

program, will not result in environmental justice related issues.

F. Executive Order 13045

Pursuant to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), if an action is economically significant under Executive Order 12866, the Agency must, to the extent permitted by law and consistent with the Agency's mission, identify and assess the environmental health risks and safety risks that may disproportionately affect children. Since this action is not economically significant under Executive Order 12866, this action is not subject to Executive Order 13045.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, and sampling procedures) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards, nor did EPA consider the use of any voluntary consensus standards. In general, EPCRA does not prescribe technical standards to be used for threshold determinations or completion of EPCRA section 313 reports. EPCRA section 313(g)(2) states that "In order to provide the information required under this section, the owner or operator of a facility may use readily available data (including monitoring data) collected pursuant to other provisions of law, or, where such data are not readily available, reasonable estimates of the amounts involved. Nothing in this section requires the monitoring or measurement of the quantities, concentration, or frequency of any toxic chemical released into the environment beyond that monitoring and measurement required under other provisions of law or regulation."

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: June 15, 2000.

Margaret N. Schneider,

*Principal Deputy Assistant Administrator,
Office of Environmental Information.*

Therefore, 40 CFR part 372 is amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Sections 372.65(a) and (b) are amended by removing the entry for phosphoric acid under paragraph (a) and the entire CAS number entry for 7664-38-2 under paragraph (b).

[FR Doc. 00-16182 Filed 6-26-00; 8:45 am]

BILLING CODE 6560-50-F

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, Deferrals, and Waivers

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is publishing this final rule regarding 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. The previous regulations called for review by a panel composed of a representative of MARAD and representatives from the Department of the Navy, the National Oceanic and Atmospheric Administration (NOAA), and the United States Coast Guard. These 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: The effective date of this final rule is July 27, 2000.

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:

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).

Previously, review of said determination(s) was to be made by a panel composed of a representative of MARAD and representatives from the Department of the Navy, the National Oceanic and Atmospheric Administration, and the United States Coast Guard. There was no standing panel and, when requested in writing by the individual, the panel was to 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.

Notice of Proposed Rulemaking (NPRM)

We published an NPRM on April 10, 2000 (65 FR 18957) providing the public with notice and an opportunity to comment on the proposed changes to the review and appeals process. We received no comments and are promulgating these final rules as proposed.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been reviewed under Executive Order 12866, and it has been determined that this is not a significant regulatory action. 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 benefits associated with this rulemaking are considered to be so minimal that no further analysis is necessary. 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 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. These 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 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 13084 ("Consultation and Coordination with Indian Tribal Governments"). Therefore, the funding and consultation requirements of this Executive Order would not apply. No comments were received from affected persons, including Indian tribal governments, as to its potential impact.

Regulatory Flexibility Act

The Maritime Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule only sets forth 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 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), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this final rule is not required. This final rule involves administrative and procedural regulations that have no environmental impact.

Unfunded Mandates Reform Act of 1995

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

Paperwork Reduction Act

This final rule contains information collection requirements covered by OMB approval number 2133-0150, 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. The RIN number is contained in the heading of this document to cross-reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 310

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

Accordingly, MARAD hereby amends 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 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 Maritime Labor, Training, and Safety. It is the responsibility of such student or graduate to ensure that their current mailing address is on file with the Office of Maritime Labor, Training, and Safety, Room 7302, 400 7th St., SW., Washington, DC 20590.

(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.

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 will set forth all the legal and factual grounds on which the student or graduate bases the appeal. Any grounds not set forth in the appeal are waived.

(ii) Appeals must be filed with the Maritime Administrator within 30 calendar days of the date of receipt by

such student or graduate of the written decision of the designated official. Appeals must be filed at the Office of the Secretary, Maritime Administration, Room 7210, 400 7th St. SW., Washington, DC 20590. Each decision will include a notice of appeal rights.

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

(iv) If the appeal is sent by conventional mail (through the United States Postal Service), the date of filing is determined by the postmark date. If no legible postmark date appears on the mailing, the appeal is deemed to be filed five (5) working days before the date of its receipt in the Office of the Secretary. If delivered by other than the United States Postal Service, an appeal is filed with the Maritime Administrator on the date it is physically delivered to the Office of the Secretary at the address referenced in paragraph (h)(2)(ii) of this section. The date of filing by commercial delivery (not United States Postal Service) is the date it is received at the address for the Office of the Secretary set forth in paragraph (h)(2)(ii) of this section. Appeals may not be submitted by facsimile or by electronic mail. Requests for extension of the time to file an appeal may be submitted by facsimile or electronic mail to the Office of the Secretary. Requests for extension of time do not stop or toll the running of the time for filing an appeal. Appeals may only be filed after the deadline if the Maritime Administrator or his designee, in their sole discretion, grants an extension.

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

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

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

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

Dated: June 19, 2000.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 00-15852 Filed 6-26-00; 8:45 am]

BILLING CODE 4910-81-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 89-552 and GN Docket No. 93-252; FCC 00-187]

Use of the 220-222 MHz Band by the Private Land Mobile Radio Service Regarding Geographic Partitioning and Spectrum Disaggregation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document disposes of two Petitions for Reconsideration of the *Fifth Report and Order* in this docket, in which the Commission adopted geographic partitioning and spectrum disaggregation rules for the 220-222 MHz service. This document dismisses as moot Rand McNally & Company's (RMC's) Petition for Reconsideration to remove the references to Major Trading Areas (MTAs) and Basic Trading Areas (BTAs) in the 220 MHz partitioning rules. This document also grants in part Intek's Petition for Reconsideration by clarifying that the options afforded to 220 MHz service licensees for satisfying the Commission's construction requirements in cases of partitioning and disaggregation, and the consequences of not satisfying such requirements, exactly mirror the options and consequences for partitioning and disaggregation imposed on broadband personal communications service (PCS) licensees. In all other respects, Intek's Petition for Reconsideration is denied. Finally, this document amends the construction requirements of the Commission's rules for licensing and use of frequencies in the 220-222 MHz band to restore language that was inadvertently deleted in an earlier order specifying the consequences of failure to construct by parties to a disaggregation

agreement. The Commission's goals in taking these actions are to promote more efficient use of the spectrum, increase opportunities for a variety of entities to participate in the provision of 220 MHz service, and expedite delivery of 220 MHz service to unserved areas.

DATES: Effective August 28, 2000.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Steinberg, Wireless Telecommunications Bureau at (202) 418-0896.

SUPPLEMENTARY INFORMATION: This document addresses implementing Congress' goal of giving small businesses, as well as other entities, who lack the financial resources for participation in auctions, the opportunity to participate in the provision of spectrum-based services. Also, this document is consistent with the Communications Act's mandate to identify and eliminate market entry barriers for entrepreneurs and small businesses in the provisions and ownership of telecommunications services. This document also clarifies aspects of the construction requirements for 220 MHz licensees as set out in the Commission's rules, as well as, disposes of two Petitions for Reconsideration of the *Fifth Report and Order*, 63 FR 49291 (September 15, 1998).

2. This Memorandum Opinion and Order was released on May 30, 2000, and is available for inspection and copying during normal business hours in the FCC Reference Center, 445 Twelfth Street, SW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036 / (202) 857-3800. This Memorandum Opinion and Order is also available via the Internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/2000/>.

Supplemental Final Regulatory Flexibility Certification

3. The Regulatory Flexibility Act of 1980, as amended,¹ requires that a final regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.² We certify that the rule change adopted in this *Memorandum Opinion and*

¹ The Regulatory Flexibility Act of 1980, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

² 5 U.S.C. 605(b).

Order will not have a significant economic impact on a substantial number of small entities because it does not effect any substantive policy change, but only restores language that was previously inadvertently deleted from the Commission's rules.

A. Report to Congress

4. The Commission will send a copy of this *Memorandum Opinion and Order*, including a copy of the Supplemental Final Regulatory Flexibility Certification, in a report to Congress pursuant to SBREFA, *see* 5 U.S.C. 801(a)(1)(A). In addition, the *Memorandum Opinion and Order* and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**. *See* 5 U.S.C. 605(b).

B. Ordering Clauses

5. Pursuant to section 4(i) of the Communications Act, 47 U.S.C. 154(i), and section 1.108 of the Commission's rules, the *Memorandum Opinion and Order* in this proceeding released on March 29, 2000, FCC 00-102, IS VACATED.

6. Pursuant to sections 4(i), 303(g), 303(r), 332(a)(2), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(g), 303(r), 332(a)(2), and 405, the Petition for Reconsideration filed by Rand McNally & Company on October 13, 1998, *is dismissed*, and the Petition for Reconsideration filed on October 15, 1998, by Intek Global Corporation IS GRANTED to the extent stated herein and otherwise *denied*.

7. The rule adopted shall become effective August 28, 2000. This action is taken pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

8. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *Memorandum Opinion and Order*, including the Supplemental Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications