

FEDERAL MARITIME COMMISSION

46 CFR PARTS 502, 503, 515, 520, 530, 535,
540, 550, 551, 555, and 560

[Docket No. 02-05]

UPDATE OF EXISTING AND ADDITION OF NEW FILING AND SERVICE FEES

AGENCY: Federal Maritime Commission.

ACTION: Proposed Rule.

SUMMARY: The Federal Maritime Commission (“Commission”) proposes to revise its existing fees for (1) filing petitions and complaints; (2) various public information services, such as record searches, document copying, and admissions to practice; (3) filing ocean transportation intermediary applications; (4) applications for special permission; (5) service contracts; (6) agreements; and (7) passenger vessel performance and casualty certificate applications. These revised fees reflect current costs to the Commission. In addition, the Commission adds a new fee for the provision of a database report on effective carrier agreements, makes nomenclature changes in certain CFR units with respect to Commission bureau designations, and makes section reference changes in certain CFR units to reflect numbering changes made in a previous rulemaking. The Commission also is republishing a fee requirement that was previously inadvertently omitted.

DATE: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESS: Address comments to:

Bryant L. VanBrakle, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573-0001

E-mail: secretary@fmc.gov

FOR FURTHER INFORMATION CONTACT:

JoAnn Baca, Special Assistant to the Executive Director
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SUPPLEMENTARY INFORMATION:

The Commission is authorized under the Independent Offices Appropriation Act (“IOAA”), 31 U.S.C. § 9701 (1983), to establish fees for services and benefits that it provides to specific recipients. The IOAA provides that each service or thing of value provided by an agency to a person be self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, policy or interest served, and other relevant facts. 31 U.S.C. § 9701.

The primary guidance for implementation of IOAA is Office of Management and Budget (“OMB”) Circular A-25, as revised July 8, 1993. OMB Circular A-25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A-25 further provides that costs be determined or estimated from the best available records in the agency, and that cost computations shall cover the direct and indirect costs to the Government of carrying out the activity, including but not limited to:

- (A) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement.
- (B) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rent.
- (C) The management and supervisory costs.
- (D) The costs of enforcement, collection, research, establishment of standards and regulations, including any required environmental impact statements.

OMB Circular A-25, paragraphs 6.d.1.(a), (b), (c) and (d).

OMB Circular A-25 also calls for a periodic reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exist.

The Commission's current filing and service fees have been in effect since 1998, and are no longer representative of the Commission's actual costs for providing such services. Accordingly, the Commission proposes to revise its fees so as to reflect costs attendant to providing the involved services. Fee increases primarily reflect increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounts in part for the increase in the level of proposed fees. For other services, proposed fees are lower than current fees due to overall reduced costs to provide those services.

The Commission is instituting a new user fee for provision of a database report on effective carrier agreements. Also, in promulgating new rules governing the filing of service

contracts to implement the Ocean Shipping Reform Act of 1998, Pub. L. 105-158, 112 Stat. 1902, in Docket No. 99-12, Termination of Dial-Up Service Contract Filing System, 64 FR 41041 (July 29, 1999), we inadvertently failed to carry over § 514.7 into part 530. That section was a permission process to correct clerical or administrative errors in the essential terms of a filed service contract, and included an attendant user fee. We are therefore republishing it.

The Commission has reviewed its current fees and developed data on the time and cost involved in providing particular services to arrive at the updated direct labor costs for those services. The direct labor costs include clerical, professional, supervisory, and executive time expended on an activity, plus a check processing cost of \$1.70. The indirect costs include Government overhead costs, which are fringe benefits and other wage-related Government contributions contained in OMB Circular A-76;² Commission general and administrative expenses;^{*} and office general and administrative overhead expenses.³ The sum of these indirect cost components gives an indirect cost factor that is added to the direct labor costs of an activity to arrive at the fully distributed cost.

These include leave and holidays, retirement, worker's compensation, awards, health and life insurance, and Medicare. These are expressed as a percentage of basic pay.

These costs include all salaries and overhead, such as rent, utilities, supplies, and equipment, allocated to the Offices of the Commissioners, Executive Director (including administrative offices) and General Counsel. The percentage of these costs to the total agency budget is allocated across all Commission programs.

These expenses are limited to the overhead expenses allocated to those bureaus and offices involved in the fee-generating activities, and is derived from dividing allocated overhead expenses by the total funding for these fee-generated offices.

A detailed summary of the data used to arrive at the proposed fees is available from the Secretary of the Commission upon written or e-mail request.

The Commission intends to update its fees biennially in keeping with OMB guidance. In updating its fees, the Commission will incorporate changes in the salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level of costs.

The Chairman of the Federal Maritime Commission hereby certifies that these proposed fees will not have a significant economic impact on a substantial number of small entities. The Commission recognizes that these proposed revisions may have some impact on the shipping industry. Fees collected from the general public for Commission information recover the cost to the Commission for providing specific services. Commission regulations provide for waiver of fees for those entities that can make the required showing of undue hardship (46 CFR 503.41).

This Rule also makes nomenclature changes in certain CFR units to reflect a change in a relevant Commission bureau name since these CFR units were last revised. Additionally, this Rule makes section reference changes in certain CFR units to reflect numbering changes made in a previous rulemaking.

This Rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 503

Classified information, Freedom of information, Privacy, Sunshine act.

46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reporting and recordkeeping requirements.

46 CFR Part 520

Common carrier, Freight, Intermodal transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 530

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 535

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 550

Administrative practice and procedure, Maritime carriers.

46 CFR Part 55 1

Administrative practice and procedure, Maritime carriers.

46 CFR Part 555

Administrative practice and procedure, Investigations, Maritime carriers.

46 CFR Part 560

Administrative practice and procedure, Maritime carriers.

For the reasons set forth above, the Federal Maritime Commission proposes to amend 46 CFR parts 502, 503, 515,520, 530, 535, 540, 550, 551, 555, and 560 as follows:

PART 502-RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561-569, 571-596; 5 U.S.C. 571-584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46U.S.C. app. 817d, 817e, 1114(b), 1705, 1707-1711, 1713-1716; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964-1965 Comp. P. 306; 21 U.S.C. 853a; Pub. L. 105-258, 112 Stat. 1902.

Subpart D-Rulemaking

2. The fourth sentence of § 502.5 1 (a) is revised to read as follows:

§ 502.51 Initiation of procedure to issue, amend, or repeal a rule.

(a) * * *

Petitions shall be accompanied by remittance of a \$228 filing fee. * * *

* * * * *

Subpart E-Proceedings; Pleadings; Motions; Replies

3. Section 502.62(g) is revised to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(g) The complaint shall be accompanied by remittance of a \$209 filing fee.

* * * * *

4. Section 502.68(a)(3) is revised to read as follows:

§ 502.68 Declaratory orders and fee.

(a) * * *

(3) Petitions shall be accompanied by remittance of a \$228 filing fee.

* * * * *

5. Section 502.69(b) is revised to read as follows:

§ 502.69 Petitions-General and fee.

* * * * *

(b) Petitions shall be accompanied by remittance of a \$228 filing fee. [Rule 69.]

Subpart K-Shortened Procedure

6. The last sentence of § 502.182 is revised to read as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * *

The complaint shall be accompanied by remittance of a \$209 filing fee. [Rule 182.1

Subpart Q-Refund or Waiver of Freight Charges

7. § 502.271(d)(5) is revised to read as follows:

§ 502.271 Special docket application

charges.

(d) ***

(5) Applications must be accompanied by remittance of a \$81 filing fee.

Subpart S- Informal Procedure for Adjudication of Small Claims

8. The last sentence of § 502.304(b) is revised to read as follows:

§ 502.304 Procedure and filing fee.

(b) ***

Such claims shall be accompanied by remittance of a \$63 filing fee.

PART 503-PUBLIC INFORMATION

9. The authority citation for Part 503 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12958 of April 20, 1995 (60 FR 19825), sections 5.2(a) and (b).

10. In § 503.43, paragraphs (c)(1) (i) and (ii), the first sentence of paragraph (c)(2), paragraph (c)(3)(ii) and (iii), paragraph (c)(4), paragraph (d) and paragraph (e) are revised to read as follows:

§ 503.43 Fees for services.

(c) ***

(1) * * *

(i) Search will be performed by clerical/administrative personnel at a rate of \$20.00 per hour and by professional/executive personnel at a rate of \$40.00 per hour.

(ii) Minimum charge for record search is \$20.00.

(2) Charges for review of records to determine whether they are exempt from disclosure under § 503.35 shall be assessed to recover full costs at the rate of \$75.00 per hour. * * *

(3) * * *

(ii) By Commission personnel, at the rate of five cents per page (one side) plus \$20.00 per hour.

(iii) Minimum charge for copying is \$5.00. * * *

* * * * *

(4) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at \$86.00 for each certification.

(d) To have one's name and address placed on the mailing list of a specific docket as an interested party to receive all issuances pertaining to that docket: \$10 per proceeding.

(e) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of \$95 pursuant to § 502.27 of this chapter.

Subpart G-Access to Any Record of Identifiable Personal Information

11. In § 503.69, paragraph (b)(2) is revised to read as follows:

§ 503.69 Fees.

* * * * *

(b) * * *

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at \$86 for each certification.

* * * * *

**PART 515-LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND
GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES**

12. The authority citation for Part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; Pub. L. 105-383, 112 Stat. 3411; 21 U.S.C. 862.

Subpart A-General

13. In § 515.5, paragraphs (a), (b)(1), (b)(2), and (b)(3) are revised to read as follows:

§ 515.5 Forms and Fees.

(a) Forms. License form FMC-18 Rev., and financial responsibility forms FMC-48, FMC-67, FMC-68, FMC-69 may be obtained from the Commission's website at www.fmc.gov, the Director, Bureau of Consumer Complaints and Licensing, Federal Maritime Commission, Washington, D.C. 20573, or from any of the Commission's area representatives.

(b) * * *

(1) Application for license as required by § 5 15.12(a): \$799;

(2) Application for status change or license transfer as required by §§ 5 15.18(a) and 515.18(b): \$506; and

(3) Supplementary investigations required by § 5 15.25(a): \$225.

Subpart D-Duties and Responsibilities of Ocean Transportation Intermediaries;

Reports to Commission

14. The second sentence of § 5 15.34 is revised to read as follows:

§ 515.34 Regulated Persons Index.

* * *

The database may be purchased for \$103 by contacting the Bureau of Consumer Complaints and Licensing, Federal Maritime Commission, Washington, DC 20573.* * *

§ 515.12, 515.18, 515.22, 515.25, Appendix A to Subpart C, Appendix B to Subpart C, Appendix D to Subpart C (Amended)

15. In addition to the amendments set forth above, in 46 CFR part 5 15 remove the words “Bureau of Tariffs, Certification and Licensing” and add, in their place, the words “Bureau of Consumer Complaints and Licensing” in the following places:

- a. Section 515.12(a)(1);
- b. Section 5 15.18(a);
- c. Section 5 15.22(e);
- d. Section 5 15.25(a);
- e. Appendix A to Subpart C;
- f. Appendix B to Subpart C; and
- g. Appendix D to Subpart C.

PART 520-CARRIER AUTOMATED TARIFFS

16. The authority citation for Part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1702, 1707-1709, 1712, 1716; and sec. 424 of Pub. L. 105-383, 112 Stat. 3411.

Subpart B-Filing Requirements

17. The last sentence of § 520.14(c)(1) is revised to read as follows:

§ 520.14 Special permission.

(c) * * *

(1) * * *

Every such application shall be submitted to the Bureau of Consumer Complaints and Licensing and be accompanied by a filing fee of \$172.

* * * * *

§ 520.2, 520.3, 520.7 (Amended)

18. In addition to the amendments set forth above, in 46 CFR part 520 § 520.2, § 520.3, and § 520.7 remove the words “Bureau of Tariffs, Certification and Licensing” and add, in their place, the words “Bureau of Consumer Complaints and Licensing” and remove the acronym “BTCL” and add, in its place, the acronym “BCCL” in the following places:

- b. Section 520.2;
- c. Section 520.3(d); and
- d. Section 520.7(b).

PART 530-SERVICE CONTRACTS

19. The authority citation for Part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. App. 1704, 1705, 1707, 1716.

Subpart B-Service Contracts

20. Section 530.10(c), introductory text, is revised to read as follows:

§ 530.10 Amendment, correction, and cancellation.

* * * * *

(c) * * *

Requests shall be filed, in duplicate, with the Commission's Office of the Secretary within forty-five (45) days of the contract's filing with the Commission, accompanied by remittance of a \$276 service fee, and shall include: * * *

* * * * *

PART 535-AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

21. The authority citation for Part 535 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1707, 1709-1710, 1712 and 1714-1718; Pub. L. 105-383, 112 Stat. 3411.

Subpart D-Filing of Agreements

22. Section 535.401(f) is revised to read as follows:

§ 535.401 General requirements.

* * * * *

(f) Fees. The filing fee is \$1,834 for new class A/B agreements requiring Commission review and action; \$931 for class A/B agreement modifications requiring Commission review and action; \$442 for agreements processed under delegated authority (for types of agreements that can be processed under delegated authority, see § 501.26(e)); and \$145 for carrier and terminal exempt agreements.

23. Section 535.401(g) is added to read as follows:

(g) The fee for the Commission's agreement database report is \$32.

PART 540-PASSENGER VESSEL FINANCIAL RESPONSIBILITY

24. The authority citation for Part 540 continues to read as follows:

Authority: 5 U.S.C. 552,553; 31 U.S.C. 9701; secs. 2 and 3, Pub. L. 89-777, 80 Stat. 1356-1358; 46 U.S.C. app. 817e, 817d; 46 U.S.C. 1716.

Subpart A-Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

25. The last two sentences in § 540.4(b) are revised to read as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(b) * * *

An application for a Certificate (Performance), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of \$2,549. An application for a Certificate (Performance) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of \$1,276.

* * * * *

Subpart B-Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

26. The last two sentences in § 540.23(b) are revised to read as follows:

§ 540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * *

An application for a Certificate (Casualty), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of \$1,111. An application for a Certificate (Casualty) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of \$557.

* * * * *

PART 550-REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

27. The authority citation for Part 550 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 19(a)(2), (e), (f), (g), (h), (i), (j), (k) and (l) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(a)(2), (e), (f), (g), (h), (i), (j), (k) and (l), as amended by Pub. L. 105-258; Reorganization Plan No. 7 of 1961, 75 Stat 840; and sec. 10002 of the Foreign Shipping Practices Act of 1988, 46 U.S.C. app. 1710a.

Subpart B-Production of Information

28. Section 550.203(b) is revised to read as follows:

§ 550.203 Failure to provide information.

* * * * *

(b) The Commission may, when there is a failure to produce any information ordered produced under § 550.201, make appropriate findings of fact and inferences, including the inference that conditions unfavorable to shipping in the foreign trade of the United States do exist.

Subpart D-Petitions for Section 19 Relief

29. Section 550.402 is revised to read as follows:

§ 550.402 Filing: of petitions.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$228 filing fee.

Subpart F-Corrective Actions

30. Section 550.601(d) is revised to read as follows:

§ 550.601 Actions to correct unfavorable conditions.

* * * * *

(d) Suspend, in whole or in part, an ocean common carrier's right to operate under an agreement, including any agreement authorizing preferential treatment at terminals or preferential terminal leases, whether filed with the Commission or not filed with the Commission pursuant to the exemptions granted in 46 CFR Part 535; or any agreement filed with the Commission authorizing space chartering, or pooling of cargo or revenues with other ocean common carriers;

* * * * *

PART 551-ACTION TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE

31. The authority citation for Part 551 continues to read as follows:

Authority: 46 U.S.C. app. 876(l)(b); 46 U.S.C. app 876 (5) through (12); 46 CFR part 550; Reorganization Plan No, 7 of 1961, 26 FR 7315 (August 12, 1961).

32. Section 55 1.1 is revised to read as follows:

§ 551.1 Actions to adjust or meet conditions unfavorable to shipping in specific trades.

Whenever the Commission determines that conditions unfavorable to shipping exist in the United States foreign trade with any nation and issues rules to adjust or meet such conditions, pursuant to section 19(l)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(l)(b) and 46 CFR part 551, such rules shall be published in the Federal Register and added to this part.

PART 555-ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

33. The authority citation for Part 555 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a), as amended by Pub. L. 105-258.

34. In § 555.4, paragraphs (a) and (b)(9) are revised to read as follows:

§ 555.4 Petitions.

(a) A petition for investigation to determine the existence of adverse conditions as described in § 555.3 may be submitted by any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and

fifteen copies with the Secretary, Federal Maritime Commission, Washington, DC 20573.

The petition shall be accompanied by remittance of a \$228 filing fee.

* * * * *

(b) * * *

(9) A recommended action, including any of those enumerated in § 555.8, the result of which will, in the view of the petitioner, address the conditions complained of.

* * * * *

35. In § 555.5, the first sentence of paragraph (a) and the last sentence of § 555.5(c) are revised to read as follows:

§ 555.5 Investigations.

(a) An investigation to determine the existence of adverse conditions as described in §555.3 may be initiated by the Commission on its own motion or on the petition of any person pursuant to §555.4. * * *

* * * * *

(c) * * *

Persons who receive information requests from the Commission pursuant to § 555.6 of this part are not precluded from filing additional voluntary submissions in accordance with this paragraph.

* * * * *

36. The first sentence of § 555.6(c) is revised to read as follows:

§ 555.6 Information demands and subpoenas.

* * * * *

(c) The Commission may, in its discretion, determine that any information submitted to it in response to a request (including a subpoena) under this section, or accompanying a petition under § 555.4, or voluntarily submitted by any person pursuant to § 555.5(c), shall not be disclosed to the public. * * *

37. The first sentence of § 555.7 is revised to read as follows:

§ 555.7 Notification to Secretary of State.

Upon publication of a petition in the Federal Register, or on its own motion should it determine to initiate an investigation pursuant to § 555.5, the Commission will notify the Secretary of State of same, and may request action to seek resolution of the matter through diplomatic channels. * * *

§ 555.5, 555.8 (Amended)

38. In addition to the amendments set forth above, in 46 CFR part 555 remove the references to the term “§ 588.3” and add, in its place, the term “§ 555.3” in the following places:

- (1) Section 555.5 (b);
- (2) Section 555.8 (a); and
- (3) Section 555.8 (a) (7).

PART 560-ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

39. The authority citation for Part 560 continues to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(6), 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(6), 1714 and 1716, as amended by Pub. L. 105-258; sec. 10002 of the

Foreign Shipping Practices Act of 1988 (46U.S.C. app.1710a), as amended by Pub.L. 105-258.

40. Section 560.3(a)(2) is revised to read as follows:

§ 560.3 Petitions for relief.

(a) * * *

(2) An original and fifteen copies of such a petition including any supporting documents shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$228 filing fee.

* * * * *

41. In § 560.4, paragraphs (a) and (b)(2) are revised to read as follows:

§ 560.4 Proceeding.

(a) Upon the Commission's own motion or upon the filing of a petition which meets the requirements of § 560.3, when there are indications that conditions unduly impairing the access of a U.S. flag vessel to trade between foreign ports may exist, the Commission will institute a proceeding pursuant to this part.

(b) * * *

(2) Interested or adversely affected persons will be allowed a period of time to reply to the petition by the submission of written data, views or legal arguments pursuant to § 560.5 of this part. Factual submissions shall be in affidavit form.

* * * * *

42. Section 560.7(b)(6) is revised to read as follows:

§ 560.7 Decision: sanctions: effective date.

* * * * *

(b) * * *

(6) A request to the collector of customs at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to any vessel of a foreign carrier which is or whose government is identified as contributing to the conditions described in § 560.2 of this part;

* * * * *

43. Section 560.8 is revised to read as follows:

§ 560.8 Submission of decision to the President.

Concurrently with the submission of any decision imposing sanctions to the Federal Register pursuant to § 560.7(d)(1), the Commission shall transmit that decision to the President of the United States who may, within ten days after receiving the decision, disapprove it if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

44. Section 560.9(b) is revised to read as follows:

§ 560.9 Postponement, discontinuance, or suspension of action.

* * * * *

(b) The Commission shall postpone, discontinue or suspend any action provided for in its final decision if so directed by the President for reasons of national defense or foreign policy of the United States as provided in § 560.8.

By the Commission*


Bryant L. VanBrakle
Secretary

*Commissioner John A. Moran is not participating.

ACTION: Regulatory negotiation working group meeting.

SUMMARY: LSC is conducting a Negotiated Rulemaking to consider revisions to its eligibility regulations at 45 CFR Part 1611. This document announces the dates, times, and address of the next meeting of the working group, which is open to the public.

DATES: The Legal Services Corporation's 1611 Negotiated Rulemaking Working Group will meet on April 11-12, 2002. The meeting will begin at 9 a.m. on April 11, 2002. It is anticipated that the meeting will end by 3:30 p.m. on April 12, 2002.

ADDRESSES: The meeting will be held at the offices of the Center for Law and Social Policy, 1015 15th Street, NW., Suite 400, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services Corporation, 750 First St., NE., 11th Floor, Washington, DC 20001; (202) 336-8817 (phone); (202) 336-8952 (fax); mcondray@lsc.gov.

SUPPLEMENTARY INFORMATION: LSC is conducting a Negotiated Rulemaking to consider revisions to its eligibility regulations at 45 CFR Part 1611. The working group will hold its next meeting on the dates and at the location announced above. The meeting is open to public observation. Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Ms. Condray.

Victor M. Fortuno,
Vice President for Legal Affairs, General Counsel & Corporate Secretary
[FR Doc. 02-6840 Filed 3-20-02; 8:45 am]
BILLING CODE 7050-01-P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 515, 520, 530, 535, 540, 550, 551, 555, and 560

[Docket No. 02-05]

Update of Existing and Addition of New Filing and Service Fees

AGENCY: Federal Maritime Commission.
ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission ("Commission") proposes to revise its existing fees for filing petitions and complaints; various public information services, such as record searches, document copying, and

admissions to practice; filing ocean transportation intermediary applications; applications for special permission: service contracts; agreements; and passenger vessel performance and casualty certificate applications. These revised fees reflect current costs to the Commission. In addition, the Commission adds a new fee for the provision of a database report on effective carrier agreements, makes nomenclature changes in certain CFR units with respect to Commission bureau designations, and makes section reference changes in certain CFR units to reflect numbering changes made in a previous rulemaking. The Commission also is republishing a fee requirement that was previously inadvertently omitted.

DATES: Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than April 22, 2002.

ADDRESSES: Address comments to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001, E-mail: secretary@fmc.gov.

FOR FURTHER INFORMATION CONTACT: JoAnn Baca, Special Assistant to the Executive Director, Office of the Executive Director, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001, (202)523-5800, E-mail: joannb@fmc.gov.

SUPPLEMENTARY INFORMATION: The Commission is authorized under the Independent Offices Appropriation Act ("IOAA"), 31 U.S.C. 9701 (1983), to establish fees for services and benefits that it provides to specific recipients. The IOAA provides that each service or thing of value provided by an agency to a person be self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, policy or interest served, and other relevant facts. 31 U.S.C. 9701.

The primary guidance for implementation of IOAA is Office of Management and Budget ("OMB") Circular A-25, as revised July 8, 1993. OMB Circular A-25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A-25 further provides that costs be determined or estimated from the best available records in the agency, and that cost computations shall

cover the direct and indirect costs to the Government of carrying out the activity, including but not limited to:

(A) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement.

(B) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel and rent.

(C) The management and supervisory costs.

(D) The costs of enforcement, collection, research, establishment of standards and regulations, including any required environmental impact statements.

OMB Circular A-25, paragraphs 6.d.1.(a), (b), (c) and (d).

OMB Circular A-25 also calls for a periodic reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exist.

The Commission's current file and service fees have been in effect since 1998, and are no longer representative of the Commission's actual costs for providing such services. Accordingly, the Commission proposes to revise its fees so as to reflect costs attendant to providing the involved services. Fee increases primarily reflect increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounts in part for the increase in the level of proposed fees. For other services, proposed fees are lower than current fees due to overall reduced costs to provide those services.

The Commission is instituting a new user fee for provision of a database report on effective carrier agreements. Also, in promulgating new rules governing the filing of service contracts to implement the Ocean Shipping Reform Act of 1998, Public Law 105-158, 112 Stat. 1902, in Docket No. 99-12, *Termination of Dial-Up Service Contract Filing System*, 64 FR 41041 (July 29, 1999), we inadvertently failed to carry over \$ 514.7 into part 530. That section was a permission process to correct clerical or administrative errors in the essential terms of a filed service contract, and included an attendant user fee. We are therefore republishing it.

The Commission has reviewed its current fees and developed data on the time and cost involved in providing particular services to arrive at the updated direct labor costs for those services. The direct labor costs include clerical, professional, supervisory, and executive time expended on an activity, plus a check processing cost of \$1.70. The indirect costs include Government

overhead costs, which are fringe benefits and other wage-related Government contributions contained in OMB Circular A-76: ¹ Commission general and administrative expenses; ² and office general and administrative overhead expenses.³ The sum of these indirect cost components gives an indirect cost factor that is added to the direct labor costs of an activity to arrive at the fully distributed cost.

A detailed summary of the data used to arrive at the proposed fees is available from the Secretary of the Commission upon written or e-mail request.

The Commission intends to update its fees biennially in keeping with OMB guidance. In updating its fees, the Commission will incorporate changes in the salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level of costs.

The Chairman of the Federal Maritime Commission hereby certifies that these proposed fees will not have a significant economic impact on a substantial number of small entities. The Commission recognizes that these proposed revisions may have some impact on the shipping industry. Fees collected from the general public for Commission information recover the cost to the Commission for providing specific services. Commission regulations provide for waiver of fees for those entities that can make the required showing of undue hardship (46 CFR 503.41).

This Rule also makes nomenclature changes in certain CFR units to reflect a change in a relevant Commission bureau name since these CFR units were last revised. Additionally, this Rule makes section reference changes in certain CFR units to reflect numbering changes made in a previous rulemaking.

This Rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

¹ These include leave and holidays, retirement, worker's compensation, awards, health and life insurance, and Medicare. These are expressed as a percentage of basic pay.

² These costs include all salaries and overhead, such as rent, utilities, supplies, and equipment, allocated to the Offices of the Commissioners, Executive Director (including administrative offices) and General Counsel. The percentage of these costs to the total agency budget is allocated across all Commission programs.

³ These expenses are limited to the overhead expenses allocated to those bureaus and offices involved in the fee-generating activities, and is derived from dividing allocated overhead expenses by the total funding for these fee-generated offices

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 503

Classified information, Freedom of information, Privacy, Sunshine Act.

46 CFR Part 515

Exports, Freight forwarders, Non-vessel-operating common carriers, Ocean transportation intermediaries, Licensing requirements, Financial responsibility requirements, Reporting and recordkeeping requirements.

46 CFR Part 520

Common carrier, Freight, Intermodal transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 530

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 535

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 550

Administrative practice and procedure, Maritime carriers.

46 CFR Part 551

Administrative practice and procedure, Maritime carriers.

46 CFR Part 555

Administrative practice and procedure, Investigations, Maritime carriers.

46 CFR Part 560

Administrative practice and procedure, Maritime carriers.

For the reasons set forth above, the Federal Maritime Commission proposes to amend 46 CFR parts 502, 503, 515, 520, 530, 535, 540, 550, 551, 555, and 560 as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–

584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817d, 817e, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964–1965 Comp. P. 306; 21 U.S.C. 853a; Pub. L. 105–258, 112 Stat. 1902.

Subpart D—Rulemaking

2. The fourth sentence of §502.51(a) is revised to read as follows:

§ 502.51 Initiation of procedure to issue, amend, or repeal a rule.

(a) * * * Petitions shall be accompanied by remittance of a \$228 filing fee. * * *

Subpart E—Proceedings; Pleadings; Motions; Replies

3. Section 502.62(g) is revised to read as follows:

§ 502.62 Complaints and fee.

* * * * *

(g) The complaint shall be accompanied by remittance of a \$209 filing fee. * * *

4. Section 502.68(a)(3) is revised to read as follows:

§ 502.68 Declaratory orders and fee.

(a) * * *

(3) Petitions shall be accompanied by remittance of a \$228 filing fee. * * *

5. Section 502.69(b) is revised to read as follows:

§ 502.69 Petitions-General and fee.

* * * * *

(b) Petitions shall be accompanied by remittance of a \$228 filing fee. [Rule 69.]

Subpart K—Shortened Procedure

6. The last sentence of § 502.182 is revised to read as follows:

§ 502.182 Complaint and memorandum of facts and arguments and filing fee.

* * * The complaint shall be accompanied by remittance of a \$209 filing fee. [Rule 182.]

Subpart Q—Refund or Waiver of Freight Charges

7. § 502.271(d)(5) is revised to read as follows:

502.271 Special docket application for permission to refund or waive freight charges.

* * * * *

(d) * * *

(5) Applications must be accompanied by remittance of a \$81 filing fee.

* * * * *

Subpart S—Informal Procedure for Adjudication of Small Claims

8. The last sentence of § 502.304(b) is revised to read as follows:

§ 502.304 Procedure and filing fee.

* * * * *

(b) * * * Such claims shall be accompanied by remittance of a \$63 filing fee.

* * * * *

PART 503—PUBLIC INFORMATION

9. The authority citation for part 503 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12958 of April 20, 1995 (60 FR 19825), sections 5.2(a) and (b).

10. In § 503.43, paragraphs (c)(1) (i) and (ii), the first sentence of paragraph (c)(2), paragraph (c)(3)(i) and (iii), paragraph (c)(4), paragraph (d) and paragraph (e) are revised to read as follows:

§ 503.43 Fees for services.

* * * * *

(c) * * *

(1) * * *

(i) Search will be performed by clerical/administrative personnel at a rate of \$20.00 per hour and by professional/executive personnel at a rate of \$40.00 per hour.

(ii) Minimum charge for record search is \$20.00.

(2) Charges for review of records to determine whether they are exempt from disclosure under § 503.35 shall be assessed to recover full costs at the rate of \$75.00 per hour. * * *

(3) * * *

(ii) By Commission personnel, at the rate of five cents per page (one side) plus \$20.00 per hour.

(iii) Minimum charge for copying is \$5.00.

* * * * *

(4) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at \$86.00 for each certification.

(d) To have one's name and address placed on the mailing list of a specific docket as an interested party to receive all issuances pertaining to that docket: \$10 per proceeding.

(e) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of \$95 pursuant to § 502.27 of this chapter.

Subpart G—Access to Any Record of Identifiable Personal Information

11. In § 503.69, paragraph (b)(2) is revised to read as follows:

§ 503.69 Fees.

* * * * *

(b) * * *

(2) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at \$86 for each certification.

* * * * *

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

12. The authority citation for part 515 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; Pub. L. 105-383, 112 Stat. 3411; 21 U.S.C. 862.

Subpart A—General

13. In § 515.5, paragraphs (a), (b)(1), (b)(2), and (b)(3) are revised to read as follows:

§ 515.5 Forms and Fees.

(a) *Forms.* License form FMC-18 Rev., and financial responsibility forms FMC-48, FMC-67, FMC-68, FMC-69 may be obtained from the Commission's website at <http://www.fmc.gov>, the Director, Bureau of Consumer Complaints and Licensing, Federal Maritime Commission, Washington, DC. 20573, or from any of the Commission's area representatives.

(b) * * *

(1) Application for license as required by § 515.12(a): \$799;

(2) Application for status change or license transfer as required by §§ 515.18(a) and 515.18(b): \$506; and

(3) Supplementary investigations required by § 515.25(a): \$225.

Subpart D—Duties and Responsibilities of Ocean Transportation Intermediaries; Reports to Commission

14. The second sentence of § 515.34 is revised to read as follows:

§ 515.34 Regulated Persons Index.

* * * The database may be purchased for \$103 by contacting the Bureau of Consumer Complaints and Licensing, Federal Maritime Commission, Washington, DC 20573. * * *

§ 515.12, 515.18, 515.22, 515.25, Appendix A to Subpart C, Appendix B to Subpart C, Appendix D to Subpart C [Amended]

15. In addition to the amendments set forth above, in 46 CFR part 515 remove the words "Bureau of Tariffs, Certification and Licensing" and add, in their place, the words "Bureau of Consumer Complaints and Licensing" in the following places:

- a. Section 515.12(a)(1);
- b. Section 515.18(a);
- c. Section 515.22(e);
- d. Section 515.25(a);
- e. Appendix A to Subpart C;
- f. Appendix B to Subpart C; and
- g. Appendix D to Subpart C.

PART 520—CARRIER AUTOMATED TARIFFS

16. The authority citation for part 520 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1702, 1707-1709, 1712, 1716; andsec. 424 of Pub. L. 105-383, 112 Stat. 3411.

Subpart B—Filing Requirements

17. The last sentence of § 520.14(c)(1) is revised to read as follows:

§ 520.14 Special permission.

(c) * * *

(1) * * * Every such application shall be submitted to the Bureau of Consumer Complaints and Licensing and be accompanied by a filing fee of \$172.

§ 520.2, 520.3, 520.7 [Amended]

18. In addition to the amendments set forth above, in 46 CFR part 520 remove the words "Bureau of Tariffs, Certification and Licensing" and add, in their place, the words "Bureau of Consumer Complaints and Licensing" and remove the acronym "BTCL" and add, in its place, the acronym "BCCL" in the following places:

- a. Section 520.2;
- b. Section 520.3(d); and
- c. Section 520.7(b).

PART 530—SERVICE CONTRACTS

19. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. App. 1704, 1705, 1707, 1716.

Subpart B—Service Contracts

20. Section 530.10(c), introductory text, is revised to read as follows:

5530.10 Amendment, correction, and cancellation.

* * * * *

(c) * * * Requests shall be filed, in duplicate, with the Commission's Office

of the Secretary within forty-five (45) days of the contract's filing with the Commission, accompanied by remittance of a \$276 service fee, and shall include:

* * * * *

PART 535—AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

21. The authority citation for part 535 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1718, Pub. L. 105–383, 112 Stat. 3411.

Subpart D-Filing of Agreements

22-23. In § 535.401, paragraph (f) is revised and paragraph (g) is added to read as follows:

§ 535.401 General requirements.

* * * * *

(f) Fees. The filing fee is \$1,834 for new class A/B agreements requiring Commission review and action; \$931 for class A/B agreement modifications requiring Commission review and action; \$442 for agreements processed under delegated authority (for types of agreements that can be processed under delegated authority, see § 501.26(e) of this chapter); and \$145 for carrier and terminal exempt agreements.

(g) The fee for the Commission's agreement database report is \$32.

PART 540-PASSENGER VESSEL FINANCIAL RESPONSIBILITY

24. The authority citation for part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; secs. 2 and 3, Pub. L. 89-777, 80 Stat. 1356-1358; 46 U.S.C. app. 817a, 817d; 46 U.S.C. 1716.

Subpart A-Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

25. The last two sentences in § 540.4(b) are revised to read as follows:

§ 540.4 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Performance), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of \$2,549. An application for a Certificate

(Performance) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of \$1,276.

* * * * *

Subpart B-Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

26. The last two sentences in § 546.23(b) are revised to read as follows:

5540.23 Procedure for establishing financial responsibility.

* * * * *

(b) * * * An application for a Certificate (Casualty), excluding an application for the addition or substitution of a vessel to the applicant's fleet, shall be accompanied by a filing fee remittance of \$1,111. An application for a Certificate (Casualty) for the addition or substitution of a vessel to the applicant's fleet shall be accompanied by a filing fee remittance of \$557.

* * * * *

PART WI-REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

27. The authority citation for part 550 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 19(a)(Z), (e), (f), (g), (h), (i), (j), (k) and (l) of the Merchant Marine Act, 1920. 46 U.S.C. app. 876(a)(2), (e), (f), (g), (h), (i), (j), (k) and (l), as amended by Pub. L. 105–258; Reorganization Plan No. 7 of 1961, 75 Stat 840; and sec. 10002 of the Foreign Shipping Practices Act of 1988, 46 U.S.C. app. 1710a.

Subpart B-Production of Information

28. Section 550.203(b) is revised to read as follows:

§ 550.203 Failure to provide information.

* * * * *

(b) The Commission may, when there is a failure to produce any information ordered produced under § 550.201, make appropriate findings of fact and inferences, including the inference that conditions unfavorable to shipping in the foreign trade of the United States do exist.

Subpart D-Petitions for Section 19 Relief

29. Section 550.402 is revised to read as follows:

§ 550.402 Filing of petitions.

All requests for relief from conditions unfavorable to shipping in the foreign trade shall be by written petition. An original and fifteen copies of a petition for relief under the provisions of this part shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$228 filing fee.

Subpart F-Corrective Actions

30. Section 550.601(d) is revised to read as follows:

§ 550.601 Actions to correct unfavorable conditions.

* * * * *

(d) Suspend, in whole or in part, an ocean common carrier's right to operate under an agreement, including any agreement authorizing preferential treatment at terminals or preferential terminal leases, whether filed with the Commission or not filed with the Commission pursuant to the exemptions granted in 46 CFR part 535; or any agreement filed with the Commission authorizing space chartering, or pooling of cargo or revenues with other ocean common carriers;

* * * * *

PART 551—ACTION TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE

31. The authority citation for part 551 continues to read as follows:

Authority: 46 U.S.C. app. 876(1)(b); 46 U.S.C. app. 876 (5) through (12); 46 CFR part 550; Reorganization Plan No. 7 of 1961, 26 FR 7315 (August 12, 1961).

32. Section 551.1 is revised to read as follows:

§ 551.1 Actions to adjust or meet conditions unfavorable to shipping in specific trades.

Whenever the Commission determines that conditions unfavorable to shipping exist in the United States foreign trade with any nation and issues rules to adjust or meet such conditions, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) and 46 CFR part 551, such rules shall be published in the **Federal Register** and added to this part.

PART 555—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

33. The authority citation for part 555 continues to read as follows:

Authority: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a), as amended by Pub. L. 105-258.

34. In § 555.4, paragraphs (a) and (b)(9) are revised to read as follows:

§ 555.4 Petitions.

(a) A petition for investigation to determine the existence of adverse conditions as described in § 555.3 may be submitted by any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States. Petitions for relief under this part shall be in writing, and filed in the form of an original and fifteen copies with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$228 filing fee.

(b) * * *

(9) A recommended action, including any of those enumerated in § 555.8, the result of which will, in the view of the petitioner, address the conditions complained of.

35. In § 555.5, the first sentence of paragraph (a) and the last sentence of § 555.5(c) are revised to read as follows:

§ 555.5 Investigations.

(a) An investigation to determine the existence of adverse conditions as described in § 555.3 may be initiated by the Commission on its own motion or on the petition of any person pursuant to § 555.4. * * *

(c) * * * Persons who receive information requests from the Commission pursuant to § 555.6 of this part are not precluded from filing additional voluntary submissions in accordance with this paragraph.

36. The first sentence of § 555.6(c) is revised to read as follows:

§ 555.6 Information demands and subpoenas.

(c) The Commission may, in its discretion, determine that any information submitted to it in response

to a request (including a subpoena) under this section, or accompanying a petition under § 555.4, or voluntarily submitted by any person pursuant to § 555.5(c), shall not be disclosed to the public. * * *

37. The first sentence of § 555.7 is revised to read as follows:

§ 555.7 Notification to Secretary of State.

Upon publication of a petition in the **Federal Register**, or on its own motion should it determine to initiate an investigation pursuant to § 555.5, the Commission will notify the Secretary of State of same, and may request action to seek resolution of the matter through diplomatic channels. * * *

§ 555.5, 555.8 [Amended]

38. In addition to the amendments set forth above, in 46 CFR part 555 remove the references to the term “§ 588.3” and add, in its place, the term “§ 555.3” in the following places:

- a. Section 555.5 (b);
- b. Section 555.8 (a); and
- c. Section 555.8 (a) (7).

PART 560—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

39. The authority citation for part 560 continues to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(6), 15 and 17 of the Shipping Act of 1984, 46 U.S.C. app. 1712(b)(6), 1714 and 1716, as amended by Pub. L. 105-258; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. app. 1710a), as amended by Pub. L. 105-258

40. Section 560.3(a)(2) is revised to read as follows:

§ 560.3 Petitions for relief.

(a) * * *

(2) An original and fifteen copies of such a petition including any supporting documents shall be filed with the Secretary, Federal Maritime Commission, Washington, DC 20573. The petition shall be accompanied by remittance of a \$228 filing fee.

41. In § 560.4, paragraphs (a) and (b)(2) are revised to read as follows:

§ 560.4 Proceeding.

(a) Upon the Commission's own motion or upon the filing of a petition which meets the requirements of § 560.3, when there are indications that conditions unduly impairing the access of a U.S. flag vessel to trade between foreign ports may exist, the Commission will institute a proceeding pursuant to this part.

(b) * * *

(2) Interested or adversely affected persons will be allowed a period of time to reply to the petition by the submission of written data, views or legal arguments pursuant to § 560.5 of this part. Factual submissions shall be in affidavit form.

42. Section 560.7(b)(6) is revised to read as follows:

§ 560.7 Decision; sanctions; effective date.

(b) * * *

(6) A request to the collector of customs at any port or place of destination in the United States to refuse the clearance required by section 4197 of the Revised Statutes, 46 U.S.C. app. 91, to any vessel of a foreign carrier which is or whose government is identified as contributing to the conditions described in § 560.2 of this part;

43. Section 560.8 is revised to read as follows:

§ 560.8 Submission of decision to the President.

Concurrently with the submission of any decision imposing sanctions to the **Federal Register** pursuant to § 560.7(d)(1), the Commission shall transmit that decision to the President of the United States who may, within ten days after receiving the decision, disapprove it if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

44. Section 560.9(b) is revised to read as follows:

§ 560.9 Postponement, discontinuance, or suspension of action.

(b) The Commission shall postpone, discontinue or suspend any action provided for in its final decision if so directed by the President for reasons of national defense or foreign policy of the United States as provided in § 560.8.

By the Commission*.

Bryant L. VanBrakle,

Secretary.

[FRDoc.02-6742 Filed 3-20-02; 8:45 am]

BILLING CODE 6730-01-P

* Commissioner John A Moran is not participating