

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Action which is located in the Rules section of this **Federal Register**.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Dated: March 15, 2000.

William J. Muszynski,
Acting Regional Administrator, Region II.
[FR Doc. 00-8525 Filed 4-7-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

[Docket No. MARAD-2000-7147]

RIN 2133-AB41

Appeal Procedures for Determinations Concerning Compliance With Service Obligations, Deferments, and Waivers

AGENCY: Maritime Administration, Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Maritime Administration (MARAD) is soliciting public comment on proposed revisions to the procedures for reviewing: Determinations that a student or graduate of the U. S. Merchant Marine Academy (USMMA) or a State maritime academy that receives student incentive payments has breached the service obligation; denials of requests for deferment of the service obligation; and denials of requests for waivers of the service obligation contract. Currently, the regulations call for review by a panel composed of a representative of MARAD and representatives from the Department of the Navy, the National Oceanographic and Atmospheric Administration (NOAA), and the United States Coast Guard. The proposed revisions provide for an appeal to the Maritime Administrator, the head of the agency, rather than review by the panel. The intended effect of this regulation is to streamline the process of reaching a final agency decision and allow for timely action on requests for review.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than May 10, 2000. Comments filed late will be considered to the extent practicable.

ADDRESSES: Comments should refer to docket number MARAD-2000-7147.

Written comments may be submitted by hand or mail to the Docket Management Facility, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Jay Gordon of the Office of Chief Counsel at (202) 366-5191. You may send mail to Jay Gordon, Maritime Administration, Office of Chief Counsel, Room 7228, MAR-226, 400 7th St., SW, Washington, DC, 20590-0001, or you may send e-mail to jay.gordon@marad.dot.gov.

SUPPLEMENTARY INFORMATION:

Who May File Comments?

Anyone may file written comments about proposals made in any rulemaking document that requests public comments, including, but not limited to, any state government agency, any political subdivision of a State, or any person.

How Do I Prepare and Submit Comments?

To ensure that your comments are correctly filed in the Docket, please include the docket number of this NPRM in your comments. In addition, your comments must be written in English.

We encourage you to write your primary comments in a concise fashion. You may, however, attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to the Docket Management Facility at the address given above under **ADDRESSES**. If possible, one copy should be in an unbound format to facilitate copying and electronic filing.

How Can I Be Sure That My Comments Were Received?

If you want Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. If you send comments by e-mail, you will receive a message by e-mail

confirming receipt of your comments. Your e-mail address should be noted with your comments.

Is Information That I Submit to MARAD Made Available to the Public?

When you submit information to us as part of this NPRM, during any rulemaking proceeding, or for any other reason, we may make that information publicly available unless you ask that we keep the information confidential. If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, Maritime Administration, at the address given above under **FOR FURTHER INFORMATION CONTACT**

You should mark "CONFIDENTIAL" on each page of the original document that you would like to keep confidential.

In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to the Docket Management Facility at the address given above under **ADDRESSES**. When you send comments containing information claimed to be confidential business information, you should also include a cover letter setting forth with specificity the basis for any such claim (for example, it is exempt from mandatory public disclosure under the Freedom of Information Act, 5 U.S.C. 552).

We will decide whether or not to treat your information as confidential. You will be notified in writing of our decision to grant or deny confidentiality before the information is publicly disclosed and you will be given an opportunity to respond.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by the Docket Management Facility at the address and during the hours provided above under **ADDRESSES**.

Comments may also be viewed on the Internet. To read the comments on the Internet, take the following steps: Go to the Docket Management System ("DMS") Web page of the Department of Transportation (<http://dms.dot.gov>). On that page, click on "search." On the next page (<http://dms.dot.gov/search>), type in the four-digit docket number shown on the first page of this document. The docket number for this NPRM is 7147. After typing the docket number, click on "search." On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Accordingly, we recommend that you periodically check the Docket for new material.

Background

Since 1980, each individual U.S. citizen who enters the USMMA and each student at a State maritime academy who receives Federal student incentive payments is required pursuant to statute (46 U.S.C. App. 1295b(e) and 1295c(g)) to sign an agreement committing: (A) To complete the course of instruction at the relevant academy, unless the individual is separated by such institution; (B) to 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 USMMA or, if a student incentive payment recipient, to take the examination for a license as an officer in the merchant marine of the United States on or before the date of graduation and to fulfill the requirements for such a license not later than 3 months after the date of graduation from a State maritime academy; (C) to maintain a license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from the relevant academy; (D) to apply for an appointment as, to accept if tendered an appointment as, and to 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 6 years following the date of graduation from the relevant academy; (E) to serve the foreign and domestic commerce and the national defense of the United States for at least 5 years following the date of graduation from the USMMA or for at least 3 years following the date of graduation from a State maritime academy; and (F) to report to the Maritime Administrator on the compliance by the individual. If the official designated by the Maritime Administrator determines that the individual has breached the service obligation contract, denies a request for a deferment of the service obligation, or denies a request for a waiver of the service obligation contract, the individual may seek review of that determination(s).

Currently, review of said determination(s) is by a panel composed of a representative of MARAD and representatives from the Department of

the Navy, the National Oceanographic and Atmospheric Administration, and the United States Coast Guard. There is no standing panel and, when requested in writing by the individual, the panel must be convened on an ad hoc basis. These revisions would remove the panel as the reviewing authority and provide for direct appeal to the Maritime Administrator, the head of MARAD. These revisions are designed to streamline the process of reaching a final agency decision and allow for timely review of the decisions of the designated official. It also recognizes that the fundamental concerns involved in breach determinations and waiver and deferment decisions are central to the statutory purposes of the authority and responsibility of MARAD to operate the USMMA and administer the program for incentive payments to students at State maritime academies. These programmatic concerns do not necessarily involve areas of concern to organizations, such as NOAA and the United States Coast Guard, currently designated to sit on the panel.

This NPRM is being published with an abbreviated comment period of 30 days because the proposed amendments are limited to procedural changes, affect a relatively small segment of the public, and are not technical or complex.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking has been reviewed under Executive Order 12866, and it has been determined that this is not a significant regulatory action. The rule is not likely to result in an annual effect on the economy of \$100 million or more. Also, it has been determined to be a nonsignificant rule under the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because the economic impact, if any, should be minimal, further regulatory evaluation is not necessary. These amendments are intended only to simplify and clarify the procedural requirements for appeals of determinations concerning breaches of service obligations, deferments, and waivers.

Federalism

We analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 ("Federalism") and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The regulations have

no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with State and local officials was not necessary.

Executive Order 13084

The Maritime Administration does not believe that the revised regulations evolving from this NPRM will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13084 ("Consultation and Coordination with Indian Tribal Governments"). Therefore, the funding and consultation requirements of this Executive Order would not apply. Nevertheless, this NPRM specifically requests comments from affected persons, including Indian tribal governments, as to its potential impact.

Regulatory Flexibility Act

The Maritime Administration certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. This NPRM only proposes new procedural rules for students and graduates of the USMMA or State maritime academies to appeal determinations regarding breaches of service obligations, deferments, and waivers.

Environmental Impact Statement

We have analyzed this NPRM for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order ("MAO") 600-1, "Procedures for Considering Environmental Impacts," 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this rulemaking is not required. This rulemaking involves administrative and procedural regulations that have no environmental impact.

Paperwork Reduction Act

This rulemaking contains no reporting requirement that is subject to OMB approval under 5 CFR part 1320, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading of this document to cross-reference this action with the Unified Agenda.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It would not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This proposed rule is the least burdensome alternative that achieves the objective of the rule.

List of Subjects 46 CFR Part 310

Grant programs—education, Reporting and recordkeeping requirements, Schools, Seamen.

Accordingly, MARAD proposes to amend 46 CFR Part 310 as follows:

PART 310—MERCHANT MARINE TRAINING

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

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

2. Section 310.7 is amended by revising paragraph (b)(10) heading paragraph (b)(10)(ii), paragraph (b)(10)(iii) and adding a new paragraph (b)(10)(iv) to read as follows:

§ 310.7 Federal student subsistence allowances and student incentive payments.

* * * * *

(b) * * *

(10) *Determination of compliance with service obligation contract; deferment; waiver; and appeal procedures.*

* * * * *

(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 shall 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 Maritime Labor, Training, and Safety. It is the responsibility of such student or graduate to insure 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.

(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 shall 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 shall be final and constitute final agency action.

3. Section 310.58 is amended by revising paragraph (h) heading, paragraphs (h)(2), (h)(3), and (h)(4) to read as follows:

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

* * * * *

(h) *Determination of compliance with service obligation contract; deferment; waiver; and appeal procedures.*

* * * * *

(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 shall 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 insure 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 shall 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 shall be final and constitute final agency action.

Dated: April 3, 2000.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00-8614 Filed 4-7-00; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000323080-0080-01; I.D. 031500A]

RIN 0648-AN97

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Angling Category

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: NMFS is requesting public comments regarding the geographical division of the Atlantic bluefin tuna (BFT) Angling category fishery and whether an adjustment of the north-south division line and an associated adjustment of the BFT subquota percentages allocated to each area is warranted. Over the last several BFT fishing seasons, fishery participants have stated to NMFS that the division line needs to be adjusted to increase the extent of recreational fishing opportunities and to divide the northern and southern areas in a manner consistent with current fishing patterns. NMFS wants to determine if a change to the current division line and subsequent reallocation of quota is needed to better coordinate domestic conservation and management of the fishery consistent with the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: Written comments on this ANPR are invited and must be received on or before May 22, 2000.

ADDRESSES: Written comments should be sent to Rebecca Lent, Chief, Highly Migratory Species (HMS) Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282. Comments also may be sent via facsimile (fax) to (301) 713-1917. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Pat Scida or Sarah McLaughlin, (978) 281-9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). Within NMFS, daily responsibility for management of Atlantic HMS fisheries rests with the HMS Management Division of the Office of Sustainable Fisheries.

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the HMS FMP. The HMS

FMP and its implementing regulations establish percentage quota shares for the ICCAT-recommended U.S. BFT landing quota for each of the domestic fishing categories, and include measures regarding geographic subquotas and set-asides.

Angling Category Geographical Division

In response to quota reductions in 1992, two management areas were created for the BFT Angling category fishery. The north-south division line is located at 38°47' N. latitude (Delaware Bay). Generally, the recreational fishery begins each season off the southern and mid-Atlantic states, and so a subdivision was created to ensure a late season fishery in the northern mid-Atlantic and southern New England regions. Thus, the geographic split was designed to enable NMFS to manage the early season (June/July off the Virginia to Delaware coasts) and late season (August/September off the New Jersey to Massachusetts coasts) BFT fisheries under separate quotas, corresponding with the summer feeding migration of school, large school, and small medium BFT.

For the last several BFT fishing seasons, NMFS has received comments that an adjustment to the Angling category BFT north-south division line is warranted. Specifically, vessels fishing for BFT from ports in southern New Jersey, which is in the northern area, tend to utilize fishing areas located in the southern area (i.e., offshore of Ocean City, Maryland). This pattern of activity raises two concerns with respect to the dividing line for the southern and northern areas. First, when the southern and northern areas are both open, a significant number of fish caught in the southern area are landed in the northern area and counted against the applicable northern area subquotas. Second, when the southern area is closed, vessels from southern New Jersey are effectively excluded from the school BFT fishery because the fish are generally distributed too far north to accommodate single-day trips. NMFS has received specific suggestions to move the north-south division line to the north of the Ocean City, New Jersey area or to the south of the Ocean City, Maryland area.

NMFS is requesting comments on whether the current north-south division line is adequate or whether it should be moved to increase the geographical extent of recreational fishing opportunities and to define the northern and southern areas in a manner consistent with current fishing patterns. Any change to the current