National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry our policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Governmental Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order, and has determined that the rule's requirements do not constitute a taking.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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, EPA promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 6, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur Dioxide.

Dated: May 20, 2004.

Norman R. Niedergang,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.1220 is amended by adding paragraph (c)(63) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(63) On August 9, 2002, the State of Minnesota submitted a revision to the Minnesota sulfur dioxide (SO_2) State Implementation Plan (SIP) for Xcel Energy's Inver Hills Generating Plant (Xcel) located in the city of Inver Grove Heights, Dakota County, Minnesota. Specifically, EPA is only approving into the SO_2 SIP those portions of the Xcel Title V operating permit cited as ''Title I Condition: State Implementation Plan for SO_2'' and is removing from the state SO_2 SIP the Xcel Administrative Order previously approved in paragraph (c)(46) and modified in paragraphs (c)(35) and (c)(41) of this section. In this same action, EPA is removing from the state particulate matter SIP the Administrative Order for Ashbach Construction Company previously approved in paragraph (c)(29) and modified in paragraph (c)(41) of this section.

(i) Incorporation by reference.

(A) AIR EMISSION PERMIT NO. 03700015–001, issued by the Minnesota Pollution Control Agency to Northern States Power Company Inver Hills Generating Plant on July 25, 2000, Title I conditions only.

[FR Doc. 04–12771 Filed 6–7–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 148–5078a; FRL–7671–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; VOC Emission Standards for Portable Fuel Containers in the Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Virginia State Implementation Plan (SIP). Specifically, EPA is approving new emission standards for portable fuel containers or spouts sold, supplied, offered for sale, or manufactured for sale in the Northern Virginia portion of the Metropolitan Washington, DC ozone nonattainment area (Northern Virginia area). EPA is approving the new portable fuel container standards to reduce emissions of volatile organic compounds (VOC) in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on August 9, 2004 without further notice, unless EPA receives adverse written comment by July 8, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by VA148–5078 by one of the following methods:

A. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. E-mail: morris.makeba@epa.gov.

C. *Mail:* Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. VA148–5078. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814–2308, or by e-mail at *powers.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 24, 2003 (68 FR 3410), EPA issued a determination that the Metropolitan Washington, DC ozone nonattainment area (DC Area) failed to attain the ozone standard by the statutory date of November 15, 1999, and reclassified the area from ''serious'' to ''severe'' for one-hour ozone. As a severe nonattainment area, the DC Area must now meet the requirements of section 182(d) of the CAA, and attain the one-hour ozone standard by November 15, 2005. As a result of the reclassification to severe nonattainment, the states that comprise the DC Area (Maryland, Virginia, and District of Columbia) must implement additional control measures and submit SIP revisions for post-1999 Rate of Progress Plans, revisions to Contingency Plans, and revisions to the Attainment demonstration.

As part of Virginia's strategy to meet its portion of emission reduction keyed to the post-1999 ROPs, the 2005 attainment demonstration, and/or the contingency plan, the state adopted new measures to control volatile organic compound (VOC) emissions from four additional source categories, including a regulation to control emissions from portable fuel containers.

On February 23, 2004, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of four new regulations to 9 VAC 5, Chapter 40, amendments to one existing article of 9 VAC 5, Chapter 40 and amendments to one article of 9 VAC Chapter 20.

The new regulations are:

(1) 9 VAC 5 Chapter 40, New Article 42—''Emission Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (''Rule 4–42''). (9 VAC 5–40–5700 to 9 VAC 5–40–5770).

(2) 9 VAC 5, Chapter 40, New Article 47—''Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (''Rule 4–47'')—(9 VAC 5–40–6820 to 9 VAC 5–40–6970).

(3) 9 VAC 5, Chapter 40, New Article 48—''Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emission Control Area'' (''Rule 4–48'') (9 VAC 5–40–6970 to 9 VAC 5–40–7110) .

(4) 9 VAC 5, Chapter 40–New Article 49—''Emission Standards for Architectural and Industrial Maintenance Coatings in the Northern Virginia Volatile Organic Compound Emissions Control Area'' (''Rule 4–49'') (9 VAC 5–40–7120 to 9 VAC 5–40–7230).

The February 23, 2004, submittal also included amendments to 9 VAC 5–20–21 ''Documents incorporated by reference'' to incorporate by reference additional test methods and procedures needed for Rule 4–42 or Rule 4–49, and, also amendments to section 9 VAC 5–40–3260 of Article 24 ''Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogentated Solvents'' (''Rule 4–24'').

This action concerns only Rule 4–42 and the addition of paragraph E 12 to 9 VAC 5–20–21 of the February 23, 2004 SIP revision. The other portions of the February 23, 2004 SIP revision submittal (Rule 4–47, Rule 4–48, Rule 4–49, the amendment to 9 VAC 5–40–3260, and the other amendments and additions to 9 VAC 5–20–21) will be the subject of separate rulemaking actions.

II. Summary of SIP Revision

The standards and requirements contained in Virginia's portable fuel container rule are based on the Ozone Transport Commission (OTC) model rule. The OTC developed control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing those model rules. The OTC Portable Fuel Container model rule was based on the existing rules developed by the California Air Resources Board, which were analyzed and modified by the OTC workgroup to address VOC reduction needs in the Ozone Transport Region (OTR).

The provisions of Virginia's Rule 4–42 will apply to any source or person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers or spouts in the Northern Virginia counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford counties; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Affected persons must comply by January 1, 2005. The rule does not apply to any portable fuel container or spout manufactured for shipment, sale and use outside of the Northern Virginia area.

This regulation requires each portable fuel container or spout sold in the Northern Virginia area to meet the following requirements: (1) Have an automatic shut-off and closure device; (2) contain one opening for both filling and pouring; (3) meet minimal fuel flow rate based on nominal capacity; (4) meet a permeation standard, and (5) have a manufacturer's warranty against defects. The regulation includes exemptions, standards, testing procedures, recordkeeping, and administrative requirements. To demonstrate compliance, Virginia has added test methods and procedures to the

documents incorporated by reference in its General Provisions, 9 VAC 5–20.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) That are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Final Action

EPA is approving a revision to the Commonwealth of Virginia SIP to establish regulations for the control of VOC emissions from portable fuel containers (Rule 4–42 in 9 VAC 5–40) and the associated test methods and procedures incorporated by reference in the General Provisions (9 VAC 5–20–21). These regulations will apply in the Northern Virginia area. Implementation of this VOC control measure strengthens the Virginia SIP, and results in emission reductions that will help the DC area meet the additional requirements associated with its reclassification to a severe nonattainment area for one-hour ozone. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 8, 2004 without further notice unless EPA receives adverse comment by July 8, 2004. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the

relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. 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 to 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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to approve new VOC standards for portable fuel containers manufactured, sold, or supplied for use in the Northern Virginia Area may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 27, 2004.

James W. Newsom,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart VV—Virginia

■ 2. In Section 52.2420, the table in paragraph (c) is amended by adding an entry to 9 VAC 5, Chapter 40 Part II to read as follows :

§ 52.2420 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation (former SIP section)
*	*	*	*	*
Chapter 40	Existing Stationary Sources			
*	*	*	*	*
Part II Emission Standards				
*	*	*	*	*
Article 42	Emissions Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–42)			
5–40–5700	Applicability	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5710	Definitions	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5720	Standard for volatile organic compounds.	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5730	Administrative requirements	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5740	Compliance	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5750	Compliance Schedules	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5760	Test methods and procedures	3/24/2004	June 8, 2004 [Federal Register page citation].	
5–40–5770	Notification, records and reporting	3/24/2004	June 8, 2004 [Federal Register page citation].	
*	*	*	*	*

* * * * *

■ 3. Section 52.2423 is amended by adding paragraph (s) to read as follows:

§ 52.2423 Approval status.

* * * * *

(s) EPA approves as part of the Virginia State Implementation Plan the references to the documents listed in 9 VAC 5 Chapter 20, Section 5–20–21, paragraph E.12 of the Virginia Regulations for the Control and Abatement of Air Pollution submitted by the Virginia Department of Environmental Quality on February 23, 2004.

[FR Doc. 04–12769 Filed 6–7–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

[Docket Number: MARAD–2004–17760]

RIN 2133–AB60

Merchant Marine Training

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Interim final rule with request for comments.

SUMMARY: The Maritime Administration is publishing this interim final rule to implement changes to its regulations in part 310 regarding Maritime Education and Training. This rulemaking updates the Maritime Education and Training regulations to conform with Title XXXV, Subtitle A, of the National Defense Authorization Act for Fiscal Year 2004, regarding the administration of state, regional and United States merchant marine academies. This rulemaking also makes non-substantive technical changes to part 310.

DATES: This interim final rule is effective July 8, 2004. Comments on the rule must be submitted by August 9, 2004.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number MARAD–2004–17760] by any of the following methods:

• *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 7th St., SW., Nassif Building, Room PL–401, Washington, DC 20590–001.

• *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 7th St., SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 7th St., SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Jay Gordon, Maritime Administration, 400 7th St., SW., Washington, DC 20590; telephone: (202) 366–5173; or e-mail: *Jay.Gordon@marad.dot.gov.*

SUPPLEMENTARY INFORMATION: For purposes of the following analysis, the term ''Act'' refers to the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108–136, unless otherwise indicated.

Section-By-Section Analysis

Section 310.1 Definitions

(b) *Act*—We update the term ''Act'' to include sections of the Maritime Education and Training Act of 1980, Pub. L. 96–453, as amended, which includes the changes effected by the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108–136, and any subsequent amendments.

(i) *Cost of Education Provided*—is a concept added by the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108–136, in connection with requiring Student Incentive Payment (''SIP'') students defaulting on their obligations to repay the student incentive payments made to such students by the Federal Government.

(j)–(r)—Definitions under these designations were renumbered.

Section 310.3 Schools and Courses

Changes in this section include capitalizing the words ''training ship'' and replacing the title of the Office of Maritime Labor and Training with the Office of Policy and Plans.

Section 310.7 Federal Student Subsistence Allowances and Student Incentive Payments

Section 310.7(b)(1)—Under the Oceans Act of 1992, Pub. L. 102–587, the student incentive payment amount was increased from $1200 per annum to $3000 per annum. While MARAD's regulations currently list $1200 as the annual SIP payment amount, students currently receive payments of $3000 per annum. Students receiving $3,000 under their existing service obligation contracts will have the option of continuing to receive the $3,000 payment under their old service obligation contracts or executing new service obligation contracts and receiving the increased amount of $4000 per annum. The new service obligation contracts will specifically list $4000 as the payment amount and will also have the increased obligations required by the new law. Individuals must execute the new service obligation contracts to receive the increased SIP payment amount.

Section 310.7(b)(3) addresses the form of the service obligation contract. This paragraph is changed to reflect revisions in the Act.

Section 310.7(b)(3)(ii)—Under former (b)(3)(ii), the separation of an individual by the School released that individual from his or her obligation to complete the course of instruction at the School. By virtue of the changes in the law, the separation of an individual by the School no longer releases an individual from this obligation. An individual who is separated by the School is now in default of his or her service obligations and is liable for the remedies for failure to fulfill these obligations, such as induction into military service or recovery by the Federal Government of the Cost of Education Provided, plus interest and attorney's fees.

Section 310.7(b)(3)(iv)—The previous law required graduates to maintain their license for at least six (6) years following graduation. This required the graduate to maintain a Coast Guard license at least equal to the license that such graduate had upon graduation from the School. The subsequent promulgation of Standards of Training, Certification and Watchkeeping (STCW) requirements created a situation in which various graduates were required to take additional courses in order to maintain such a license. Given the unanticipated impact of the STCW requirements, the Administration has determined that individuals graduating without the necessary STCW courses need not take these courses and can satisfy their service obligations by