

ORIGINAL

April 28, 1999

FEDERAL MARITIME COMMISSION

46 CFR parts 500, 501, 503, 504, 506, 507, 508, 540, 582

Docket No. 99-09

AMENDMENTS TO REGULATIONS GOVERNING EMPLOYEE ETHICAL CONDUCT STANDARDS, THE FEDERAL MARITIME COMMISSION - GENERAL, PUBLIC INFORMATION, ENVIRONMENTAL POLICY ANALYSIS, MONETARY PENALTY INFLATION ADJUSTMENTS, NONDISCRIMINATION ON THE BASIS OF HANDICAP, PASSENGER VESSEL FINANCIAL RESPONSIBILITY, AND CERTIFICATION OF POLICIES AND EFFORTS TO COMBAT REBATING

AGENCY: Federal Maritime Commission.

ACTION: Final Rule.

SUMMARY: The Federal Maritime Commission is amending its regulations relating to agency organization, public information, procedures for environmental policy analysis, civil monetary penalty inflation adjustments, nondiscrimination on the basis of handicap, passenger vessel operations, and anti-rebating certifications, and is redesignating its regulation relating to employee ethical conduct standards, in order to incorporate certain amendments made by the Ocean Shipping Reform Act of 1998 as well as to clarify and reorganize existing regulations.

DATE: THIS RULE IS EFFECTIVE MAY 1, 1999.

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SUPPLEMENTARY INFORMATION:

The Ocean Shipping Reform Act of 1998 ("OSRA"), Public Law 105-258, 112 Stat. 1902, amends the Shipping Act of 1984 ("1984 Act") in several areas. The Commission's rules at 46 CFR Parts 500, 501, 503, 504, 506, and 507 address employee ethical conduct standards, the organization of the Commission, public information, environmental policy analysis, civil monetary inflation adjustment, and nondiscrimination on the basis of handicap. The Commission's rules at 46 CFR Part 540 address passenger vessel financial responsibility, and the rules at 46 CFR Part 582 address anti-rebating certifications. The Commission now amends these rules both to make certain changes required by OSRA and to update, redesignate, and clarify the rules more generally. Because the changes made in this proceeding are routine and ministerial in nature, this rulemaking is published as a final rulemaking as to which no notice and comment period is necessary.

Redesignation of former 46 CFR part 500

The Commission's regulations at 46 CFR part 500 address employee ethical conduct standards. The rule redesignates former part 500 as part 508.

Amendments to 46 CFR part 501

OSRA amended Reorganization Plan No. 7 of 1961, 75 Stat. 840, to change the Commission's quorum requirements. Accordingly, the Commission has determined to amend 46 CFR 501.2(d) to track the new statutory language.

Amendments to 46 CFR part 503

The Commission's regulations at 46 CFR part 503 address access to public information. OSRA's elimination of tariff filing with the Commission has rendered unnecessary those portions of 46 CFR 514 relating to fees for the provision of copies of tariffs. See 46 CFR 514.21. While tariffs will no longer be filed with the Commission, the Commission has determined to provide public access to historical tariff records. Accordingly, we have removed from part 503 the references to part 514 involving public access to information, but have included reference to public access to historical ATFI records. We have also added, at 46 CFR 503.24, two entries to the list of information available over the internet, to include a list of the location of common carrier and conference tariffs and marine terminal operator schedules, as well as a list of ocean transportation intermediaries who have provided the Commission with evidence of their financial responsibility.

Also, Subpart F -- Information Security Program of Part 503, is revised to implement changes required by Executive Order 12958 of April 17, 1995, "Classified National Security Information" and

Executive Order 12968 of August 2, 1995 "Access to Classified Information." Changes are primarily to remove references to Executive Order 12356 of April 6, 1982, which was revoked by Executive Order 12958, and to keep pace with the requirements of the National Archives and Records Administration, 32 CFR Part 2001, made pursuant to Executive Order 12958.

Finally, in section 503.71(c), we have amended the Commission's definition of the term "meeting," to reflect changes in the Commission's quorum rules prescribed by OSRA. Several other changes have been made to Part 503 that are of a purely ministerial nature.

Amendments to 46 CFR part 504

This part addresses the Commission's procedures for environmental policy analysis. We have removed references to the Shipping Act, 1916, in the Authority citation, in 504.1, and in 504.2, because that Act, to the extent it involved the Commission's jurisdiction, has been repealed. We have redefined "marine terminal operator" in 504.2 pursuant to changes required by OSRA. We have updated the Commission's address in 504.3. We have deleted categorical exclusions (a)(5) and (a)(7) in 504.4 pursuant to OSRA, and amended (a)(6) to reflect the recently proposed redesignation of part 514 as part 520. Throughout the part, we removed references to the Office of Environmental Analysis, which no longer exists, and have indicated that for the purposes of part 504, the

term "Commission" includes any office or bureau to which the Commission may delegate its environmental policy analysis responsibilities.

Amendments to 46 CFR part 506

This part addresses civil monetary penalty inflation adjustments. Pursuant to OSRA, we removed the penalty for failure to pay ATFI fees, and removed the penalty for failure to file an anti-rebate certification. We also added the suspension of service contracts as a penalty under the Merchant Marine Act of 1920 as amended by OSRA.

Amendment to 46 CFR part 507

This part addresses the Commission's enforcement of nondiscrimination on the basis of handicap. Section 507.170(b) is amended to correct a citation error. Section 507.170(c) is updated to reflect the Commission's current street address.

Amendments to 46 CFR part 540

This part addresses the financial responsibility of passenger vessel operators. The Commission has decided to clarify the regulation by renaming it "Passenger Vessel Financial Responsibility," to replace its old title, "Security for the Protection of the Public." The Commission has also removed an outdated reference in the authority section of the rule to the Shipping Act, 1916, which, to the extent it involved the Commission's jurisdiction, has been repealed.

Removal of 46 CFR part 582

This part addresses the requirements that govern the submission of anti-rebating certifications by common carriers and other entities in the foreign commerce of the United States. Such certifications were based upon the statutory authority of section 15(b) of the Shipping Act of 1984. However, OSRA has eliminated section 15(b); accordingly, the Commission has determined to remove 46 CFR part 582 from its regulations.

List of subjects

46 CFR Parts 500 and 508

Conflicts of interest.

46 CFR Part 501

Authority delegations, Organization and functions.

46 CFR Part 503

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

46 CFR Part 504

Environmental impact statements, Reporting and recordkeeping requirements.

46 CFR Part 506

Fines and penalties.

46 CFR Part 507

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination.

46 CFR Part 540

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

46 CFR Part 582

Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Commission amends 46 CFR parts 500, 501, 503, 504, 506, 507, 508, 540, and 582 as follows:

PART 500 - EMPLOYEE ETHICAL CONDUCT STANDARDS AND FINANCIAL DISCLOSURE REGULATIONS

1. The authority citation continues to read as follows:

5 U.S.C. 553; 5 U.S.C. 7301; 46 U.S.C. app. 1716

2. Redesignate part 500 as part 508.

PART 501 - THE FEDERAL MARITIME COMMISSION - GENERAL

1. The authority citation continues to read as follows:

5 U.S.C. 551-557, 701-706, 2903 and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501-520 and 3501-3520; 46 U.S.C. app. 801-848, 876, 1111, and 1701-1720; Reorganization Plan No. 7 of 1961, 26 FR 7315, August 12, 1961; Pub.L. 89-56, 79 Stat. 195; 5 CFR Part 2638.

2. Revise § 501.2(d) to read as follows:

§ 501.2 General.

* * * * *

(d) A vacancy or vacancies in the Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members of the Commission is required to dispose of any matter before the Commission. For purposes of holding a formal meeting for the transaction of the business of the Commission, the actual presence of two Commissioners shall be sufficient. Proxy votes of absent members shall be permitted.

PART 503 - PUBLIC INFORMATION

1. The authority citation continues to read as follows:

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).

2. Remove § 503.11(b) and (c), redesignate paragraphs (a)(1) through (a)(5) as paragraphs (a) through (e), and revise the introductory text to read as follows:

§ 503.11 Materials to be published.

The Commission shall publish the following materials in the Federal Register for the guidance of the public:

* * *

3. Revise § 503.22(b) to read as follows:

§ 503.22 Records available at the Office of the Secretary.

* * * * *

(b) Certain fees may be assessed for duplication of records made available by this section as prescribed in subpart E of this part.

4. In § 503.23, remove paragraph (a) (3) and redesignate paragraphs (a)(4) and (a)(5) as (a)(3) and (a) (4), and revise redesignated paragraph (a)(3) and paragraph (b) to read as follows:

§ 503.23 Records available upon written request.

(a) * * *

* * * * *

(3) Tariff data filed in the Commission's ATFI system prior to May 1, 1999.

* * * * *

(b) Certain fees may be assessed for duplication of records made available by this section as prescribed in subpart E of this part.

5. In § 503.24, revise paragraph (b) (5) (iii), revise paragraph (b) (10), and add paragraphs (b) (11) and (b) (12) to read as follows:

§ 503.24 Information available via the internet.

* * * * *

(b) * * *

(5) A Freedom of Information Act Electronic Reading Room which contains:

* * *

(iii) Access to statements of policy and interpretations as published in Part 545 of this chapter; and

* * * * *

(10) Privacy Act information;

(11) Lists of the location of all common carrier and conference tariffs and publicly available terminal schedules of marine terminal operators; and

(12) A list of licensed ocean transportation intermediaries which have furnished the Commission with evidence of financial responsibility.

* * * * *

6. Revise § 503.51 to read as follows:

§ 503.51 Definitions.

(a) Access means the ability or opportunity to gain knowledge of classified information.

(b) Classification means the act or process by which information is determined to be classified information.

(c) Classification guide means a documentary form of instruction or source that prescribes the classification of specific information issued by an original classification authority that identifies the elements of information regarding a specific

subject that must be classified and establishes the level and duration of classification for each such element.

(d) Classified national security information (hereafter "classified information") means information that has been determined pursuant to Executive Order 12958 or any predecessor order to require protection against unauthorized disclosure-and is marked to indicate its classified status when in documentary form.

(e) Commission means the Federal Maritime Commission.

(f) Declassification means the authorized change in the status of information from classified information to unclassified information.

(g) Derivative classification means the incorporating, paraphrasing, restating or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.

(h) Downgrading means a determination by a declassification authority that information classified and safeguarded at a specified level shall be classified and safeguarded at a lower level.

(i) Foreign government information means:

(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) information received and treated as "Foreign Government Information" under the terms of Executive Order 12958 or any predecessor order.

(j) Mandatory declassification review means the review for declassification of classified information in response to a request for declassification that meets the requirements under section 3.6 of Executive Order 12958.

(k) Multiple sources means two or more source documents, classification guides, or a combination of both.

(l) National security means the national defense or foreign relations of the United States.

(m) Need to know means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(n) Original classification means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure.

(o) Original classification authority means an individual authorized in writing, either by the President, or by agency heads or other officials designated by the President, to classify information in the first instance.

(p) Self-inspection means the internal review and evaluation of individual Commission activities and the Commission as a whole with respect to the implementation of the program established under Executive Order 12958 and its implementing directives.

(q) Senior agency official ("security officer") means the official designated by the Chairman under section 5.6 of Executive Order 12958 to direct and administer the Commission's program under which classified information is safeguarded.

(r) Source document means an existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.

(s) Unauthorized disclosure means a communication or physical transfer of classified information to an unauthorized recipient.

7. Revise § 503.52 to read as follows:

§ 503.52 Senior Agency Official.

The Chairman of the Commission shall designate a senior agency official to be the Security Officer for the Commission, who shall be responsible for directing, administering and reporting on the Commission's information security program, which includes oversight (self-inspection) and security information programs to ensure effective implementation of Executive Orders 12958 and 12968, and 32 CFR Part 2001.

8. Amend § 503.53 to revise paragraphs (a) and (d) to read as follows:

§ 503.53 Oversight Committee.

* * * * *

(a) Establish a Commission security education program to familiarize all personnel who have or may have access to classified information with the provisions of Executive Order 12958 and directives of the Information Security Oversight Office. The program shall include initial, refresher, and termination briefings;

* * * * *

(d) Recommend appropriate administrative action to correct abuse or violations of any provision of Executive Order 12958; and

* * * * *

9. Amend § 503.54 to revise paragraphs (a) and (b) to read as follows:

§ 503.54 Original classification.

(a) No Commission Member or employee has the authority to originally classify information.

(b) If a Commission Member or employee develops information that appears to require classification, or receives any foreign government information as defined in section 1.1(d) of Executive Order 12958, the Member or employee shall immediately notify the Security Officer and appropriately protect the information.

* * * * *

10. Amend § 503.55 to revise paragraphs (a), (b) and (c) and delete paragraph (d) to read as follows:

§ 503.55 Derivative classification.

(a) In accordance with Part 2 of Executive Order 12958 and directives of the Information Security Oversight Office, the incorporation, paraphrasing, restating or generation in new form of information that is already classified, and the marking of newly developed material consistent with the classification markings that apply to the source information, is derivative classification.

(1) Derivative classification includes the classification of information based on classification guidance.

(2) The duplication or reproduction of existing classified information is not derivative classification.

(b) Members or employees applying derivative classification markings shall:

(1) Observe and respect original classification decisions;
and

(2) Carry forward to any newly created documents the pertinent classification markings.

(3) For information derivatively classified based on multiple sources, the Member or employee shall carry forward:

(A) the date or event for declassification that corresponds to the longest period of classification among the sources; and

(B) a listing of these sources on or attached to the official file or record copy.

(c) Documents classified derivatively shall bear all markings prescribed by 32 CFR §§ 2001.20-2001.23 and shall otherwise conform to the requirements of 32 CFR §§ 2001.20-2001.23.

11. Amend § 503.56 to revise the first sentence of paragraph (a) to read as follows:

§ 503.56 General declassification and downgrading policy.

(a) The Commission exercises declassification and downgrading authority in accordance with section 3.1 of Executive Order 12958, only over that information originally classified by the Commission under previous Executive orders. * * *

* * * * *

12. Amend § 503.57 to revise paragraphs (a), (c), (e), and (i), and add paragraph (j), to read as follows:

§ 503.57 Mandatory review for declassification.

(a) Information originally classified by the Commission but which has not been automatically declassified shall be subject to a review for declassification by the Commission, if:

(1) A declassification request is made; and

* * * * *

(c) If the request requires the provision of services by the Commission, fair and equitable fees may be charged pursuant to 31 U.S.C. 9701.

* * * * *

(e) If the information was originally classified by the Commission, the Commission Security Officer shall forward the request to the Chairman of the Commission for a determination of declassification. If the information was originated by another agency, the Commission Security Officer shall refer the review and the pertinent records to the originating agency. The final

determination will be issued within 180 days of the receipt of the request.

* * * * *

(i) In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of Executive Order 12958, the Commission shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under Executive Order 12958.

(j) When a request has been submitted both under mandatory review and the Freedom of Information Act (FOIA), the requester must elect one process or the other. If the requester fails to so elect, the request will be treated as a FOIA request unless the requested materials are subject only to mandatory review.

* * * * *

13. Amend § 503.58 to revise paragraph (c) to read as follows:

§ 503.58 Appeals of denials of mandatory declassification review requests.

* * *

(c) In accordance with section 5.4 of Executive Order 12598 and 32 CFR 2001.54, within 60 days of such issuance, the requester may appeal a final determination of the Commission under paragraph

(b) of this section to the Interagency Security Classification Appeals Panel. The appeal should be addressed to, Executive Secretary, Interagency Security Classification Appeals Panel, Attn: Classification Challenge Appeals, c/o Information Security Oversight Office, National Archives and Records Administration, 7th and Pennsylvania Avenue, N.W., Room 5W, Washington DC 20408.

14. Revise § 503.59 paragraphs (d), (e), (g)(2), (h), and (q)(1),(2) and (3), to read as follows:

§ 503.59 Safeguarding classified information.

* * * * *

(d) Classified information shall be made available to a recipient only when the authorized holder of the classified information has determined that:

(1) The prospective recipient has a valid security clearance at least commensurate with the level of classification of the information; and

(2) The prospective recipient requires access to the information in order to perform or assist in a lawful and authorized governmental function.

(e) The requirement in paragraph (d)(2) of this section, that access to classified information may be granted only to individuals who have a need-to-know the information, may be waived for persons who:

* * * * *

(g) * * *

(2) To protect the classified information in accordance with the provisions of Executive Order 12958; and

* * * * *

(h) Except as authorized by the originating agency, or otherwise provided for by directives issued by the President, the Commission shall not disclose information originally classified by another agency.

* * * * *

(q) * * *

(1) Knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under Executive Order 12958 or predecessor orders;

(2) Knowingly and willfully classify or continue the classification of information in violation of Executive Order 12958 or any implementing directive; or

(3) Knowingly and willfully violate any other provision of Executive Order 12958 or implementing directive.

15. Revise § 503.71(c) to read as follows:

§ 503.71 Definitions.

* * * * *

(c) "Meeting" means the deliberations of a majority of the members serving on the agency which determine or result in the joint conduct of or disposition of official agency business, but does not include:

* * * * *

16. Revise § 503.86(b) to read as follows:

§ 503.86 Public access to records.

* * * * *

(b) Requests for access to the records described in this section shall be made in accordance with procedures described in subparts C and D of this Part.

* * * * *

PART 504 - PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

1. The authority citation for part 504 is revised to read as follows:

Authority: 5 U.S.C. 552, 553; 46 U.S.C. app. 1712 and 1716; 42 U.S.C. 4332(2)(b) , and 42 U.S.C. 6362.

2. Revise § 504.1 (c) to read as follows:

§ 504.1 Purpose and scope.

* * * * *

(c) Information obtained under this part is used by the Commission to assess potential environmental impacts of proposed Federal

Maritime Commission actions. Compliance is voluntary but may be made mandatory by Commission order to produce the information pursuant to section 15 of the Shipping Act of 1984. The penalty for violation of a Commission order under section 13 of the Shipping Act of 1984 may not exceed \$5,000 for each violation, unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$25,000 for each violation, as adjusted by Part 506.4 of this Chapter. (Each day of a continuing violation constitutes a separate offense.)

3. Revise § 504.2 to read as follows:

§ 504.2 Definitions.

(a) Shipping Act of 1984 means the Shipping Act of 1984 (46 U.S.C. app. 1701 - 1720).

(b) Common carrier means any common carrier by water as defined in section 3 of the Shipping Act of 1984, including a conference of such carriers.

* * * * *

(h) Marine Terminal Operator means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier

subject to Subchapter II of Chapter 135 of Title 49, United States Code.

(i) Commission means the Federal Maritime Commission, including any office or bureau to which the Commission may delegate its environmental policy analysis responsibilities.

4. Revise § 504.3 to read as follows:

§ 504.3 General information.

(a) All comments submitted pursuant to this part shall be addressed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001.

(b) A list of recent Commission actions, if any, for which a finding of no significant impact has been made or for which an environmental impact statement is being prepared will be maintained by the Commission in the Office of the Secretary and will be available for public inspection.

(c) Information or status reports on environmental statements and other elements of the NEPA process can be obtained from the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001.

5. In § 504.4, remove and reserve paragraph (a)(7), revise paragraphs (a) (1), (a) (3), (a) (5), (a) (6), (a) (19), (b), and (c) to read as follows:

§ 504.4 Categorical exclusions.

(a) * * *

(1) Issuance, modification, denial and revocation of ocean transportation intermediary licenses.

(2) * * *

(3) Receipt of surety bonds submitted by ocean transportation intermediaries.

(4) * * *

(5) Receipt of service contracts.

(6) Consideration of special permission applications pursuant to Part 520 of this Chapter.

(7) [Reserved]

* * * * *

(19) Action taken on special docket applications pursuant to section 502.271 of this Chapter.

* * * * *

(b) If interested persons allege that a categorically-excluded action will have a significant environmental effect (e.g., increased or decreased air, water or noise pollution; use of recyclables; use of fossil fuels or energy), they shall, by written submission to the Secretary, explain in detail their reasons. The Secretary shall refer these submissions for determination by the

appropriate Commission official, not later than ten (10) days after receipt, whether to prepare an environmental assessment. Upon a determination not to prepare an environmental assessment, such persons may petition the Commission for review of the decision within ten (10) days of receipt of notice of such determination.

(c) If the individual or cumulative effect of a particular action otherwise categorically excluded offers a reasonable potential of having a significant environmental impact, an environmental assessment shall be prepared pursuant to § 504.5.

6. Revise § 504.5(b) to read as follows:

§ 504.5 Environmental assessments.

* * * * *

(b) A notice of intent to prepare an environmental assessment briefly describing the nature of the potential or proposed action and inviting written comments to aid in the preparation of the environmental assessment and early identification of the significant environmental issues may be published in the FEDERAL REGISTER. Such comments must be received by the Commission no later than ten (10) days from the date of publication of the notice in the FEDERAL REGISTER.

7. Revise § 504.6 to read as follows:

§ 504.6 Finding of no significant impact.

(a) If upon completion of an environmental assessment, it is determined that a potential or proposed action will not have a significant impact on the quality of the human environment of the United States or of the global commons, a finding of no significant impact shall be prepared and notice of its availability published in the FEDERAL REGISTER. This document shall include the environmental assessment or a summary of it, and shall briefly present the reasons why the potential or proposed action, not otherwise excluded under § 504.4, will not have a significant effect on the human environment and why, therefore, an environmental impact statement (EIS) will not be prepared.

(b) Petitions for review of a finding of no significant impact must be received by the Commission within ten (10) days from the date of publication of the notice of its availability in the FEDERAL REGISTER. The Commission shall review the petitions and either deny them or order prepared an EIS pursuant to § 504.7. The Commission shall, within ten (10) days of receipt of the petition, serve copies of its order upon all parties who filed comments concerning the potential or proposed action or who filed petitions for review.

8. Revise § 504.7 to read as follows:

§ 504.7 Environmental impact statements.

(a) General. (1) An environmental impact statement (EIS) shall be prepared when the environmental assessment indicates that a

potential or proposed action may have a significant impact upon the environment of the United States or the global commons.

* * *

(b) Draft environmental impact statements. (1) A draft environmental impact statement (DEIS) will initially be prepared in accordance with 40 CFR Part 1502.

* * *

(c) Final environmental impact statements. (1) After receipt of comments on the DEIS, a final environmental impact statement (FEIS) will be prepared pursuant to 40 CFR Part 1502, which shall include a discussion of the possible alternative actions to a potential or proposed action. The FEIS will be distributed in the same manner as specified in paragraph (b)(2) of this section.

9. Revise § 504.9 to read as follows:

§ 504.9 Information required by the Commission.

(a) Upon request, a person filing a complaint, protest, petition or agreement requesting Commission action shall submit, no later than ten (10) days from the date of the request, a statement setting forth, in detail, the impact of the requested Commission action on the quality of the human environment, if such requested action will:

* * *

(c) If environmental impacts, either adverse or beneficial, are alleged, they should be sufficiently identified and quantified to permit meaningful review. Individuals may contact the Secretary of the Federal Maritime Commission for informal assistance in preparing this statement. The Commission shall independently evaluate the information submitted and shall be responsible for assuring its accuracy if used by it in the preparation of an environmental assessment or EIS.

(d) In all cases, the Secretary may request every common carrier by water, or marine terminal operator, or any officer, agent or employee thereof, as well as all parties to proceedings before the Commission, to submit, within ten (10) days of such request, all material information necessary to comply with NEPA and this part. Information not produced in response to an informal request may be obtained by the Commission pursuant to section 15 of the Shipping Act of 1984.

PART 506 - CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

1. The authority citation for Part 506 continues to read as follows:

AUTHORITY: 28 U.S.C. 2461.

2. Revise § 506.4 (d) to read as follows:

(d) Inflation Adjustment. Maximum Civil Monetary Penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code Citation	Civil Monetary Penalty description	Maximum penalty amount	New adjusted maximum penalty amount
		as of 10/23/96	
46 U.S.C. app. sec. 817d	Failure to establish financial responsibility for death or injury	5,000	5,500
		200	220
46 U.S.C. app. sec. 817e	Failure to establish financial responsibility for nonperformance of transportation	5,000	5,500
		200	220
46 U.S.C. app. sec. 876	Failure to provide required reports, etc -Merchant Marine Act of 1920	5000	5500
46 U.S.C. app. sec. 876	Adverse shipping conditions - Merchant Marine Act of 1920	1,000,000	1, 100,000
46 U.S.C. app. sec. 876	Operating after tariff or service contract suspension/ Merchant Marine Act of 1920	50,000	55,000
46 U.S.C. app. sec. 1710a	Adverse impact on US carriers by foreign shipping practices	1,000,000	1,100,000
46 U.S.C. app. sec. 1712	Operating in foreign commerce after tariff suspension	50,000	55,000
46 U.S.C. app. sec. 1712	Knowing and willful violation/Shipping Act of 1984 or Commission regulation or order	25,000	27,500
46 U.S.C. app. sec. 1712	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful	5,000	5,500
31 U.S.C. sec. 3802(a)(1)	Program Fraud Civil Remedies Act/giving false statement	5,000	5,500
31 U.S.C. sec. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement	5,000	5,500

PART 507 - ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF
HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL
MARITIME COMMISSION

1. The authority citation for Part 507 continues to read as follows:

AUTHORITY: 29 U.S.C. 794.

2. In § 507.170(b), remove "29 CFR part 1613" and replace with "29 CFR part 1614".

3. Revise § 507.170(c) to read as follows:

507.170 Compliance Procedures.

* * * * *

(c) The Director, Bureau of Administration shall be responsible for coordinating implementation of this section. Complaints may be sent to the Director, Bureau of Administration, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, DC 20573.

* * * * *

PART 540 - SECURITY FOR THE PROTECTION OF THE PUBLIC

1. In part 540, revise the part heading to read as follows:

PART 540 - PASSENGER VESSEL FINANCIAL RESPONSIBILITY

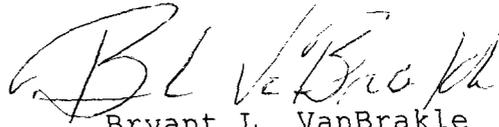
2. Revise the authority citation of part 540 to read as follows:

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.

PART 582 - [REMOVED]

Remove Part 582.

By the Commission.

A handwritten signature in cursive script, appearing to read "Bryant L. VanBrakle".

Bryant L. VanBrakle
Secretary

Original amendment submission date	Date of final publication	Citation/description
July 31, 1997	May 3, 1999	Code of Virginia at 545 1-241(C) concerning letter of credit

3. Section 946.16 is amended by amending paragraph (a) to read as follows:

Section 946.16 Required regulatory program amendments.

* * * * *

(a) By July 2, 1999, Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise the Virginia program regulations, or otherwise amend the Virginia program, to be no less effective than the Federal regulations at 30 CFR 800.5(b), and 30 CFR 800.21(b)(2) concerning letters of credit.

* * * * *

[FR Doc.99-11035 Filed 4-30-99, 8:45am]
BILLING CODE 431005-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-99-031]

Drawbridge Operation Regulations: Hutchinson River, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The District Commander, First Coast Guard District has issued a temporary deviation from the Drawbridge Operation Regulations governing the operation of the Pelham Parkway Bridge, mile 0.4, across the Hutchinson River in New York City, New York. This deviation from the regulations authorizes the bridge owner, the New York City Department of Transportation (NYCDOT), to not open the bridge for vessel traffic from March 28, 1999 through May 22, 1999, Monday through Friday, between 7 a.m. and 5 p.m., daily. This action is necessary to facilitate needed repairs to the bridge.

DATES: This deviation is effective from March 28, 1999 through May 22, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Schmied, Bridge Management Specialist, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The Pelham Parkway Bridge, mile 0.4, across the Hutchinson River has a vertical

clearance of 13 feet at mean high water and 20 feet at mean low water in the closed position. Vessels that can pass under the bridge without an opening may do so at all times.

The NYCDOT requested a temporary deviation from the operating regulations for the Pelham Parkway Bridge in order to facilitate necessary repairs to the bridge. This work is essential for public safety and continued operation of the bridge.

This deviation from the normal operating regulations is authorized under 33 CFR § 117.35.

Dated April 15, 1999.

R. M. Larrabee,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District

[FR Doc. 99-10993 Filed 4-30-99; 8:45 am]

BILLING CODE 4910-19-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 500, 501, 503, 504, 506, 507, 508, 540 and 582

[Docket No. 99-09]

Amendments to Regulations Governing Employee Ethical Conduct Standards, the Federal Maritime Commission-General, Public Information, Environmental Policy Analysis, Monetary Penalty Inflation Adjustments, Nondiscrimination on the Basis of Handicap, Passenger Vessel Financial Responsibility, and Certification of Policies and Efforts To Combat Rebating

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its regulations relating to agency organization, public information, procedures for environmental policy analysis, civil monetary penalty inflation adjustments, nondiscrimination on the basis of handicap, passenger vessel operations, and anti-rebating certifications, and is redesignating its regulation relating to employee ethical conduct standards, in order to incorporate certain amendments made by the Ocean Shipping Reform Act of 1998 as well as to clarify and reorganize existing regulations.

DATES: This rule is effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001, (202) 523-5740.

SUPPLEMENTARY INFORMATION: The Ocean Shipping Reform Act of 1998 ("OSRA"), Public Law 105-258, 112 Stat. 1902, amends the Shipping Act of 1984 ("1984 Act") in several areas. The Commission's rules at 46 CFR Parts 509 501, 503, 504, 506, and 507 address employee ethical conduct standards, the organization of the Commission, public information, environmental policy analysis, civil monetary inflation adjustment, and nondiscrimination on the basis of handicap. The Commission's rules at 46 CFR Part 540 address passenger vessel financial responsibility, and the rules at 46 CFR Part 582 address anti-rebating certifications. The Commission now amends these rules both to make certain changes required by OSRA and to update, redesignate, and clarify the rules more generally. Because the changes made in this proceeding are routine and ministerial in nature, this rulemaking is published as a final rulemaking as to which no notice and comment period is necessary.

Redesignation of Former 46 CFR Part 500

The Commission's regulations at 46 CFR part 500 address employee ethical conduct standards. The rule redesignates former part 500 as part 508.

Amendments to 46 CFR Part 501

OSRA amended Reorganization Plan No. 7 of 1961, 75 Stat. 840, to change the Commission's quorum requirements. Accordingly, the Commission has determined to amend 46 CFR 501.2(d) to track the new statutory language.

Amendments to 46 CFR Part 503

The Commission's regulations at 46 CFR part 503 address access to public information. OSRA's elimination of tariff filing with the Commission has rendered unnecessary those portions of 46 CFR 514 relating to fees for the provision of copies of tariffs. See 46 CFR 514.21. While tariffs will no longer be filed with the Commission, the

Commission has determined to provide public access to historical tariff records. Accordingly, we have removed from part 503 the references to part 514 involving public access to information, but have included reference to public access to historical ATFI records. We have also added, at 46 CFR 503.24, two entries to the list of information available over the internet, to include a list of the location of common carrier and conference tariffs and marine terminal operator schedules, as well as a list of ocean transportation intermediaries who have provided the Commission with evidence of their financial responsibility.

Also, Subpart F-Information Security Program of Part 503, is revised to implement changes required by Executive Order 12958 of April 17, 1995, "Classified National Security Information" and Executive Order 12968 of August 2, 1995 "Access to Classified Information." Changes are primarily to remove references to Executive Order 12356 of April 6, 1982, which was revoked by Executive Order 12958, and to keep pace with the requirements of the National Archives and Records Administration, 32 CFR Part 2001, made pursuant to Executive Order 12958.

Finally, in section 503.71(c), we have amended the Commission's definition of the term "meeting," to reflect changes in the Commission's quorum rules prescribed by OSRA. Several other changes have been made to Part 503 that are of a purely ministerial nature.

Amendments to 46 CFR Part 504

This part addresses the Commission's procedures for environmental policy analysis. We have removed references to the Shipping Act, 1916, in the Authority citation, in 504.1, and in 504.2, because that Act, to the extent it involved the Commission's jurisdiction, has been repealed. We have redefined "marine terminal operator" in 504.2 pursuant to changes required by OSRA. We have updated the Commission's address in 504.3. We have deleted categorical exclusions (a)(5) and (a)(7) in 504.4 pursuant to OSRA, and amended (a)(6) to reflect the recently proposed redesignation of part 514 as part 520. Throughout the part, we removed references to the Office of Environmental Analysis, which no longer exists, and have indicated that the purposes of part 504, the term "Commission" includes any office or bureau to which the Commission may delegate its environmental policy analysis responsibilities.

Amendments to 46 CFR Part 506

This part addresses civil monetary penalty inflation adjustments. Pursuant to OSRA, we removed the penalty for failure to pay ATFI fees, and removed the penalty for failure to file an anti-rebate certification. We also added the suspension of service contracts as a penalty under the Merchant Marine Act of 1920 as amended by OSRA.

Amendment to 46 CFR Part 507

This part addresses the Commission's enforcement of nondiscrimination on the basis of handicap. Section 507.170(b) is amended to correct a citation error. Section 507.170(c) is updated to reflect the Commission's current street address.

Amendments to 46 CFR Part 540

This part addresses the financial responsibility of passenger vessel operators. The Commission has decided to clarify the regulation by renaming it "Passenger Vessel Financial Responsibility," to replace its old title, "Security for the Protection of the Public." The Commission has also removed an outdated reference in the authority section of the rule to the Shipping Act, 1916, which, to the extent it involved the Commission's jurisdiction, has been repealed.

Removal of 46 CFR Part 562

This part addresses the requirements that govern the submission of anti-rebating certifications by common carriers and other entities in the foreign commerce of the United States. Such certifications were based upon the statutory authority of section 15(b) of the Shipping Act of 1984. However, OSRA has eliminated section 15(b); accordingly, the Commission has determined to remove 46 CFR part 582 from its regulations.

List of Subjects

46 CFR Parts 500 and 508

Conflicts of interest.

46 CFR Part 501

Authority delegations, Organization and functions.

46 CFR Part 503

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

46 CFR Part 504

Environmental impact statements, Reporting and recordkeeping requirements.

46 CFR Part 506

Fines and penalties.

46 CFR Part 507

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination.

46 CFR Part 540

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

46 CFR Part 582

Maritime carriers, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Commission amends 46 CFR parts 500, 501, 503, 504, 506, 507, 508, 540, and 582 as follows:

PART 500—EMPLOYEE ETHICAL CONDUCT STANDARDS AND FINANCIAL DISCLOSURE REGULATIONS

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 553; 5 U.S.C. 7301; 46 U.S.C. app. 1716

2. Redesignate part 500 as part 508.

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 551-557, 701-706, 2903 and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501-520 and 3501-3520; 46 U.S.C. app. 801-848, 876, 1111, and 1701-1720; Reorganization Plan No. 7 of 1961. 26 FR 7315, August 12, 1961; Pub.L. 89-56, 79 Stat. 195; 5 CFR Part 2638.

2. Revise § 501.2(d) to read as follows:

§ 501.2 General.

* * * * *

(d) A vacancy or vacancies in the Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members of the Commission is required to dispose of any matter before the Commission. For purposes of holding a formal meeting for the transaction of the business of the Commission, the actual presence of two Commissioners shall be sufficient. Proxy votes of absent members shall be permitted.

PART 503—PUBLIC INFORMATION

1. The authority citation 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).

2. Remove § 503.11(b) and (c), redesignate paragraph (a) introductory text as the section's introductory text, redesignate paragraphs (a)(l) through (a)(5) as paragraphs (a) through (e), and revise the introductory text to read as follows:

§ 503.11 Materials to be published.

The Commission shall publish the following materials in the Federal Register for the guidance of the public:

3. Revise § 503.22(b) to read as follows:

§ 503.22 Records available at the Office of the Secretary.

(b) Certain fees may be assessed for duplication of records made available by this section as prescribed in subpart E of this part.

4. In § 503.23, remove paragraph (a)(3) and redesignate paragraphs (a)(4) and (a)(5) as (a)(3) and (a)(4), and revise redesignated paragraph (a)(3) and paragraph (b) to read as follows:

§ 503.23 Records available upon written request.

(3) Tariff data filed in the Commission's ATFI system prior to May 1, 1999.

(b) Certain fees may be assessed for duplication of records made available by this section as prescribed in subpart E of this part.

5. In § 503.24, revise paragraph (b)(5)(iii), revise paragraph (b)(10), and add paragraphs (b)(11) and (b)(12) to read as follows:

§ 503.24 Information available via the internet.

(iii) Access to statements of policy and interpretations as published in part 545 of this chapter; and

(10) Privacy Act information; (11) Lists of the location of all common carrier and conference tariffs and publicly available terminal schedules of marine terminal operators; and

(12) A list of licensed ocean transportation intermediaries which have furnished the Commission with evidence of financial responsibility.

6. Revise § 563.51 to read as follows:

§ 503.51 Definitions.

(a) Access means the ability or opportunity to gain knowledge of classified information.

(b) Classification means the act or process by which information is determined to be classified information.

(c) Classification guide means a documentary form of instruction or source that prescribes the classification of specific information issued by an original classification authority that identifies the elements of information regarding a specific subject that must be classified and establishes the level and duration of classification for each such element.

(d) Classified national security information (hereafter "classified information") means information that has been determined pursuant to Executive Order 12958 or any predecessor order in force to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(e) Commission means the Federal Maritime Commission.

(f) Declassification means the authorized change in the status of information from classified information to unclassified information.

(g) Derivative classification means the incorporating, paraphrasing, restating or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.

(h) Downgrading means a determination by a declassification authority that information classified and safeguarded at a specified level shall be classified and safeguarded at a lower level.

(i) Foreign government information means:

(1) Information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof,

requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) information received and treated as "Foreign Government Information" under the terms of Executive Order 12958 or any predecessor order.

(j) Mandatory declassification review means the review for declassification of classified information in response to a request for declassification that meets the requirements under section 3.6 of Executive Order 12958.

(k) Multiple sources means two or more source documents, classification guides, or a combination of both.

(l) National security means the national defense or foreign relations of the United States.

(m) Need to know means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(n) Original classification means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure.

(o) Original classification authority means an individual authorized in writing, either by the President, or by agency heads or other officials designated by the President, to classify information in the first instance.

(p) Self-inspection means the internal review and evaluation of individual Commission activities and the Commission as a whole with respect to the implementation of the program established under Executive Order 12958 and its implementing directives.

(q) Senior agency official ("security officer") means the official designate by the Chairman under section 5.6 of Executive Order 12958 to direct and administer the Commission's program under which classified information is safeguarded.

(r) Source document means an existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.

(s) Unauthorized disclosure means a communication or physical transfer of classified information to an unauthorized recipient.

7. Revise § 503.52 to read as follows:

§ 503.52 Senior Agency Official.

The Chairman of the Commission shall designate a senior agency official to be the Security Officer for the Commission, who shall be responsible for directing, administering and

reporting on the Commission's information security program, which includes oversight (self-inspection) and security information programs to ensure effective implementation of Executive Orders 12958 and 12968, and 32 CFR part 2001.

8. Amend § 503.53 to revise paragraphs (a) and (d) to read as follows:

§ 503.53 Oversight Committee.

* * * * *

(a) Establish a Commission security education program to familiarize all personnel who have or may have access to classified information with the provisions of Executive Order 12958 and directives of the Information Security Oversight Office. The program shall include initial, refresher, and termination briefings;

* * * * *

(d) Recommend appropriate administrative action to correct abuse or violations of any provision of Executive Order 12958; and

* * * * *

9. Amend § 503.54 to revise paragraphs (a) and (b) to read as follows:

§ 503.54 Original classification.

(a) No Commission Member or employee has the authority to originally classify information.

(b) If a Commission Member or employee develops information that appears to require classification, or receives any foreign government information as defined in section 1.1(d) of Executive Order 12958, the Member or employee shall immediately notify the Security Officer and appropriately protect the information.

* * * * *

Amend § 503.55 to revise paragraphs (a), (b) and (c) and delete paragraph (d) to read as follows:

§ 503.55 Derivative classification.

(a) In accordance with Part 2 of Executive Order 12958 and directives of the Information Security Oversight Office, the incorporation, paraphrasing, restating or generation in new form of information that is already classified, and the marking of newly developed material consistent with the classification markings that apply to the source information, is derivative classification.

(1) Derivative classification includes the classification of information based on classification guidance.

(2) The duplication or reproduction of existing classified information is not derivative classification.

(b) Members or employees applying derivative classification markings shall:

(1) Observe and respect original classification decisions; and

(2) Carry forward to any newly created documents the pertinent classification markings.

(3) For information derivatively classified based on multiple sources, the Member or employee shall carry forward:

(i) The date or event for declassification that corresponds to the longest period of classification among the sources; and

(ii) A listing of these sources on or attached to the official file or record copy.

(c) Documents classified derivatively shall bear all markings prescribed by 32 CFR 2001.20 through 2001.23 and shall otherwise conform to the requirements of 32 CFR 2001.20 through 2001.23.

11. Amend § 503.56 to revise the section heading and the first sentence of paragraph (a) to read as follows:

§ 503.56 General declassification and downgrading policy.

(a) The Commission exercises declassification and downgrading authority in accordance with section 3.1 of Executive Order 12958, only over that information originally classified by the Commission under previous Executive orders.

* * * * *

12. Amend § 503.57 to revise paragraphs (a) introductory text, (a)(l), (c), (e), and (i), and add paragraph (j), to read as follows:

§ 503.57 Mandatory review for declassification.

(a) Information originally classified by the Commission but which has not been automatically declassified shall be subject to a review for declassification by the Commission, if:

(1) A declassification request is made; and

* * * * *

(c) If the request requires the provision of services by the Commission, fair and equitable fees may be charged pursuant to 31 U.S.C. 9701.

* * * * *

(e) If the information was originally classified by the Commission, the Commission Security Officer shall forward the request to the Chairman of the Commission for a determination of declassification. If the information was originated by another agency, the Commission Security Officer shall refer the review and the pertinent records to the originating agency. The final determination will be issued within 180 days of the receipt of the request.

* * * * *

(i) In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of Executive Order 12958, the Commission shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under Executive Order 12958.

(j) When a request has been submitted both under mandatory review and the Freedom of Information Act (FOIA), the requester must elect one process or the other. If the requester fails to so elect, the request will be treated as a FOIA request unless the requested materials are subject only to mandatory review.

* * * * *

13. Amend § 503.58 to revise paragraph (c) to read as follows:

§ 503.58 Appeals of denials of mandatory declassification review requests.

* * * * *

(c) In accordance with section 5.4 of Executive Order 12958 and 32 CFR 2001.54, within 60 days of such issuance, the requester may appeal a final determination of the Commission under paragraph (b) of this section to the Interagency Security Classification Appeals Panel. The appeal should be addressed to, Executive Secretary, Interagency Security Classification Appeals Panel, Attn: Classification Challenge Appeals, c/o Information Security Oversight Office, National Archives and Records Administration, 7th and Pennsylvania Avenue, N.W., Room 5W, Washington DC 20408.

14. Revise § 563.59 paragraphs (d), (e) introductory text, (g)(2), (h), and (q)(l), (2) and (3), to read as follows:

§ 503.59 Safeguarding classified information.

* * * * *

(d) Classified information shall be made available to a recipient only when the authorized holder of the classified information has determined that:

(1) The prospective recipient has a valid security clearance at least commensurate with the level of classification of the information; and

(2) The prospective recipient requires access to the information in order to perform or assist in a lawful and authorized governmental function.

(e) The requirement in paragraph (d)(2) of this section, that access to classified information may be granted only to individuals who have a need-to-know the information, may be waived for persons who:

* * * * *

(g) * * *

(2) To protect the classified information in accordance with the provisions of Executive Order 12958; and

(h) Except as authorized by the originating agency, or otherwise provided for by directives issued by the President, the Commission shall not disclose information originally classified by another agency.

(1) Knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under Executive Order 12958 or predecessor orders in force;

(2) Knowingly and willfully classify or continue the classification of information in violation of Executive Order 12958 or any implementing directive; or

(3) Knowingly and willfully violate any other provision of Executive Order 12958 or implementing directive.

15. Revise § 503.71(c) introductory text to read as follows:

§ 503.71 Definitions.

(c) Meeting means the deliberations of a majority of the members serving on the agency which determine or result in the joint conduct of or disposition of official agency business, but does not include:

16. Revise § 503.86(b) to read as follows:

§ 503.86 Public access to records.

(b) Requests for access to the records described in this section shall be made in accordance with procedures described in subparts C and D of this part.

PART 504—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

1. The authority citation for part 504 is revised to read as follows:

Authority: 5 U.S.C. 552, 553; 46 U.S.C. app. 1712 and 1716; 42 U.S.C. 4332(2)(b), and 42 U.S.C. 6362.

2. Revise § 504.1(c) to read as follows:

§ 504.1 Purpose and scope.

(c) Information obtained under this part is used by the Commission to assess potential environmental impacts of proposed Federal Maritime Commission actions. Compliance is voluntary but

may be made mandatory by Commission order to produce the information pursuant to section 15 of the Shipping Act of 1984. The penalty for violation of a Commission order under section 13 of the Shipping Act of 1984 may not exceed \$5,000 for each violation, unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$25,000 for each violation, as adjusted by § 506.4 of this chapter (Each day of a continuing violation constitutes a separate offense.)

3. Revise § 504.2 paragraphs (a), (b), (h), and (i) to read as follows:

§ 504.2 Definitions.

(a) Shipping Act of 1984 means the Shipping Act of 1984 (46 U.S.C. app. 1701-1720).

(b) Common carrier means any common carrier by water as defined in section 3 of the Shipping Act of 1984, including a conference of such carriers

(h) Marine Terminal Operator means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of Title 49, United States Code.

(i) Commission means the Federal Maritime Commission, including any office or bureau to which the Commission may delegate its environmental policy analysis responsibilities.

4. Revise § 504.3 to read as follows:

§ 504.3 General information.

(a) All comments submitted pursuant to this part shall be addressed to the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, DC. 20573-0001.

(b) A list of recent Commission actions, if any, for which a finding of no significant impact has been made or for which an environmental impact statement is being prepared will be maintained by the Commission in the Office of the Secretary and will be available for public inspection.

(c) Information or status reports on environmental statements and other elements of the NEPA process can be obtained from the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001.

5. In § 504.4, remove and reserve paragraph (a)(7), revise paragraphs (a)(1), (a)(3), (a)(5), (a)(6), (a)(19), (b), and (c) to read as follows:

§ 504.4 Categorical exclusions.

(a) * * *

(1) Issuance, modification, denial and revocation of ocean transportation intermediary licenses.

(2) * * *

(3) Receipt of surety bonds submitted by ocean transportation intermediaries.

(4) * * *

(5) Receipt of service contracts.

(6) Consideration of special permission applications pursuant to part 520 of this chapter.

(7) [Reserved]

(19) Action taken on special docket applications pursuant to § 502.271 of this chapter.

(b) If interested persons allege that a categorically-excluded action will have a significant environmental effect (e.g., increased or decreased air, water or noise pollution; use of recyclables; use of fossil fuels or energy), they shall, by written submission to the Secretary, explain in detail their reasons. The Secretary shall refer these submissions for determination by the appropriate Commission official, not later than ten (10) days after receipt, whether to prepare an environmental assessment. Upon a determination not to prepare an environmental assessment, such persons may petition the Commission for review of the decision within ten (10) days of receipt of notice of such determination.

(c) If the individual or cumulative effect of a particular action otherwise categorically excluded offers a reasonable potential of having a significant environmental impact, an environmental assessment shall be prepared pursuant to § 504.5.

6. Revise § 504.5(b) to read as follows:

§ 504.5 Environmental assessments.

(b) A notice of intent to prepare an environmental assessment briefly describing the nature of the potential or proposed action and inviting written comments to aid in the preparation of the environmental assessment and early identification of the significant environmental issues may be published in the Federal Register. Such comments must be received by the Commission no later than ten (10) days from the date of publication of the notice in the Federal Register.

7. Revise § 504.6 to read as follows:

§ 504.6 Finding of no significant impact

(a) If upon completion of an environmental assessment, it is determined that a potential or proposed action will not have a significant impact on the quality of the human

environment of the United States or of the global commons, a finding of no significant impact shall be prepared and notice of its availability published in the Federal Register. This document shall include the environmental assessment or a summary of it, and shall briefly present the reasons why the potential or proposed action, not otherwise excluded under § 504.4, will not have a significant effect on the human environment and why, therefore, an environmental impact statement (EIS) will not be prepared.

(b) Petitions for review of a finding of no significant impact must be received by the Commission within ten (10) days from the date of publication of the notice of its availability in the Federal Register. The Commission shall review the petitions and either deny them or order prepared an EIS pursuant to § 504.7. The Commission shall, within ten (10) days of receipt of the petition, serve copies of its order upon all parties who filed comments concerning the potential or proposed action or who filed petitions for review.

8. Revise § 504.7 paragraphs (a)(1), (b)(1) and (c)(1) to read as follows:

§ 594.7 Environmental impact statements.

(a) *General.* (1) An environmental impact statement (EIS) shall be prepared when the environmental assessment indicates that a potential or proposed action may have a significant impact upon the environment of the United States or the global commons.

(b) *Draft environmental impact statements.* (1) A draft environmental impact statement (DEIS) will initially be prepared in accordance with 40 CFR part 1502.

(c) *Final environmental impact statements.* (1) After receipt of comments on the DEIS, a final environmental impact statement (FEIS) will be prepared pursuant to 40 CFR part 1502, which shall include a discussion of the possible alternative actions to a potential or proposed action. The FEIS will be distributed in the same manner as specified in paragraph (b)(2) of this section.

9. Revise § 504.9 paragraphs (a) introductory text, (c), and (d) to read as follows:

§ 504.9 Information required by the Commission.

(a) Upon request, a person filing a complaint, protest, petition or agreement requesting Commission action shall submit, no later than ten (10) days from the date of the request, a statement setting forth, in detail, the impact of the requested Commission action on the quality of the human environment, if such requested action will:

(c) If environmental impacts, either adverse or beneficial, are alleged, they should be sufficiently identified and quantified to permit meaningful review.

Individuals may contact the Secretary of the Federal Maritime Commission for informal assistance in preparing this statement. The Commission shall independently evaluate the information submitted and shall be responsible for assuring its accuracy if used by it in the preparation of an environmental assessment or EIS.

(d) In all cases, the Secretary may request every common carrier by water, or marine terminal operator, or any officer, agent or employee thereof, as well as all parties to proceedings before the Commission, to submit, within ten (10) days of such request, all material information necessary to comply with NEPA and this part. Information not produced in response to an informal request may be obtained by the Commission pursuant to section 15 of the Shipping Act of 1984.

PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

1. The authority citation for Part 506 continues to read as follows:

Authority: 28 U.S.C. 2461.

2. Revise § 506.4 (d) to read as follows:

§ 506.4 Cost of living adjustments of civil monetary penalties.

(d) *Inflation adjustment.* Maximum Civil Monetary Penalties within the jurisdiction of the Federal Maritime Commission are adjusted for inflation as follows:

United States Code citation	Civil monetary penalty description	Maximum penalty amount as of 10/23/96	New adjusted maximum penalty amount
46 U.S.C. app. sec. 817d	Failure to establish financial responsibility for death or injury	5,000	5,500
46 U.S.C app sec. 817e	Failure to establish financial responsibility for nonperformance of transportation	200	220
46 U.S.C app. sec. 876	Failure to provide required reports, etc-Merchant Marine Act of 1920.	5,000	5,500
46 U.S.C app. sec. 876	Adverse shipping conditions-Merchant Marine Act of 1920	1,000,000	1,100,000
46 U.S.C. app. sec. 876	Operating after tariff or service contract suspension/ Merchant Marine Act of 1920	50,000	55,000
46 U.S.C app sec 1710a	Adverse impact on US carriers by foreign shipping practices	1,000,000	1,100,000
46 U.S.C app. sec. 1712	Operating in foreign commerce after tariff suspension	50,000	55,000
46 U.S.C. app. sec. 1712	Knowing and willful violation/Shipping Act of 1984 or Commission regulation or order	25,000	27,500
46 U.S.C. app. sec. 1712	Violation of Shipping Act of 1984, Commission regulation or order, not knowing and willful	5,000	5,500
31 U.S.C. sec. 3802(a)(i)	Program Fraud Civil Remedies Act/giving false statement	5,000	5,500
31 U.S.C. sec. 3802(a)(2)	Program Fraud Civil Remedies Act/giving false statement	5,000	5,500

PART 507—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL MARITIME COMMISSION

1. The authority citation for part 507 continues to read as follows:

Authority: 29 U.S.C. 794.

2. In § 507.170(b), remove “29 CFR part 1613” and replace with “29 CFR part 1614”.

3. Revise § 507.170(c) to read as follows:

§ 507.170 Compliance Procedures

(c) The Director, Bureau of Administration shall be responsible for coordinating implementation of this section. Complaints may be sent to the Director, Bureau of Administration, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, DC 20573.

PART 540—PASSENGER VESSEL FINANCIAL RESPONSIBILITY

1. In part 540, revise the part heading to read as set forth above:

2. Revise the authority citation of part 540 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.

PART 582—[REMOVED]

Under the authority of 5 U.S.C. 553, 6 U.S.C. app. 1701, 1702, 1707, 1709, 1712, and 1714-1716, remove part 582.

By the Commission.

Bryant L. VanBrakle,
Secretary

[FR Doc. 99-10896 Filed 4-30-99; 8:45 am]

BILLING CODE 6736-61-P

FEDERAL MARITIME COMMISSION

48 CFR Parts 502, 545, and 571

[Docket No. 98-21]

Miscellaneous Amendments to Rules of Practice and Procedure; Correction

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission published in the Federal Register of February 17, 1999, a final rule making corrections and changes to existing regulations to update and improve them, and to conform them to and implement the Ocean Shipping Reform Act of 1998. Inadvertently, several amendatory instructions were omitted.

DATES: Effective on May 3, 1999.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol St., NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov

SUPPLEMENTARY INFORMATION: The FMC published a final rule in the Federal Register of February 17, 1999 (64 FR 7804), which made corrections and changes to existing rules of practice and procedure. Inadvertently, several amendatory instructions were omitted.

In Docket No. 98-21, published on February 17, 1999 (64 FR 7804), make the following corrections:

1. On page 7807, in the first column, after the text of instruction 4(c) add the following amendatory instructions:

d. In paragraph (b)(2), revise the phrase “paragraphs (b)(5), (6) and (7)” to read “paragraphs (e), (f) and (g).”

e. In paragraph (b)(4)(iii), revise the phrase “(b)(4)(i) and (b)(4)(ii)” to read “(d)(l) and (d)(2).”

f. In paragraph (b)(5), revise the reference “(b)(4)” to read “(d).”

2. On page 7808, in the first column, revise amendatory instruction 15 to read as follows:

In § 502.61, remove “[Rule 61.]” from the end of paragraph (c) and add “[Rule 61.]” to the end of paragraph (d).

3. On page 7810, in the first column, revise amendatory instruction 39(c) to read as follows:

c. Amend redesignated paragraph (a) by removing “[Rule 144.]” and revising the last sentence to read as set forth below;

Bryant L. VanBrakle,
Secretary

[FR Doc. 99-10899 Filed 4-30-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

48 CFR Parts 550, 551, 555, 560, 565, 585, 586, 587, and 588

[Docket No. 98-25]

Amendments to Regulations Governing Restrictive Foreign Shipping Practices, and New Regulations Governing Controlled Carriers; Correction

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission published in the Federal Register of February 18, 1999, a final rule revising and redesignating regulations governing restrictive foreign shipping practices and controlled carriers to incorporate amendments made by the Ocean Shipping Reform Act of 1998. A filing fee was inadvertently removed in the revision process.

DATES: Effective on May 3, 1999.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol St., NW., Room 1046, Washington, DC 20573-0001, (202) 523-5725, E-mail: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION: The FMC published a final rule in the Federal Register of February 18, 1999 (64 FR 8007), revising and redesignating regulations governing restrictive foreign shipping practices, and controlled carriers. A final rule published September 22, 1998 at 63 FR 50537, effective November 2, 1998, amended § 588.4(a) to include a filing fee for filing of petitions under part 588. In the process of revising that section for this final rule, reference to the filing fee was inadvertently omitted from redesignated § 555.4(a).

In Docket No. 98-25, published on February 18, 1999 (64 FR 8007), make the following correction. On page 8010, in the third column, at the end of § 555.4, paragraph (a), add the following sentence: “The petition shall be accompanied by remittance of a \$177 filing fee.”

Bryant L. VanBrakle,
Secretary

[FR Doc 99-10898 Filed 4-30-99; 8:45 am]

BILLING CODE 6730-61-M