

## SUBCHAPTER H—TRAINING

### PART 310—MERCHANT MARINE TRAINING

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### Subpart A—Regulations and Minimum Standards for State, Territorial or Regional Maritime Academies and Colleges

#### § 310.1 Definitions.

For purposes of this subpart A:

(a) *The 1958 Act* means the Maritime Academy Act of 1958, Pub. L. 85-672.

(b) *Act* means the Maritime Education and Training Act of 1980, Pub. L. 96-453, as amended.

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

(d) *Agreement* means an agreement between a State, or Territorial or Regional maritime academy or college and the Maritime Administrator, Department of Transportation as authorized by the 1958 Act or the Act and set forth in § 310.13 of this part.

(e) *Secretary* means Secretary of Transportation.

(f) *Maritime Administrator* means the Maritime Administrator, Department of Transportation.

(g) *Cadet* means cadet enrolled in the United States Maritime Service and in good standing at a State or Territorial or Regional maritime academy or college meeting the requirements of the 1958 Act.

(h) *Commanding Officer* means the Commanding Officer of a training ship furnished by the Administration.

(i) *Cost of Education Provided* means the financial costs incurred by the Federal Government in providing student incentive payments for students at the State maritime academies.

(j) *Deputy* means the Deputy Maritime Administrator, Department of Transportation.

(k) *Maritime Service* means the United States Maritime Service.

(l) *Midshipman* means a student in good standing at a State maritime academy or college who has accepted midshipman status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) under the Act.

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(m) *Officers* means all officers and faculty employed by a State maritime academy or college.

(n) *Region Director* means the Director of the Administration's region of office in which a School is located or in which a training ship is located.

(o) *School* means State or Territorial or regional maritime academy or college meeting the requirements of the Act.

(p) *Superintendent* means the superintendent or president of a School.

(q) *Supervisor* means the employee of the Administration designated to supervise the Federal Government's interest in a School under the provisions of the Act, an agreement, and this subpart.

(r) *Training Ship* means a vessel used for training by a school and furnished by the Administration to a State or Territory, and includes the ship itself and all its equipment, apparel, appliances, machinery boilers, spare and replacement parts and other property contained in it.

[46 FR 37694, July 22, 1981, as amended at 69 FR 31901, June 8, 2004]

### §310.2 Federal assistance.

(a) The Maritime Administrator may enter into agreements with the present or later established schools (not more than one such school in each State or Territory) meeting the requirements of the Act to make annual payments, for not in excess of four (4) years in the case of each such agreement, to be used for the maintenance and support of such Schools. The amount of each such annual payment shall be not less than the amount furnished to such School for its maintenance and support by the State or Territory in which such academy is located or, in the case of a Regional maritime academy an amount equal to the amount furnished to such academy for its maintenance and support by all States or Territories, r both, cooperating to support such School, but shall not exceed \$100,000. However, the amount shall not exceed \$25,000, if such academy does not meet the requirements of subsection 1304(f)(2) of the Act.

(b) Pursuant to the provisions of section 1304(c) of the Act, The Maritime Administrator, may furnish to any

State or Territory of the United States for use as a Training Ship by a school any suitable vessel that is under his or her jurisdiction, obtain such vessel from any department or agency of the United States, or may construct and furnish a suitable vessel, if such vessel is not available.

(c) The Maritime Administrator may pay to any School the amount of the costs of all fuel consumed by a Training Ship furnished under the provisions of section 1304(c)(1) of the Act while such vessel is being used for training purposes by such a School, if such funds have been appropriated and are available for that purpose.

(d) As a condition to receiving any payments or the use of any Training Ship under the provisions of the Act, the school shall comply with the requirements of the Act and this subpart and shall agree in writing to conform to such requirements.

(e) As a further condition to receiving any payments or the use of any Training Ship, a School shall agree that, with respect to the training program for merchant marine officers, consistent with provisions of the Act, the 1958 Act, and the Agreement, it will comply with the following provisions of law and implementing regulations duly promulgated thereunder, to the extent applicable, including, but not limited to: Title VI, Civil Rights Act, 1964 (42 U.S.C. 2000d); the Age Discrimination Act of 1975 (42 U.S.C. 6101); the Vocational Rehabilitation Act—section 504 (29 U.S.C. 794); and 15 CFR Part 8. Each school shall give assurances that it will take any and all measures necessary to effectuate compliance.

### §310.3 Schools and courses.

(a) *Schools with Federal aid.* The following schools are presently operating with Federal aid under the 1958 Act or the Act:

California Maritime Academy  
Maine Maritime Academy  
Massachusetts Maritime Academy  
State University of New York Maritime College  
Texas Maritime College of the Texas A&M University at Galveston  
The Great Lakes Maritime Academy

(b) *General rules for operation of a School.* (1) The Schools shall maintain

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adequate berthing, messing and classroom instruction facilities ashore, or have plans to establish same at the earliest possible time, unless prevented from doing so by conditions beyond the control of the School. During a period a school is implementing an approved plan, Cadets may be housed and instructed on a Training Ship. However, the approved plan may include the ongoing use of the Training Ship as an instructional and laboratory facility and for the berthing of entering class cadets for a period not to exceed six months for purposes of shipboard indoctrination.

(2) The School shall arrange for the Cadet or Midshipman to take the United States Coast Guard original licensing examination prior to the date of graduation.

(3) As a condition to receiving payments of any amount allowable by the 1958 Act and the Act in excess of \$25,000 for any year, a School shall agree to admit student residents of other States to the extent of at least ten percent (10%) of each entering class, if such out-of-State students apply for admission and are otherwise qualified for such admission. The calculation of residents of other States shall exclude residents of foreign countries, but shall include residents of Territories and possessions of the United States (including the Commonwealth of Puerto Rico).

(4) Upon the request of the Administration a school shall furnish such reports and estimates as may be required in the preparation of Federal Budget estimates.

(5) State authorities shall prescribe and administer rules and regulations for the internal organization and administration of each School.

(6) The Administration shall have the right to inspect shore base facilities at all reasonable times.

(7) Records pertaining to a School, its officers, crew, Cadets, the Training Ship, and shore base, shall be maintained by each School and shall be available to the Supervisor upon request. A detailed record of applications for admissions, enrollments, reenrollments, absences with or without leave, hospitalizations, determinations of students not in good standing,

disenrollments, graduations, and other data concerning cadets and Midshipmen shall be kept by each school for the period of enrollment plus one year. Copies of these records shall be furnished to the Supervisor upon request.

(8) The Administration may include in any pamphlets, brochures or other public information materials an adequate description of each School giving the reader knowledge of the existence of the School, its purposes and where to obtain application forms and further information.

(c) *Curriculum.* (1) The minimum period of training shall be three (3) years. For the Cadets and Midshipmen at the schools located in California, Maine, Massachusetts, New York and Texas at least six (6) months of the total time must be aboard a Training Ship in cruise status. A maximum of two (2) months of training time aboard commercial vessels of not less than 2,500 horsepower may be substituted for two (2) months of the specified cruise time. For the cadets at the Great Lakes Maritime Academy, six (6) months of the time shall be aboard Great Lakes commercial vessels and an additional three (3) months shall be aboard either a Training Ship in a cruise status or Great Lakes commercial vessels while underway. Cadets in training status aboard commercial vessels shall sign on board as cadets and shall pursue their training within the framework of formal sea projects prepared and monitored by their respective Schools.

(2) State authorities shall prescribe and be responsible for the courses of instruction and general system of training and the addition of such reasonable maritime courses as may be prescribed by Federal authorities, subject to approval by the Maritime Administrator. The curriculum as a composite shall, as a minimum, meet the requirements set out in the Federal Curriculum Standards for Merchant Marine Officers Training Program.

(3) Copies of the Federal Curriculum Standards for Merchant Marine Officers Training Program at the State maritime academies may be obtained

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from the Maritime Administration, Office of Policy and Plans, 400 Seventh Street, SW, Washington, DC 20590.

(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 (46 FR 47458, Sept. 28, 1981))

[46 FR 37694, July 22, 1981, as amended at 49 FR 13365, Apr. 4, 1984; 69 FR 31901, June 8, 2004]

### § 310.4 Training Ship.

The Administration may furnish a Training Ship, if such is available, to any School. Training Ships which may be designated for use by a School will be delivered to the School at a location determined by the Administration, in condition found to be in class by the American Bureau of Shipping and certificated by the U.S. Coast Guard. If a Training Ship is not available, adequate cruising facilities shall be the responsibility of the State and its School. The furnishing of a Training Ship shall be subject to the following terms and conditions:

(a) *General provisions.* (1) The State, acting through the School shall exercise reasonable care to safeguard the interests of the Administration and avoid (i) injury to any person aboard the Training Ship, and (ii) loss and damage of every nature with respect to the Training Ship. Also, the school shall have reasonable layup procedures during noncruise status of the Training Ship.

(2) Excerpts from log books and reports shall be submitted as directed by the Supervisor.

(3) Initial telegraphic or telephonic reports shall be made promptly to the Supervisor and the appropriate Region Director in the event of an accident causing (i) serious injury to any person, or to the Training Ship, or (ii) damage inflicted by the Training Ship upon any other ship or other property. Such reports shall be followed by complete written details of the occurrence.

(4) The Supervisor shall determine whether or not the berth of the Training Ship at the base in its home port is suitable from the standpoint of safe mooring. When the Training Ship is not on cruise, the Commanding Officer or Superintendent shall keep the Supervisor informed of the location of the

Training Ship and any contemplated change of berth.

(5) The following notice shall be posted conspicuously aboard each Training Ship furnished to a State for use by a School:

This training ship is the property of the United States of America. It is furnished to the State of \_\_\_\_\_ by the Department of Transportation, Maritime Administration, for the purpose of training young men and women to become officers in the merchant marine of the United States. Neither the State, the Commanding Officer, nor any other person has any right, power or authority to create, incur or permit to be imposed upon this vessel, any lien whatever.

(6) No changes requiring U.S. Coast Guard approval shall be made to the Training Ship without the written approval of the Administration.

(7) In the event of the termination of the use of a Training Ship by the State or by the Maritime Administrator, the State shall return to the State base port, the Training Ship and all property whatsoever owned by the Administration. Title to all additions, replacements, and renewals made by the State shall vest in the Administration without charge.

(b) *Termination of use.* The Maritime Administrator may terminate the use of a Training Ship upon such reasonable notice to the State as the circumstances may permit in the judgment of the Maritime Administrator. If use of the Training Ship is terminated by the Maritime Administrator, the Maritime Administrator may:

(1) Substitute another Training Ship;

(2) Require the sharing of a Training Ship by two or more Schools; or

(3) Cooperate with the School in arranging for training time aboard commercial vessels for its Cadets and Midshipmen.

(c) *Property aboard the Training Ship.* The State shall have the complete use of a Training Ship as defined, subject to the following terms and conditions:

(1) All property, or its equivalent furnished by the Administration, shall be returned to the Administration when use of the Training Ship is terminated. The only exceptions are: spare and replacement parts consumed; and losses

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due to ordinary wear and tear, unavoidable accident and perils of the sea. All other property otherwise lost or destroyed shall be replaced at the expense of the State.

(2) Administration property shall not be permanently removed from the Training Ship to the shore base without the prior written approval of the Supervisor.

(3) The administration shall take inventories of State and Federal property aboard the Training Ship at such times as it deems necessary. The school, at its expense, shall furnish such assistance as may be necessary in taking such inventories.

(d) *Condition Surveys.* Before a Training Ship is released to a School and manned by officers under State control, a condition survey shall be made by duly authorized representatives of the School and the Administration. If the Training Ship is found in order, the School representative shall sign a receipt for the Training Ship. Subsequently, after due notice to the State authorities, a condition survey may be made of the Training Ship whenever deemed advisable by the Administration, and, in any event, upon redelivery of the Training Ship by the State to the Administration.

(e) *Maintenance and repairs—(1) Administration payment.* A Training Ship shall be maintained in good repair by the Secretary as provided by the 1958 Act and the Act. Expenses for repairs, changes and alterations, repairs to equipment and replacements of equipment in accordance with the Administration's approved allowance lists for the Training Ship (i.e. authorized under the Act and to the extent that funds are available), shall be borne by the Administration under the following terms and conditions:

(i) When it is necessary to repair or drydock the Training Ship because of damage (except in an emergency, when on foreign cruise), the Commanding Officer or Superintendent shall notify the Supervisor and appropriate Region Director by telephone or telegraph in order to enable a representative of the Region Director, if available, to be present, when the survey of the damage is made.

(ii) Repairs which need not be carried out during the annual overhaul period shall be made by the Cadets or Midshipmen, if possible, under the supervision of the officers. When repair material is required for this purpose, the Commanding Officer or Superintendent shall forward to the Supervisor a list of such material and estimated costs, and a description of the repairs to be carried out by the Cadets or Midshipmen. The Supervisor shall promptly advise the Commanding Officer or Superintendent whether or not such work comes under the heading of repairs, and if procurement of the material is authorized.

(iii) Requisitions covering repairs, renewals, and betterments shall be prepared in quintuplicate by the heads of departments of the Training Ship and submitted by the Commanding Officer or Superintendent to the Supervisor at least forty-five (45) days before the date of the annual overhaul, with one copy to the Region Director.

(iv) The State is authorized to expend not to exceed \$5,000 for emergency repairs which become necessary while the Training Ship is on foreign cruise. The Administration shall reimburse the State upon submission of vouchers to, and approval by, the Maritime Administrator. To obtain reimbursement for emergency repairs estimated to cost in excess of \$5,000, authorization must be obtained by the State from the Supervisor prior to undertaking such repairs. The Commanding Officer shall be responsible for all necessary filings with the United States Customs Service to avoid duties upon all emergency repairs performed outside the United States. If penalties are imposed, for non-filing or improper filing, they shall be solely the responsibility of the State.

(2) *State payment.* Except as otherwise provided in this section, the State shall, at its own expense, accomplish the following:

(i) Undertake usual preventive maintenance of the Training Ship, adhere to minimum levels of preventive maintenance as prescribed by the Administration, and keep the Training Ship clean and painted, above the waterline according to good maritime practices.

(ii) Cause the Training Ship to be fumigated if required by the Administration and forward to the Supervisor a copy of the fumigation certificate.

(iii) Pay for all consumable stores, freshwater and costs incidental to the operation of the Training Ship.

(iv) Pay for fuel of the training ship except that the Administration may assist in paying the cost of fuel consumed on the Training Ship while being used for training purposes if funds are appropriated and available for such purposes.

(f) *Cruises.* The school shall submit the cruise itinerary of the Training Ship including a listing of foreign ports to be visited, for approval of the Supervisor at least sixty (60) days in advance of the date such cruise is scheduled to begin. The Supervisor shall arrange with the Department of State for clearance of the Training Ship to visit foreign ports.

(g) *Hospitalization.* The School shall be responsible for all medical treatment and hospitalization of all persons aboard the Training Ship at all times, including officers and Cadets and Midshipmen. If available, facilities of the United States Public Health Service should be utilized.

(h) *Repatriation and return to home port.* The School shall be responsible for the return to the home port of the Training Ship of all persons, including officers and Cadets and Midshipmen, who originally embarked on a training cruise from a Continental United States port and who are left behind, after the departure of the Training Ship from any port, foreign or domestic, or are to be brought home from the ship at any time or for any reason. The School shall be solely responsible for all expenses of repatriation and return to home port.

### § 310.5 Personnel.

(a) *Selection and appointment of Superintendent and faculty by State authorities.* (1) The State shall select and appoint the Superintendent of a School in accordance with qualifications established by appropriate State authorities. The State shall notify the Maritime Administrator whenever a new Superintendent is appointed and furnished with appropriate background in-

formation on the appointee for informational purposes.

(2) The State shall appoint faculty members in disciplines other than engineering and navigation on the basis of the same criteria used in the employment of such personnel in State-supported colleges and universities throughout the State. Faculty members in navigation and engineering courses, including steam and diesel, shall meet appropriate academic and practical experience standards adopted by the school and approved by the Administration.

(b) *Personnel for Training Ships—(1) Commanding Officer.* The Commanding Officer shall hold a valid Master's Ocean, Unlimited Tonnage license including Radar Observer endorsement issued by the United States Coast Guard and shall have served at least two (2) years as Master, Chief Officer, Commanding Officer, or Executive Officer either (i) on oceangoing vessels under the authority of said Master's Ocean, Unlimited Tonnage license, or (ii) in the case of sea service as a member of the Uniformed Services of the United States, on ships accepted by the United States Coast Guard as equivalent for qualifying service for issue of a Master's Ocean, Unlimited Tonnage license.

(2) *Chief Engineer.* The Chief Engineer must hold a valid Chief Engineer's (Steam) Ocean, Unlimited Horsepower license, issued by the United States Coast Guard and have served as Chief Engineer of an oceangoing steamship of comparable horsepower to that of the particular Training Ship.

(3) *Watch Officers.* Both Deck and Engineer Watch Officers in charge of a watch, underway, shall hold valid Ocean, Unlimited Tonnage licenses, issued by the United States Coast Guard, in their particular field.

(4) *Radio Officers.* During each training cruise the Training Ship shall have assigned one or more radio officers holding a valid license issued by the United States Coast Guard, in accordance with its regulations.

(5) *Licensed Engineer.* When a Training Ship boiler is in operation, there shall be a Licensed Engineer qualified to stand the watch aboard at all times.

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(c) *Insignia for officers and other School personnel.* The State may furnish insignia for officers and other school personnel, other than officers of the United States Navy, United States Naval Reserve, United States Maritime Service and United States Coast Guard.

(Approved by the Office of Management and Budget under control number 2133-0010)

(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 (46 FR 47458, Sept. 28, 1981))

[46 FR 37694, July 22, 1981, as amended at 47 FR 25530, June 14, 1982; 49 FR 13365, Apr. 4, 1984]

#### §310.6 Entrance requirements.

(a) *Enrollment prior to April 1, 1982.* A candidate for admission to a school who wishes to be considered for Federal student subsistence payments shall:

(1) Be a citizen of the United States.

(2) Be obligated to (i) complete the Naval Science curriculum (ii) take all necessary and positive steps to obtain a commission as ensign in the United States Naval Reserve, (iii) apply before graduation for such commission, and (iv) accept such commission if offered. A breach of this agreement will result in termination of cadet status and of Federal student subsistence payments, and may lead to legal action for recovery of all past such payments. The requirements of this paragraph shall not apply at The Great Lakes Maritime Academy.

(3) Be obligated to sit for the appropriate licensing examination of the United States Coast Guard. A breach of this agreement will result in termination of cadet status and of Federal student subsistence payments, and may lead to legal action for recovery of all past such payments.

(4) Meet the physical standards specified by the United States Coast Guard for original licensing as a merchant marine officer. The written certification of the Superintendent of the school, based on a physical examination by a doctor, the results of which are on record at the school, that a candidate meets these requirements, will be acceptable to the Administration.

(5) Possess a secondary school education or equivalent, satisfactory for admission as an undergraduate, to col-

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leges or universities under control of the State in which the school is located.

(6) Meet requirements established by the school in regard to such criteria as the individual's secondary school grades, rank in graduating class, aptitude, achievement, and qualities of leadership.

(b) *Enrollment on or after April 1, 1982.* A candidate for admission to a school who wishes to be considered for the Federal student incentive payments shall:

(1) Meet the requirements of paragraphs (a) (1), (4), (5), and (6) of this section.

(2) Be at least seventeen (17) years of age and not have passed the twenty-fifth (25th) birthday on the day of enrollment at a School.

(3) Apply for, be offered, and have accepted midshipman status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) and simultaneously have applied and been accepted for Enlisted Reserve status.

(4) Be obligated to complete the naval science curriculum.

[46 FR 37694, July 22, 1981, as amended at 48 FR 24080, May 31, 1983]

#### §310.7 Federal student subsistence allowances and student incentive payments.

(a) *Subsistence allowances—(1) Selection and allocation.* In accordance with the Administration's established freshmen subsidy allocation for each School, the school shall select the individuals in its new entering class who will be enrolled in the United States Maritime Service as cadets and start to receive Federal student subsistence payments for uniforms, textbooks and subsistence as provided in the 1958 Act. The freshman subsidy allocations for each school are as follows: California Maritime Academy 99; Maine Maritime Academy 135; Massachusetts Maritime Academy 69; State University of New York Maritime College 200; Great Lakes Maritime Academy 45; and the

Texas Maritime College 32. Each student who meets the entrance requirements in §310.6(a) and applies for enrollment in the United States Maritime Service shall be entitled to consideration for a student subsistence payment at a rate and under the conditions in the 1958 Act. The list identifying the selected students shall be forwarded to the Administration on or before October 31, 1981. The Federal student subsistence payments will be paid to the School while a cadet is in attendance but not in excess of four (4) academic years for any one student.

(2) *Resignation or disenrollment.* There will be no substitution for students removed or dropped from the list of those originally receiving Federal student subsistence payments. Subsidized students who resign or are disenrolled from a school shall not, on subsequent reenrollment, be in a position to reclaim their subsidy status.

(3) *Selection criteria; rate of payment.* The selection of the students to receive such payments shall be made by the School in accordance with criteria established by the School, with the prior approval of the Administration. The rate of Federal student subsistence payments will be determined by the Administration according to the 1958 Act or the Act.

(4) *ROTC enrollment.* Subsidized cadets who make a commitment to an Armed Force Reserve Officer Training Corps will be removed from the Administration subsidy rolls effective on the date they receive funds from a U.S. military service. Should they leave the program for any reason they may not reclaim the Administration subsidy as a cadet.

(5) *Payment procedure.* The Administration shall make the Federal student subsistence payments no more frequently than monthly, directly to the School upon the presentation of a statement containing the names of each Cadet selected by the Academy (within the quotas furnished pursuant to paragraph (a) of this section) to be enrolled in the Maritime Service and to receive the Federal student subsistence payments. For newly selected Cadets in a new entering class, the statement supporting the first voucher for payment shall certify that the cadets

have met the entrance requirements in §310.6.

(6) *Certification procedure.* All vouchers submitted for payment shall contain a certification by the Superintendent that the payment will be used to assist in defraying the cost of the uniforms, textbooks, and subsistence of each Cadet on the basis of the amount to which the cadet is entitled, as reflected by the attached Daily Attendance Report. No cadet shall receive a federal student subsistence payment for any time during which he or she is absent without leave or for absence due to a condition not in line of duty, or when determined by the School to be not in good standing.

(7) *Insufficient appropriations.* If it appears that the amount appropriated by Congress under the Act shall not be sufficient to make payments at the maximum rate, not in excess of \$1,200 per academic year per cadet, the Maritime Administrator, after consultation with the Schools, may determine the exact rate to be paid at each School for the remainder of the fiscal year.

(b) *Federal student incentive payments*—(1) *General provisions.* In accordance with the Administration's established subsidy quotas for classes entering after April 1982, each school shall identify to the Administration, no later than February 1 annually, those students who have been selected to receive the student incentive payment authorized by the Act. The students so identified must meet the requirements of §310.6(b). The Administration shall provide the school with the necessary service obligation contracts. The contracts will be signed by the designated students and returned by the School to the Supervisor and shall become effective when signed by the Supervisor or his or her designee. A copy shall be returned to the School for transmittal to the student. Payments will be issued to midshipmen in amounts equaling \$4000 for each academic year of attendance whom execute the service obligation contracts providing for such payment amount. Payments shall commence to accrue on the day each such midshipman begins his or her first term of work at the School. Such payments shall be made quarterly to the midshipman until the completion of his or



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her course of instruction but in no event for more than four (4) academic years. The School shall submit a quarterly certified Daily Attendance Report listing the names of all designated midshipmen who are entitled to student incentive payments. Midshipmen who do not take all necessary steps to maintain their midshipman status, who lose their midshipman status due to action by the U.S. Navy, or who make the commitment identified in paragraph (a)(4) of this section will have their student incentive payment terminated.

(2) *Temporary reallocation of Federal student incentive payments.* If a School does not have a sufficient number of eligible freshmen to utilize all of its allotted payments, then the unused subsidies may be reallocated on a need basis to academies with eligible students. In the next academic year, each School's subsidy quota for entering students will revert to its original level.

(3) *Form of the service obligation contract.* The service obligation contract shall obligate the midshipman to—

(i) Use the student incentive payment to defray the cost of uniforms, books and subsistence;

(ii) Complete the course of instruction at the School;

(iii) Take the examination for a license as an officer in the merchant marine of the United States on or before the date of graduation from a School and fulfill the requirements for such license not later than three (3) months after such graduation;

(iv) Maintain a valid license as an officer in the merchant marine of the United States for at least six (6) years following the date of graduation from a School, accompanied by the appropriate national and international endorsements and certification required by the United States Coast Guard for service aboard vessels on domestic and international voyages (“appropriate” means the same endorsements and certifications held at the date of graduation, or the equivalent);

(v) Apply for an appointment as, and accept if tendered, and serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval

Reserve), the United States Coast Guard Reserve, or any other Reserve unit of an armed force of the United States for at least six (6) years following the date of graduation from a school; and

(vi) Serve in the foreign or domestic commerce or both, and the national defense of the United States for at least three (3) years following graduation from a School—

(A) 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;

(B) As an employee in a United States maritime-related industry, profession, or marine science (as determined by the Maritime Administrator), if the Maritime Administrator determines that service under paragraph (b)(3)(vi)(A) of this section is not available to such individual;

(C) As a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration or in other maritime-related employment with the Federal Government which serves the national security interests of the United States, as determined to be satisfactory by the Maritime Administrator; or

(D) By combining the services specified in paragraphs (b)(3)(vi)(A), (b)(3)(vi)(B) and (b)(3)(vi)(C) of this section; and

(E) Such employment in the Federal Government must be both significantly maritime-related and serve the national security interests of the United States. “Significantly” is equated to a material or essential portion of an individual's responsibilities. It does not mean a “majority” of such individual's responsibilities, but means more than just an incidental part.

(4) *Marine-related employment.* (i) graduates who intend to claim employment in a United States maritime-related industry, profession of marine science as meeting all or part of the service obligation under paragraph (b)(3)(vi) of this section, shall submit evidence to the Supervisor that they have conscientiously sought employment as a merchant marine officer, and

that such employment is not available. Such evidence and other information available, shall be considered in any finding. In view of current and projected employment opportunities, afloat, the Maritime Administrator will grant the shoreside employment option infrequently and only on the basis of comprehensive evidence.

(ii) The Maritime Administrator may consider the positions of operational, management and administrative responsibility in the following marine-related categories under the provisions of paragraph (b)(3)(vi) of this section: 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, port development, marine engineering, and tug and barge companies. The above list is not all inclusive and is only intended to serve as a general guide.

(5) *Afloat employment year.* For purposes of the service obligation, a satisfactory year of afloat employment shall be the lesser of—

(i) 150 days; or

(ii) The number of days employed afloat 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.

(6) *Reporting requirement.* (i) The schools must promptly submit copies of all resignation forms (containing the name, reason, address and telephone number) of juniors and seniors to the Supervisor, to be used for monitoring and enforcement purposes. Each graduate must submit an annual Service Obligation Compliance Report form (MA-930) to the Maritime Administration (Supervisor) 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 grad-

uate will file a minimum of seven (7) reports in order to give information on all six (6) years of the armed forces reserve and merchant marine officer license service obligations. 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. In case a deferment has been granted to engage in a maritime-related graduate course of study, annual reports must be submitted during the extension period resulting from such deferments. Examples of the reporting requirements are as follows.

*Example 1:* Midshipman graduates on June 30, 2004. His or her first reporting date is between January 1, 2005 and March 1, 2005 and each following period 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) for a minimum of seven (7) reports.

*Example 2:* Midshipman has a deferred graduation on November 30, 2004. His or her first reporting date is between January 1, 2005 and March 1, 2005 and each following period 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) for a minimum of seven (7) reports.

*Example 3:* Midshipman has a deferment following graduation on June 30, 2004, to attend graduate school for two (2) years. His or her first reporting date is between January 1, 2005 and March 1, 2005 and during the same time frame between January 1 and March 1 for two (2) years during graduate school, and then during the same January 1 to March 1 time frame for six (6) consecutive years thereafter (or until all components of the service obligation are fulfilled, whichever is latest) for a total of nine (9) reports.

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

(7) *Breach of contract*—(i) *Breach before graduation*. (A) If the Maritime Administrator determines that any individual who has accepted Federal student incentive payments for a minimum of two (2) academic years has failed to fulfill any part of the contract set forth in §310.7(b)(3), such individual may be ordered by the Secretary of Defense to active duty in one of the Armed Forces of the United States to serve a period of time not to exceed two (2) years. In cases of hardship as determined by the Maritime Administrator, the Maritime Administrator may waive this provision in whole or in part.

(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under paragraph (b)(7)(i)(A) of this section, or if the Maritime Administrator determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Maritime Administrator may recover from the individual the amount of student incentive payments, plus interest and attorney's fees.

(C) The Maritime Administrator is authorized to reduce the amount to be recovered under paragraph (b)(7)(i)(B) of this section from such individual to reflect partial performance of service obligations and such other factors as the Maritime Administrator determines merit such reduction.

(D) For purposes of paragraph (b)(7)(i)(A) of this section, an "academic year" is defined as the completion by a student of the required number of semesters, trimesters, or quarters, as applicable, whether at school or at sea, which comprise a complete course of study for an academic year. Thus, liability under paragraph (b)(7)(i)(A) of this section begins for students at the beginning of their third (3rd) academic year, whether at school or at sea.

(ii) *Breach after graduation*. (A) If the Maritime Administrator determines that an individual has failed to fulfill any part of the service obligations (described in §310.7(b)(3)), such individual may be ordered to active duty to serve a period of time not less than two (2) years and not more than the unexpired portion of the service obligation con-

tract relating to service in the foreign or domestic commerce or the national defense, as determined by the Maritime Administrator. The Maritime Administrator, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Maritime Administrator, the Maritime Administrator may waive this provision in whole or in part.

(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under paragraph (b)(7)(i)(A) of this section or if the Maritime Administrator determines that reimbursement of the Cost of Education Provided would better serve the interests of the United States, the Maritime Administrator may recover from the individual the Cost of Education Provided, plus interest and attorney's fees.

(C) The Maritime Administrator may reduce the amount to be recovered under paragraph (b)(7)(i)(B) of this section from such individual to reflect partial performance of service obligations and such other factors as the Maritime Administrator determines merit such reduction.

(8) *Waivers*. Waivers may be granted in cases where there would be undue hardship or impossibility of performance of the provisions of the contract due to accident, illness or other justifiable reason. Applications for waiver will be submitted to the Supervisor.

(9) *Deferments*. In exceptional cases the Administration may grant a deferment of all or part of the service commitment under paragraphs (b)(3)(ii) through (vi) of this section for a period not to exceed two years, only for graduates considered to have superior academic and conduct records while at the school, for the purpose of their entry after graduation into a marine-or maritime-related graduate course of study at an accredited graduate school. However, the Secretary of the department in which the United States Coast Guard is operating and the Secretary of Commerce, with respect to the National Oceanic and Atmospheric Administration, which has jurisdiction over such service shall approve any

deferment of service as a commissioned officer. Applications for such deferment shall be made through the Superintendent of Midshipman's school, 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 Supervisor for appropriate action.

(10) *Determination of compliance with service obligation contract; deferment; waiver; and appeal procedures.* (i) An official of the Administration designated by the Supervisor shall:

(A) Render determinations of whether a student or graduate has breached his or her service agreement;

(B) Grant or deny a deferment of the service obligation under paragraph (b)(9) of this section, except obligations otherwise a part of the graduate Reserve officer status;

(C) Grant or deny a waiver of the requirements of the service agreement in hardship cases.

(ii)(A) 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 must 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.

(B) 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.

(C) 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 Policy and Plans. It is the responsibility of such student or graduate to ensure that their current mailing address is on file with the Office of Policy and Plans, 400 7th St., SW., Washington, DC 20590.

(D) 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 (b)(10)(ii)(B) 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 (b)(10)(ii)(B) 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.

(E) 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)(ii)(E):* 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.

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

(iv) If a student or graduate fails to appeal within the time set forth in paragraph (b)(10)(ii) of this section, the decision of the designated official will be final and constitute final agency action.

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(11) *Remedies.* To aid in the recovery of the cost of education under this section, the Maritime Administrator may request the Attorney General to begin court proceedings, and the Maritime Administrator may make use of the Federal debt collection procedure in chapter 176 of title 28, United States Code, or other applicable administrative remedies.

[46 FR 37694, July 22, 1981, as amended at 48 FR 24080, May 31, 1983; 49 FR 13365, Apr. 4, 1984; 65 FR 39558, June 27, 2000; 66 FR 36176, July 11, 2001; 69 FR 31901, June 8, 2004; 69 FR 61606, Oct. 20, 2004; 70 FR 28833, May 19, 2005]

### § 310.8 Leave.

(a) *Enrolled before April 1, 1982.* Limitations on cadet leave, without loss of Federal student subsistence, with the specific limits to be set at the discretion of the Superintendent on an academic year basis, are:

(1) If hospitalized, sick at home, or confined in the sick bay, leave shall not exceed four (4) months.

(2) For an emergency due to the serious illness, injury or death of a very near relative, leave shall not exceed seven (7) days.

(3) Annual leave shall not exceed thirty (30) days.

(4) Christmas and Easter leave shall not exceed a total of twelve (12) days, and leave may be granted for all legal holidays—Federal and state. This leave is in addition to that granted in paragraph (a)(3) of this section.

(5) Leave in addition to that provided in paragraphs (a) (3) and (4) of this section may be granted only if approved in advance by the Supervisor, upon direct request by the Superintendent.

(b) *Enrolled on or after April 1, 1982.* Midshipmen will be granted leave without loss of incentive payments as follows:

(1) Medical leave, as authorized by the school, not to exceed four (4) months.

(2) Christmas and Easter leave and all legal holidays—Federal and state—as authorized by the school. This leave is in addition to that granted in paragraph (b)(3) of this section.

(3) Excused absences, as authorized by the school, not to exceed thirty (30) days per academic year. All unauthorized leave and all excused absences in

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excess of thirty (30) days will result in loss of incentive payments. Midshipmen receiving student incentive payments may be granted leaves of absence without pay, as approved by the Superintendent, for periods not to exceed one (1) academic year at a time. Midshipmen in a pay status will only be granted a leave of absence if they continue to meet all requirements for graduation in this part, including age requirements.

[48 FR 24081, May 31, 1983]

### § 310.9 Medical attention and injury claims.

(a) *Medical attention and hospitalization.* The school shall be responsible for arranging that a medical officer shall be attached or on call to the school. During the cruise, the School shall assign a medical officer to the Training Ship.

(b) *Compensation claims of Cadets or Midshipmen.* Compensation claims for personal injuries or death sustained by a federally-assisted cadet or midshipman in the performance of official duty shall be forwarded to the Supervisor for transmission to the Office of Workers' Compensation Programs. The Supervisor shall furnish necessary forms.

(c) *Medical care and compensation for Officers and other personnel.* Officers and other personnel of the School, and of the Training Ship may avail themselves of any medical facilities furnished by the State or Federal Government for which they qualify. See, for example, 42 CFR part 32. Such persons who are not Federal employees shall look to the State alone for pay, allowances, compensation and other benefits during injury or illness.

[46 FR 37694, July 22, 1981, as amended at 48 FR 24081, May 31, 1983]

### § 310.10 Discipline and dismissal.

(a) Each School shall establish and publish rules and regulations governing Cadet and Midshipman discipline and providing for a demerit system for infractions of these rules and regulations. Serious or excessive violations of the rules and regulations by a Cadet or Midshipman may be considered as evidence of inaptitude for the demanding

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career of a merchant marine officer and warrant dismissal by the school.

(b) Each Cadet or Midshipman shall, upon admission to the School, be furnished a copy of the School's rules and regulations.

(c) Any Cadet or Midshipman placed on probation for failure to meet the conduct requirements of the school may, at the discretion of the Superintendent, be listed as not in good standing for any period not to exceed six (6) months for the purpose of § 310.7(a)(5).

### § 310.11 Cadet uniforms.

Cadet uniforms shall be supplied at the school in accordance with the uniform regulations of the School. Those regulations shall prescribe a distinctive insignia or device approved by the Maritime Administrator.

### § 310.12 Scope and effect.

(a) If any provisions of this subpart conflict with laws and regulations of the State, the appropriate State authorities shall notify the Maritime Administrator in writing of such conflict and pertinent circumstances. The Maritime Administrator, as a matter of discretion, shall take, or not take, any action determined appropriate under the 1958 Act or the Act.

(b) The Maritime Administrator may, after consultation with the Superintendents of the schools issue binding executive instructions supplementing this subpart.

### § 310.12-1 Form of Agreement.

The form of agreement between the Maritime Administrator and schools for annual maintenance and support payments, Federal student subsistence and incentive payments and fuel assistance under the 1958 Act and the Act may be obtained from the Office of Policy and Plans, Maritime Administration, 400 7th St., SW., Washington, DC 20590.

[70 FR 28833, May 19, 2005]

## Subpart B [Reserved]

## 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, as subsequently amended, 46 App. 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) *Cost of Education Provided* means the financial costs incurred by the Federal Government for providing training or financial assistance to students at the United States Merchant Marine Academy, including direct financial assistance, room, board, classroom academics, and other training activities.

(g) *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.

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

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

[47 FR 21812, May 20, 1982, as amended at 69 FR 31902, June 8, 2004]