor of the Northern Mariana Islands may nominate individuals for one position each year allocated to residents of the Northern Mariana Islands. Such residents are neither citizens nor nationals of the United States.

(c) *Appointments from nations located in the Western Hemisphere.* The President may designate individuals from nations located in the Western Hemisphere, other than the United States, to receive instruction at the Academy. Not more than 12 individuals may receive instruction under this paragraph at any one time, and not more than 2 individuals receiving instruction under this paragraph at any one time may be from the same nation. The Secretary may allow, upon approval of the Secretary of State, additional individuals from the Republic of Panama to receive instruction at the Academy on a reimbursable basis.

(d) *Appointments from nations other than the United States.* In addition to the appointments under paragraphs (a), (b) and (c) of this section, the Administrator, with the approval of the Secretary of State, may permit individuals from any nations other than the

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United States to receive instruction at the Academy. Not more than 30 such individuals may receive instruction at any one time.

(e) *Candidate Sponsors.* A representative of the Administration or a diplomatic representative of the United States in the candidate's country of residence will be designated as the Candidate's Sponsor. It will be the responsibility of the Candidate's Sponsor to act as liaison with the appropriate officials of the candidate's country of residence and to coordinate all activities, including funding arrangements, entrance examinations, medical examinations, country clearances, travel papers, transportation to the Academy, obtaining the necessary designation by the Department of the Interior in the case of candidates from the Trust Territory of Pacific Islands under paragraph (a) of this section, the nomination of the Governor of the Northern Mariana Islands under paragraph (b) of this section, the nomination of a designee of the President in the case of candidates from nations located in the Western Hemisphere under paragraph (c) of this section, and the approval of the Department of State in the case of candidates from nations other than the United States under paragraph (d) of this section. In addition, the Candidate's Sponsor shall furnish to the Admissions Office of the Academy a report as to the candidate's proficiency in the use of idiomatic English.

(f) *Admissions Procedure—(1) Applications.* Applications for enrollment of foreign students shall be processed through the appropriate diplomatic channels of the applicant's country and the appropriate offices in the United States Departments of State or of the Interior, whichever is applicable. Applications shall reach the appropriate office of the United States Government by January 1 of the year in which admission is sought. After endorsement by the authorized official of the United States Government, the application will be forwarded promptly to the Academy's Admissions Office.

(2) *Qualifications.* Each candidate shall:

(i) Be a bona fide citizen of the country transmitting the application and meet the requirements as to age and

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character set forth in §310.54 of this subpart;

(ii) Possess the physical qualifications, specified in §310.56 of this subpart, and undergo a physical examination as arranged by the Academy's Admissions Office;

(iii) Be proficient in reading, writing and speaking idiomatic English; and,

(iv) Satisfy the following scholastic requirements:

(A) Meet the minimum qualifying scores on the entrance examinations as specified in §310.55 of this subpart. When available, special foreign language College Board examinations may be substituted for the College Board or American College Testing Program examinations. Detailed certificates covering schoolwork of foreign students are required. Transcripts shall be submitted in the English language.

(B) Submit a certificate from his or her Government that he or she is conversant with the literature of his or her native country and that he or she has completed a course in the literature of his or her native language generally equivalent to two (2) years of secondary schoolwork in literature in the United States. In lieu of this certificate, a candidate may produce evidence of having acquired the units for literature from accredited United States schools.

(g) *Cost of instruction.* Students admitted to the Academy pursuant to paragraphs (a), (b) and (c) of this section shall be subject only to the same fees as are paid by citizen midshipmen. The cost of instruction (including the same allowances as received by midshipmen at the Academy appointed from the United States) for students admitted to the Academy under paragraph (d) of this section must be reimbursed to the Administrator by the nation from which the student comes. Such reimbursement shall be the incremental cost of providing the instruction to each of such foreign students (including the cost of allowances). The amount of reimbursement shall be established by the Academy separately for each entering class and each upper class prior to January 1 of the year in which the academic year begins and will be payable annually in advance of commencement of the academic year.

Instructions as to payment procedures will be provided with the statement of the amount to be reimbursed. Students admitted to the Academy pursuant to paragraph (d) of this section shall pay the same fees paid by citizen midshipmen.

(h) *Uniforms, textbooks and allowances.* The Academy shall provide to foreign students receiving instruction at the Academy all required uniforms and textbooks and allowances for transportation as are provided to citizen midshipmen.

(i) *Rules and regulations.* Subject to such exceptions as shall be jointly agreed to by the Administrator and the Secretary of the Interior with respect to individuals from the Trust Territory of the Pacific Islands, foreign students, including students from the Northern Mariana Islands, receiving instruction at the Academy shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal and graduation as citizen midshipmen; but such persons shall not be entitled to hold any license authorizing service on any merchant vessel of the United States solely by reason of graduation from the Academy.

(j) *Oath.* In lieu of the oath of allegiance to the United States, a substitute oath shall be required of students who are not citizens of the United States, as follows:

"I, _____, a citizen of _____, aged ____ years and ____ months, having been appointed to receive instruction at the U.S. Merchant Marine Academy, do solemnly swear (or affirm) to comply with all regulations of the U.S. Merchant Marine Academy and to give my utmost efforts to accomplish satisfactorily the required curriculum with the full knowledge that I shall be disenrolled from the U.S. Merchant Marine Academy if deficient in conduct, health or studies."

[47 FR 21812, May 20, 1982, as amended at 60 FR 44439, Aug. 28, 1995]

§ 310.67 Academy regulations.

The Superintendent of the Academy is delegated authority to issue all regulations necessary for the accomplishment of the Academy's mission.