U.S. Department
of Transportation
**Maritime
Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

May 28, 2014

Class of 2014
California Maritime Academy
Student Incentive Payment (SIP) Program Participants

Re: <u>State Maritime Academy Student Incentive Payment Program Graduates' Service Obligation</u>

Dear Cadet:

Congratulations on your recent graduation! You have officially joined the distinguished ranks of the State Maritime Academy (SMA) alumni and we proudly congratulate you on this accomplishment.

As you begin your career, please bear in mind that you are the recipient of a world-class education provided in part by the Federal Government and paid for by the American taxpayers. In exchange for the Student Incentive Payment (SIP) program funding you received, you committed to fulfill a maritime service obligation following graduation, a commitment that is mandated by law[i], restated in the Maritime Administration's regulations[ii], and specified in the Service Obligation Contract you signed.

The following is a summary of the applicable laws and regulations governing your service obligation to the Maritime Administration (MARAD), and is provided for your reference. For the full text of the applicable laws and regulations, please refer to 46 U.S.C. § 51509 and 46 C.F.R. § 310.7.

I. <u>YOUR SERVICE OBLIGATION</u>

Having successfully completed the course of instruction, including Naval Science courses, at a SMA and upon receiving your U.S. Coast Guard (USCG) Merchant Mariner Credential (MMC) with an officer endorsement, your remaining service obligation covers the following four (4) elements:

1. Service/employment in the maritime industry;
2. Maintaining your USCG MMC;
3. Maintaining your reserve commission; and
4. Annual compliance reporting.

Your SIP obligation requires completion of every element listed above. The only exception is for individuals who, in the five (5)-year period following graduation, serve as a commissioned officer on active duty in the U.S. Armed Forces or as a commissioned officer of the National Oceanic and Atmospheric Administration (NOAA) or the Public Health Service (PHS). SIP graduates who provide five (5) years of honorable active duty service shall be excused from the license and reserve requirements of their obligation. Details are provided below.

Having committed to fulfill your service obligation, failure to do so may lead to induction into the U.S. Armed Forces or repayment of the SIP funds you received for the cost of your education while enrolled at a SMA.

This section of the letter describes the details on fulfilling your obligation for each of these categories, and answers many frequently asked questions.

SERVICE/EMPLOYMENT IN THE MARITIME INDUSTRY

A. What exactly does the service/employment portion of my service obligation require?

The key component of your service obligation is that for a specified amount of time following graduation, you must sail as a merchant marine officer aboard a U.S. flag vessel. For SMA SIP graduates, your service/employment requirement is three (3) years.

This includes, but is not limited to, service on any of the following types of vessels – provided that they are in-fact U.S. flag vessels: Ocean going; Military Sealift Command; coastal and inland; tugs and towboats; passenger; and offshore energy vessels, platforms and drilling units.

For those individuals who meet the service portion of their service obligation by sailing, 46 CFR § 310.7(b)(5) defines a satisfactory year of service as being the lesser of: (1) 150 days; or (2) the number of days that is at least equal to the median number of days of seafaring employment under articles achieved by deck or engine officer in the most recent calendar year for which statistics are available. MARAD has determined that 150 days of service constitutes a satisfactory year of service.

If you are signed onboard a vessel in the capacity of a crew member or working as pilots or in a pilot training program for any portion of a day, that day counts as one day, and one day only, towards meeting your service obligation of 150 days per year of service.

Years of service are based on twelve (12) month increments from a graduate's individual date of graduation. For example, if a cadet graduated on May 21, 2014 their first year of service would be May 21, 2014 to May 21, 2015. This graduate would be required to sail a minimum of 150 days as a merchant marine officer on a U.S. flag vessel between May 21, 2014 and May 21, 2015. Thereafter, they would be required to sail a minimum of 150 days per service year (May 21, 2015 to May 21, 2016 and May 21, 2016 to May 21, 2017, etc.).

This is the primary objective of the service/employment portion of your obligation and, while you may potentially satisfy your service obligation through other, alternative, means of

service/employment, sailing as an officer aboard a U.S. flag vessel is considered the principal method of meeting your obligation.

B. Can I fulfill my service obligation in any way other than sailing as an officer aboard a U.S. flag vessel?

Yes, but there are some regulatory and procedural constraints that you need to be aware of.

The laws and MARAD regulations that govern your service obligation do allow you to fulfill the service/employment portion of your obligation in several alternative ways. These alternatives are broken down into two main categories of service: (i) Service that DOES NOT require MARAD approval to qualify as obligation-fulfilling; and (ii) service that DOES require MARAD approval to qualify as obligation-fulfilling.

i. Service that DOES NOT require MARAD approval to qualify

By and large, MARAD approval is required before an alternative means of employment will be considered as satisfying your service obligation. The sole exceptions are:

(a) Serving as a commissioned officer on active duty in the U.S. Armed Forces; or
(b) Serving as a commissioned officer in NOAA or PHS.

Currently graduates from SMA's proudly serve in all branches of the U.S. Armed Forces and the NOAA and PHS Corps. This is an excellent way to fulfill your service obligations while contributing directly to the nation's security. Five (5) years of honorable active duty service satisfies all portions of your service obligation with the exception of your annual report. If you complete at least five (5) years of honorable active duty service, you do not need to maintain a reserve commission or maintain a valid USCG credential.

Please note that during the five years active duty you still must submit all of the required annual reports. This includes providing employment information (duty station, address, etc.).

If you are on active duty service for less than five (5) years, you are still responsible for the other components of your service obligation.

To reiterate, unless you sail as an officer aboard a U.S. flag vessel, or serve as a commissioned officer on active duty in the U.S. Armed Forces or with NOAA or PHS, your employment does not count towards your service obligation unless MARAD has approved your alternative employment. ***All other alternative categories of employment must be approved by MARAD before any time spent in such employment will count towards the service you owe under your service obligation.***[iii]

ii. Service that DOES require MARAD approval to qualify

The potential alternative categories of employment are:

(a) As a merchant mariner in an unlicensed position aboard a U.S. flag vessel;

(b) As an officer aboard a foreign flag vessel;
(c) As an employee of the Federal Government in a shoreside position that is significantly maritime-related, and which serves the national security interests of the country; or
(d) As an employee of a private company in a shoreside position that is maritime-related. ***Note this will only be approved if*** a determination has been made by MARAD that you first conscientiously sought an afloat position as an officer aboard a U.S. flag vessel and that afloat employment is not available to you.

- In view of current and projected employment opportunities afloat, this private shoreside employment option is granted infrequently and only on the basis of comprehensive evidence, provided by you, that you conscientiously sought afloat employment and that such employment was/is not available to you.

While the applicable laws, regulations, and language of your Service Obligation Contract have not wavered on these requirements, there has been some confusion among graduates and among employers concerning these alternative categories of employment. We are aware of instances where graduates have accepted employment in one of these alternative categories, but did not ask for or receive MARAD's approval for their employment. This presents a potentially disturbing consequence, as those who have not obtained MARAD approval are non-compliant and may be subject to default on their service obligation.

Unfortunately, some graduates may have mistakenly believed that their alternative employment was pre-approved by MARAD, or that no approval was required at all. This is not correct. MARAD approval of these alternative categories of employment has ***always*** been required.

While MARAD is currently pursuing willfully non-compliant graduates, we expect that these defaults and the ensuing civil lawsuits prosecuted by the Department of Transportation or Department of Justice will be the exception rather than the rule.

C. How do I obtain MARAD approval of my alternative employment?

To obtain MARAD approval for any alternative service options you must complete and submit an Employment Determination Request (EDR) form and provide the information and documentation required by your particular category of employment. The most recent version of the EDR form includes a set of instructions outlining what information and documentation is required. A PDF copy of the SMA EDR form is available for you to download from the MSCS website (https://mscs.marad.dot.gov). If you are unable to access the form on the MSCS website and would like to request an SMA EDR form, please contact MARAD at:

Maritime Administration
Office of Maritime Workforce Development
1200 New Jersey Avenue, SE
Washington DC 20590
(202) 366-7618
maritime.graduate@dot.gov

Should you require assistance in preparing and submitting an EDR, please contact the MARAD Office of Maritime Workforce Development directly via telephone at (202) 366-7618 or e-mail at maritime.graduate@dot.gov.

Any MARAD approval of an EDR will be strictly limited to the specific employment for which approval was sought. This means that your approval will remain in effect only as long as you maintain the exact same employment as specified on your EDR. If you change positions with your existing employer, or if you change employers, you will need to submit a new EDR and obtain prior MARAD approval for each new position to meet the service portion of your obligation. These additional "follow-up" EDRs are necessary so that MARAD can ensure that your new position still satisfies the legal requirements for permissible alternative employment.

Lastly, the approval of an EDR does not exempt you from the other elements of your service obligation. You still must comply with the licensure, reserve commission and reporting elements of your obligation.

MAINTAINING YOUR LICENSE

If you are not on active duty for the requisite five (5) year period following graduation, you must maintain a valid USCG Merchant Mariner Credential (MMC) with an officer endorsement and a Standards of Training, Certification and Watchkeeping (STCW) endorsement for six (6) years following graduation. You must also maintain the appropriate national and international endorsements and certification required by the Coast Guard for service aboard domestic and international voyages. You must renew or upgrade your MMC at least once. Maintaining a document of continuity does not fulfill this portion of your obligation and there is ***no*** grace period. You must also maintain a valid Transportation Worker Identification Credential (TWIC) for six (6) years following graduation and maintain a valid USCG medical certificate for employment on vessels where STCW applies.

MAINTAINING YOUR RESERVE COMMISSION

If you are not on active duty for the requisite five (5) year period following graduation, you must apply for and accept, if tendered, an appointment as a commissioned officer in the reserves of the U.S. Armed Forces. The MARAD obligation requires maintaining your commission for at least six (6) years after graduation. Graduates are also strongly encouraged to join a reserve component of any branch of the armed services as a Selective Reservist (SELRES).

If you have elected to request a recall to active duty in the U.S. Armed Forces and your request is approved, your service on active duty will satisfy this requirement as well as the service/employment portion of your obligation for the time period during which you remain on active duty.

ANNUAL COMPLIANCE REPORTING

All graduates – including those on active duty as a commissioned officer in the U.S. armed forces or with NOAA or PHS – must submit a minimum of seven (7) annual reports following graduation to complete that portion of their service obligation[iv]. These annual reports must be filed with MARAD between January 1 and March 1, and are intended to provide MARAD with details on what you did to comply with your service obligation during the previous calendar year.

For instance, as a graduate from the Class of 2014 you should file your first report between January 1 and March 1, 2015. This report is referred to, and filed as, your 2014 report because it reports what you did during the prior calendar year, meaning in this case the time between when you graduated in May or June 2014 until December 31, 2014.

You must then continue to file annual reports between January 1 and March 1 of each successive year on what you did during the previous calendar year until you have filed a minimum of seven (7) annual reports, or until all components of your service obligation are fulfilled, whichever is later.[v] For most of the graduating class of 2014, your last report will be filed with MARAD between January 1 and March 1, 2021.

Please be aware that depending on your particular circumstances (such as an approved graduate school deferment or some sort of agreed-upon hardship extension), your annual reporting period may be extended beyond this seven (7)-year minimum. If that is the case, you still must file annual reports until your service obligation is fulfilled.

You are encouraged to file your compliance reports using the web-based "Maritime Service Compliance System" (MSCS) at https://mscs.marad.dot.gov.

A. What if I have trouble accessing MSCS or submitting my reports electronically?

In the event you are unable to access the website, please contact the MARAD Help Desk at (202) 385-4357.

If you have difficulty using MSCS, you should contact the MARAD Office of Maritime Workforce Development by telephone at (202) 366-7618 or e-mail at maritime.graduate@dot.gov.

WAIVER OR DEFERMENT OF YOUR SERVICE OBLIGATION

If you feel that you are unable to fulfill your service obligation because of an undue hardship or impossibility of performance due to accident, illness or other justifiable reason, you may apply for a waiver of all or a portion of your service obligation. Applications for such a waiver must be submitted in writing with supporting documentation of the underlying hardship or impossibility that forms the basis of your request.

Additionally, in exceptional cases, you may be allowed to defer all or a part of your service obligation for a period not to exceed two years, provided that you are a graduate who is

considered to have superior academic and conduct records while at the SMA, and that you are seeking to enter a marine or maritime-related graduate course of study approved by the Maritime Administrator, or for the purpose of pursuing studies as the recipient of a scholarship or fellowship of national significance. Applications for such a deferment must be submitted in writing with supporting documentation of your acceptance into and/or enrollment in the applicable marine or maritime-related graduate course of study, or of your award and acceptance of the applicable scholarship or fellowship.

You are encouraged to file your waiver or deferral using the web-based "Maritime Service Compliance System" (MSCS) at https://mscs.marad.dot.gov. Alternately, you may contact the MARAD Office of Maritime Workforce Development, by telephone at (202) 366-7618 or e-mail at maritime.graduate@dot.gov, to obtain a copy of the necessary form(s) and instructions on submitting physical or electronic copies of said form(s).

II. THE MARITIME SERVICE COMPLIANCE SYSTEM (MSCS)

In recent years, MSCS has undergone significant overhaul. This system redesign will make compliance reporting and tracking easier and more automated. As with many new computer systems, it is a work-in-progress, with compatibility and functionality issues occurring periodically. We have spent substantial time this year working to address these problems and would ask that you bear with us. Once MSCS is fully functional, it will make your annual reporting quicker and easier, and will allow you to submit employment determination requests, deferment requests, and waiver requests electronically. These improvements will also let you know exactly where in the process your individual request stands.

If you encounter any difficulties in submitting your annual reports we ask that you please contact the MARAD Office of Maritime Workforce Development, by telephone at (202) 366-7618 or via email at maritime.graduate@dot.gov, and let us know exactly what is wrong. Your assistance and functionality recommendations are vital to our improvement of the system, and we will do everything possible to work with you to ensure a smoother and more user-friendly experience.

We encourage you to log into MSCS to update your contact information on your personal information page. This will ensure that you will receive important updates in the months prior to submitting your first annual report. We expect to post additional news bulletins on the MSCS homepage (https://mscs.marad.dot.gov) detailing improvements to the system, so please keep an eye out for those announcements. Additionally, we expect to post a Frequently Asked Questions (FAQ) page and a new User Guide on the MSCS homepage demonstrating how to register, login, and submit your annual reports.

III. CLOSING THOUGHTS

If you are not commissioned as an officer in the U.S. Armed Forces, with NOAA or PHS and have difficulty obtaining afloat employment, you are encouraged to seek assistance from Career Services at your maritime academy. Employment that is not sailing as an officer onboard a U.S. flag vessel; or as a commissioned officer with NOAA or PHS will require a MARAD approved Employment Determination Request (EDR).

MARAD takes fulfillment of your service obligation seriously, and has recently pursued legal action against graduates who failed to meet their service obligations in order to recoup the cost of their SIP funds provided. Failure to comply with your statutory obligations may result in your involuntary call to active duty, in one of the U.S. Armed Forces, as determined by the Secretary of Defense, or a requirement to repay the Federal Government for the cost of SIP funding provided for your education, and possibly litigation cost.

The SMAs have a long tradition of producing maritime leaders, and you can be proud that you will soon be joining a distinguished list of graduates. As you begin an exciting new career in the maritime industry or on active duty, I congratulate you and extend to you my best wishes.

Sincerely,

Paul N. Jaenichen
Acting Maritime Administrator

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[i] 46 U.S.C. §§ 51509(d)(5).
[ii] 46 C.F.R. §§ 310.7(b)(3)(vi)
[iii] 46 U.S.C. §§ 51509(d)(5) and 46 C.F.R. §§ 310.7(b)(3)(vi).
[iv] 46 C.F.R. §§ 310.7(b)(6)(i)
[v] 46 C.F.R. §§ 310.7(b)(6)(i)