

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****46 CFR Part 310**

[Docket No. MARAD 2004–17759]

RIN 2133–AB58

**Deferment of Service Obligations of Midshipmen Recipients of Scholarships or Fellowships****AGENCY:** Maritime Administration, DOT.**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final, without change, the interim final rule published in the **Federal Register** (69 FR 29079) on May 20, 2004. This final rule amends the Maritime Administration's (MARAD's) regulations so that the Maritime Administrator's authority to defer service obligations of United States Merchant Marine Academy (USMMA) midshipmen recipients of scholarships or fellowships of national significance is not conditioned on enrollment in postgraduate marine or maritime-related courses of study.

**DATES:** This final rule is effective on December 14, 2004.

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

**FOR FURTHER INFORMATION CONTACT:** Rita Jackson, Academies Program Officer, Office of Policy and Plans, Maritime Administration, Department of Transportation, 400 7th St., SW., Room 7302, Washington, DC 20590; Telephone: (202) 366–0284.

**SUPPLEMENTARY INFORMATION:** 46 App. U.S.C. 1295b(e)(5) states that the Maritime Administrator, relying on a delegation of authority from the Secretary may defer the service obligation of any student graduating from the USMMA for up to two years provided that student is enrolled in an approved course of study.

46 CFR 310.58(g) states that the Maritime Administrator may grant a deferment of a service obligation contract, for up to two years only for graduate students enrolled in a marine or maritime-related graduate course of study approved by the Administrator.

The differences in the terms of 46 App. U.S.C. 1295b(e)(5) and 46 CFR 310.58 may hinder midshipmen with superior credentials from pursuing postgraduate scholarships and fellowships. Specifically, since service obligations may be deferred only if postgraduate course work involves a marine or maritime-related course of study, graduate studies are limited.

The Administrator's discretion to defer the service obligations of USMMA midshipmen recipients of scholarships is not limited by the U.S. Code. Therefore, we are amending 46 CFR 310.58(g) to reflect the terms of 46 App. U.S.C. 1295b(e)(5) so that the amended regulation will not condition the Administrator's ability to defer the service obligations of recipients of scholarships and fellowships of national significance on enrollment in a marine or maritime-related course of study.

On May 20, 2004, MARAD published the interim final rule that preceded this action in the **Federal Register** (69 FR 29079). While MARAD solicited public comments on the interim rule, no comments were received. Accordingly, MARAD adopts the interim final rule as a final rule without change.

**Rulemaking Analyses and Notices***Executive Order 12866 (Regulatory Planning and Review), and Department of Transportation (DOT) Regulatory Policies and Procedures*

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

*Administrative Procedure Act*

The Administrative Procedure Act (5 U.S.C. 553) provides an exception to notice and comment procedures when they are unnecessary or contrary to the public interest. MARAD finds that under 5 U.S.C. 553(b)(3)(B), good cause exists for not providing notice and comment since this final rule only expands the subject area of courses of study that may be approved by the Maritime Administrator. Under 5 U.S.C. 553(d)(3), MARAD finds that, for the same reason listed above, good cause exists for making this rule effective less

than 30 days after publication in the **Federal Register**.

*Federalism*

We analyzed this final rule 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 effect on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among local officials. Therefore, consultation with State and local officials was not necessary.

*Regulatory Flexibility*

The Maritime Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule merely broadens the area of consideration for courses of study that may allow deferred service obligations.

*Executive Order 13175*

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

*Environmental Assessment*

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

*Paperwork Reduction Act*

This rulemaking contains no new or amended information collection or recordkeeping requirements that have been approved or require approval by the Office of Management and Budget.

*Unfunded Mandates Reform Act of 1995*

This final rule will not impose an unfunded mandate under the Unfunded

Mandates Reform Act of 1995. It will not result in costs of \$100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule is the least burdensome alternative that achieves this objective of U.S. policy.

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

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

#### Interim Rule Adopted as Final Without Change

■ Accordingly, MARAD adopts the interim final rule amending 46 CFR part 310 that was published in the **Federal Register** on May 20, 2004 (69 FR 29079) as a final rule without change.

By Order of the Maritime Administrator.

Dated: December 9, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 041202339-4339-01; I.D. 112204D]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Gulf of Alaska; Interim 2005 Harvest Specifications for Groundfish

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

**ACTION:** Temporary rule; interim specifications.

**SUMMARY:** NMFS issues interim 2005 total allowable catch (TAC) amounts for each category of groundfish, American Fisheries Act (AFA) sideboard limits, and prohibited species catch (PSC) amounts for the groundfish fishery of the Gulf of Alaska (GOA). The intended effect is to conserve and manage the groundfish resources in the GOA.

**DATES:** The interim harvest specifications are effective from 0001 hrs, Alaska local time (A.l.t.), January 1, 2005, until the effective date of the final 2005 and 2006 harvest specifications for groundfish of the GOA, which will be published in the **Federal Register**.

**ADDRESSES:** Copies of the Environmental Assessment (EA)

prepared for this action are available from the NMFS Alaska Region homepage at <http://www.fakr.noaa.gov>. The final 2003 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 2003, is available from the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone (907) 271-2809, or from its homepage at <http://www.fakr.noaa.gov/npfmc>.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907-481-1780 or [tom.pearson@noaa.gov](mailto:tom.pearson@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Federal regulations at 50 CFR part 679 implementing the Fishery Management Plan (FMP) for Groundfish of the GOA govern the groundfish fisheries in the GOA. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to the U.S. fisheries appear at subpart H of 50 CFR part 600.

##### Proposed Steller Sea Lion Protection Measures Revisions

In June 2004, the Council unanimously recommended revisions to the Steller sea lion protection measures in the GOA to alleviate some of the economic burden on coastal communities while maintaining protection for Steller sea lions and their critical habitat. These revisions would adjust pollock and Pacific cod fishing closures near four Steller sea lion haulouts and would revise seasonal management of pollock harvest. NMFS concluded in an Endangered Species Act, section 7, informal consultation, dated August 26, 2004, that fishing under the proposed revisions is not likely to adversely affect Steller sea lions beyond those effects already considered in the 2001 Biological Opinion on the Steller sea lion protection measures and its June 19, 2003, supplement (see **ADDRESSES**). To implement these provisions, NMFS published a proposed rule on September 21, 2004 (69 FR 56384), inviting comments through October 21, 2004. The final rulemaking is expected before the beginning of the 2005 fishing year. If adopted, the pollock harvest management revisions would affect the annual specifications by extending the pollock A and C season dates from January 20 through February 25 to January 20 through March 10 and by

providing clarification as to how the Regional Administrator would rollover under harvested amounts of pollock between seasons.

The Council met in October 2004 to review scientific information concerning groundfish stocks, including the 2003 SAFE report and the EA (see **ADDRESSES**), and to recommend proposed 2005 and 2006 specifications. The Council recommended and NMFS proposed a total acceptable biological catch (ABC) of 514,864 mt and a TAC of 264,265 mt for the 2005 fishing year and a total ABC of 514,240 mt and a TAC of 253,867 mt for the 2006 fishing year. The proposed TAC amounts for each species were based on the best available biological and socioeconomic information.

Under § 679.20(c)(1)(ii), NMFS published in the **Federal Register** proposed harvest specifications for groundfish in the GOA for the 2005 and 2006 fishing years (December 7, 2004; 69 FR 70605). That document contains a detailed discussion of the proposed 2005 and 2006 TACs, groundfish reserves, apportionments of TAC, ABC amounts, overfishing levels (OFLs), PSC amounts, and apportionments of the GOA groundfish fishery.

This action provides interim harvest specifications and apportionments for the 2005 fishing year that will become available on January 1, 2005, and will remain in effect until superseded by the final 2005 and 2006 harvest specifications. Background information concerning the 2005 groundfish harvest specification process, upon which this interim action is based, is provided in the above mentioned proposed specification document.

##### Establishment of Interim TACs

Section 679.20(c)(2)(i) requires that one-fourth of each proposed TAC and apportionment (not including the reserves and the first seasonal allowance of pollock and Pacific cod) and one-fourth of the halibut PSC amounts become effective at 0001 hours, A.l.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications. As stated in the proposed specifications (December 7, 2004; 69 FR 70605), no harvest of groundfish is authorized before the effective date of this action implementing the interim harvest specifications.

Section 679.20(a)(6)(i) and (ii) allocates 100 percent of the pollock TAC to vessels catching pollock for processing by the inshore component, 90 percent of the Pacific cod TAC to vessels catching Pacific cod for processing by the inshore component,