(S E R V E D)
(NOVEMBER 12, 1987)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

46 CFR Parts 558-562, 564, 566, 569

[DOCKET NO. 87-9]

FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final Rule.

SUMMARY: The Federal Maritime Commission is amending its rules governing the filing of agreements by common carriers and other persons subject to the Shipping Act, 1916. The purpose of the rules changes is to incorporate into a single Part all other rules pertaining to the filing of agreements in the domestic offshore trades, and to terminate exemptions for joint policing agreements, military household goods agreements and credit information agreements.

EFFECTIVE DATE: This Final Rule shall become effective 30 days after publication in the Federal Register or upon the receipt of approval from the Office of Management and Budget (OMB) for the reporting and record-keeping requirements, whichever is later. OMB approval will be published when received.

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SUPPLEMENTARY INFORMATION:

By Notice of Proposed Rulemaking published in the Federal Register on May 4, 1987 (52 FR 16282), pursuant to sections 15, 18(a), 21, 22, 35 and 43 of the Shipping Act, 1916 ("1916 Act"), 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a, the Commission invited comments on a proposal to consolidate and amend its rules governing the activities of agreements in the domestic offshore trades subject to the 1916 Act. Commenters were particularly requested to address the continuing need for exemptions presently contained in 46 CFR Parts 558 and 559. By Supplemental Notice of Proposed Rulemaking published in the Federal Register on August 11, 1987 (52 FR 29708), the Commission reopened and extended the comment period an additional thirty days to solicit comment on a proposal to terminate the exemption of credit information agreements from the 1916 Act's filing and approval requirements.

The Proposed Rule would consolidate the Commission's rules on 1916 Act agreements under one rule, designated as 46 CFR Part 560, in a manner paralleling the rules under 46 CFR Part 572 governing agreements in U.S. foreign waterborne commerce under the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701 through 1720. It was also proposed that the rules, which were previously derived from rules primarily intended to deal with conditions in the foreign commerce, be amended to make them more compatible with conditions in the domestic offshore commerce.

Three common carriers by water subject to the 1916 Act filed comments on the Proposed Rule: (1) Crowley Maritime Corporation, through its subsidiaries Trailer Marine Transport Corporation, Hawaiian Marine Lines and Pacific Alaska Line; (2) American President Lines, Ltd. ("APL"); and (3) Sea-Land Service, Inc. ("Sea-Land").

All of the commenters on the Proposed Rule support the consolidation of the Commission's various 1916 Act rules into one rule structurally parallel to the Commission's 1984 Act rules, and general support was expressed for a continuation of the exemptions presently contained in Parts 558 and 559.

No comments were filed in response to the Supplemental Notice of Proposed Rulemaking.

DISCUSSION

After a careful consideration of the comments, the Commission is adopting a Final Rule essentially similar to that proposed in this proceeding, with some modifications addressing the comments received. The Final Rule terminates the exemptions of joint policing agreements, military household goods agreements and credit information agreements from the filing and approval requirements of the 1916 Act that were previously incorporated in Part 559. It also incorporates the amendment to Part 559 promulgated in the Final Rule in Docket No. 85-10, Marine Terminal Agreements, which was published on May 19, 1987

(52 FR 18692). The Final Rule will improve public knowledge of the rules presently contained in Parts 558 through 562, 564, 566 and 569 of Title 46, Code of Federal Regulations,1/ and provide a single reference work for industry use in filing agreements.

Insofar as the exemptions set forth under Subpart C of the Final Rule are concerned, the Commission has determined that the Final Rule will not substantially impair effective regulation by the Commission, be unjustly discriminatory or detrimental to commerce within the meaning of section 35 of the 1916 Act.

The Commission has considered all of the comments received in this proceeding and the Supplementary Information discusses some of the more significant issues raised by the comments. Any comments not expressly discussed herein have either been incorporated as a technical change without discussion, have been found to be mooted by the changes incorporated in the Final Rule, or have been found to be irrelevant or without merit. Other nonsubstantive or style changes have also been made, but not expressly discussed.

1/ Part 558, Exemption Of Husbanding And Agency Agreements Under The Shipping Act, 1916; Part 559, Exemption Of Certain Agreements From The Requirements Of Section 15, Shipping Act, 1916; Part 560, Filing Of Agreements By Common Carriers And Other Persons Subject To The Shipping Act, 1916; Part 561, Time For Filing Certain Agreements Under The Shipping Act, 1916; Part 562, Conference Agreement Provisions Relating To Concerted Activities Under The Shipping Act, 1916; Part 564, Admission, Withdrawal And Expulsion Provisions Of Steamship Conference Agreements Under The Shipping Act, 1916; Part 566, Shippers' Requests And Complaints Under The Shipping Act, 1916; and Part 569, Rules Governing The Right Of Independent Action Under The Shipping Act, 1916.

A. Subpart A--General Provisions

Section 560.104 Definitions

The definition of the term "Terminal Facilities" set forth in § 560.104(i) of the Proposed Rule has been changed to read as "Marine Terminal Facilities" and moved to § 560.104(e) of the Final Rule. Also, references to "terminal facilities" appearing throughout the Proposed Rule have been changed to read "marine terminal facilities." These technical conforming changes have been made to reflect the treatment of the term in the Commission's Final Rule in Docket No. 85-10, Marine Terminal Agreements, supra., pertinent parts of which have been incorporated in § 560.307, and to avoid confusion that could result from using slightly different nomenclature for what is essentially the same definition.

B. Subpart C--Exemptions

Subpart C of the Proposed Rule incorporates into Part 560 the exemptions heretofore set forth under Parts 558 and 559, with the exception of "Joint policing agreement" and "Military household goods agreement", which were deleted from the list of agreements in Part 559 which are exempt from the filing and approval requirements of section 15 of the 1916 Act. The Commission's Supplemental Notice of Proposed Rulemaking solicited comment on the termination of the exemption of credit information agreements.

All commenters on the Proposed Rule support the continuation of the exemptions provided under this subpart. The exemptions are viewed as desirable in avoiding pre-implementation delay for commonplace, garden-variety agreements.

Sea-Land specifically urges that joint policing agreements (currently set forth in § 559.2(c)) not be deleted from the classes of agreements exempt from filing and approval. In this connection, Sea-Land states that there is a continuing need for this exemption in the domestic offshore trades, and this exemption serves to encourage the use of cargo inspection and self-policing services and enhance compliance with the provisions of carrier tariffs.

The existing exemption for joint policing agreements appears at section 559.2(c) which states:

> "Joint policing agreement" means an agreement between or among: two or more individual common carriers by water; two or more associations of common carriers by water each operating pursuant to an approved section 15 agreement; or one or more individual common carriers by water and one or more such associations; which agreement provides that its parties may discuss and agree upon any of the following activities concerning cargo inspection and/or self-policing services:
>
> (1) Negotiations for and employment of such services,
> (2) Establishment of rules and procedures relating thereto (including the collection of delinquent freight and other tariff charges),
> (3) Allocation of the costs of such services, and
> (4) The administration and management of such arrangements.

The Commission is terminating the exemption of joint policing agreements, effective thirty days after publication of the Final Rule in this proceeding in the Federal Register.

Thereafter, joint policing agreements must be filed pursuant to the requirements of the 1916 Act and Part 560.

The Supplementary Information to the Proposed Rule noted that joint policing agreements were being deleted from the list of agreements exempt from the filing and approval requirements of section 15 of the 1916 Act because such agreements have been used only in the foreign trades. None of the commenters state that this class of agreements is currently being used in the domestic offshore trade. Although the termination of the exemption for this class of agreements will result in some measure of pre-implementation delay for such agreements in the future, it will not destroy the benefits attributed to such agreements by Sea-Land, i.e., encouragement of the use of cargo inspection and self-policing services and enhancement of compliance with the provisions of carrier tariffs. Moreover, the emergence of conditions prompting the formation of such agreements in the domestic offshore trades would be a serious matter of proper regulatory concern to the Commission under the 1916 Act. Were such conditions to arise, the Commission would have a need to assess such conditions and determine the approvability of agreements intended to remedy such conditions under the standards of the 1916 Act. Finally, the Commission is concerned with the potential for adverse effects on shippers that can result from such agreements if they are not subjected to Commission oversight through requiring that they be filed and reviewed prior to implementation. Joint policing arrangements may involve

significant numbers of carriers and thus may have a widespread effect on shippers utilizing these carriers.

For these reasons, the Commission believes that joint policing agreements are significant enough to require that they be filed and approved prior to implementation.

Section 560.305 (redesignated § 560.306) Non-exclusive transshipment agreements - exemption

APL recommends that the exemption of non-exclusive transshipment agreements under § 559.5 be revised in a manner more closely conforming it with the Commission's treatment of similar agreements in foreign commerce under its counterpart exemption in § 572.306(d). In this regard, APL notes that while § 572.306(d) sets forth a list of 13 permitted subjects that may be included in an exempt transshipment agreement, § 560.305(d) prescribes the same 13 subjects, but makes such provisions mandatory. It is alleged that certain of these subjects, such as provisions governing division of expenses (§ 560.305(d)(8)), intercarrier indemnification (§ 560.305(d)(10)), equipment interchange (§ 560.305(d)(11)), and agency relationships (§ 560.305(d)(13)), may not be commercially applicable under certain circumstances. Therefore, APL urges the Commission to revise § 560.305(d) to provide that non-exclusive transshipment agreements "may provide for", rather than "must provide for", the 13 subjects listed.

APL's comments on this aspect of the Proposed Rule are well-supported, and the Final Rule is revised to incorporate APL's recommendation. In order to maintain a parallel structure between Part 560 and Part 572, the section under Part 560

exempting certain transshipment agreements has been moved to § 560.306, and the formerly-proposed § 560.307, which exempted certain equipment interchange agreements, has been moved to § 560.305.

Section 560.306 Credit information agreements - exemption.

The Commission's Supplemental Notice of Proposed Rulemaking in this proceeding solicited comment on the termination of the exemption of credit information agreements. No comments were received in response to the Supplemental Notice of Proposed Rulemaking.

The existing exemption for credit information agreements appears at 46 CFR 559.2(e) which states:

> "Credit information agreement" means an agreement between common carriers by water or their duly appointed representatives which provides only for the collection, compilation and exchange of credit experience information. Under such an agreement, the parties cannot discuss or agree on any matter which is required to be published in a tariff pursuant to the Shipping Act, 1916 or any rule published pursuant thereto.

The Commission is terminating the current exemption for this class of agreements under the 1916 Act, effective thirty days after publication of the Final Rule in this proceeding in the Federal Register. Credit is an important factor in price competition and should be placed under regulatory scrutiny, particularly since the distinction between the sharing of credit information and the collective formation of credit policy and pricing can easily become blurred. The significance of credit information agreements to price competition therefore militates

against their being exempted from the 1916 Act's filing requirements, in order that the Commission can ensure that the 1916 Act's standards are adhered to. Moreover, there is no reason to treat this class of agreements differently under the 1916 Act and the 1984 Act.

In this connection, the Commission wishes to note that it recognizes that the sharing of certain credit information is inherent in the process of forming collective credit rules generally interstitial to collective ratemaking authority. Thus, where parties already have collective ratemaking authority and wish to form a credit information agreement, depending on the contents of that agreement, they may already have all the authority they require and may not need to file an additional credit information agreement for approval.

Additionally, the Commission wishes to note that the termination of the exemption does not result in a bar to the formation of credit information agreements, but merely requires the parties to such agreements to comply with the 1916 Act's filing and approval requirements.

C. Subpart F--Action on Agreements

Sea-Land suggests that the Commission include under Part 560 a rule similar to § 572.604, which prescribes a uniform time period within which the Commission would act on agreement approval requests. In support of this recommendation, Sea-Land notes that, although the 1916 Act does not prescribe any time period within which the Commission must act upon requests for

approval of section 15 agreements, the Commission's general rule-making authority under section 43 of the 1916 Act would permit it to promulgate regulations providing for such a time period. In Sea-Land's view, adoption of a rule establishing such a uniform time period would be beneficial to the Commission and the industry by enabling domestic offshore carriers, the shipping public generally and the Commission to plan their activities more reliably.

As set forth in § 560.404, the Commission contemplates that agreements filed under the 1916 Act will generally be processed within 120 days of filing. A review of the Commission's records, however, indicates that agreements filed under the 1916 Act are, on average, processed to completion in or about the same time as the 45-day period governing the processing of agreements filed under the 1984 Act. For these reasons, the Commission sees no need to include under Part 560 a rule similar to § 572.604, as suggested by Sea-Land.

The Federal Maritime Commission has determined that this Final Rule is not a "major rule" as defined in Executive Order 12291 dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental jurisdictions. The primary economic impact of this rule would be on common carriers and marine terminal operators which generally are not small entities. A secondary impact may fall on shippers, some of whom may be small entities but that impact is not considered to be significant.

The Federal Maritime Commission has completed an environmental assessment of this action and has found that its resolution of this proceeding will not have a significant impact on the quality of the human environment. A Finding of No Significant Impact (FONSI) was published in the Federal Register on June 1, 1987 (52 FR 20430), and no petitions for review of this FONSI have been received.

The reporting and record-keeping requirements contained in this regulation have been submitted for clearance by the Office of Management and Budget (OMB) under provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The rule shall become

final upon receipt of OMB's Notice of Approval, or 30 days following publication of this rule in the Federal Register, whichever is later.

List of Subjects in 46 CFR Parts 558-562, 564, 566, and 569:

Antitrust, Contracts, Maritime Carriers, Reporting and record-keeping requirements, Rates.

Therefore, pursuant to 5 U.S.C. 553 and sections 15, 18(a), 21, 22, 35 and 43 of the Shipping Act, 1916, 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a, Title 46 of the Code of Federal Regulations is amended as follows:

1. The authority citation to Part 560 is revised to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

2. Parts 558, 559, 561, 562, 564, 566 and 569 are removed.

3. Part 560 is revised to read as follows:

SUBCHAPTER C - REGULATIONS AFFECTING MARITIME AND RELATED ACTIVITIES IN DOMESTIC OFFSHORE COMMERCE

PART 560 - AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

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560.902 Failure to file reports.
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Subpart J--Paperwork Reduction

Sec.
560.991 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Subpart A--General Provisions

§ 560.101 Authority.

The rules in this part are issued pursuant to the authority of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, and sections 15, 18a, 21, 22, 35, and 43 of the Shipping Act, 1916 (the Act), 46 U.S.C. app. 814, 817(a), 820, 821, 833a, and 841a.

§ 560.102 Purpose.

(a) This part implements those provisions of the Act which govern agreements between common carriers by water in interstate commerce or other persons subject to the Act.

(b) This part also establishes procedures for: (1) filing agreement approval requests pursuant to section 15 of the Act, including supporting statements; (2) filing comments and protests

to such agreements and responses; and (3) the disposition of agreement approval requests.

§ 560.103 Policies.

(a) It is the responsibility of the Commission to disapprove, cancel, or modify, by order, after notice and hearing, any agreement, or modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors; to operate to the detriment of the commerce of the United States; to be contrary to the public interest; or to be in violation of the Act, and to approve all other agreements, modifications, or cancellations. This part is intended to establish procedures for the orderly and expeditious review of agreements in accordance with these statutory requirements.

(b) Section 35 of the Act provides that the Commission may exempt classes of agreements from any requirement of the Act or this part where it finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce. In order to minimize delay in implementation of routine agreements and to avoid the private and public cost of unnecessary regulation, the Commission is exempting certain classes of agreements from the filing and approval requirements of the Act and this part.

(c) In order to discharge the responsibilities of the Act the Commission requires sufficient time to analyze and consider

every agreement, modification, and cancellation to determine whether or not it is lawful. Therefore, the Commission is establishing procedures, and form and content requirements for agreements, supporting statements, comments and protests, and responses. Parties to agreements are solely responsible for the timely filing of amendments to extend agreements containing termination dates.

(d) It is the responsibility of the Commission to insure that parties to agreements approved under section 15 of the Act are at all times complying with the requirements of that Act. In order to discharge properly this responsibility, the Commission must be fully apprised of the manner in which operations are being and will be carried out and shall require that meaningful reports on such activities be provided to the Commission.

(e) Section 15 of the Act provides that no conference agreement shall be approved, nor shall continued approval be permitted for any agreement, which fails to provide reasonable and equal terms and conditions for admission and readmission to conference membership of other qualified carriers in the trade, or fails to provide that any member may withdraw from membership upon reasonable notice without penalty for such withdrawal. All conference agreements shall contain reasonable and equal terms and conditions for admission and readmission to conference membership to qualified carriers.

(f) Section 15 of the Act provides that the Commission shall disapprove any agreement after notice and hearing on a finding of failure or refusal to adopt and maintain reasonable

procedures for promptly and fairly hearing and considering shippers' requests and complaints. All ratemaking groups operating under approved section 15 agreements (except leases, licenses, assignments and other agreements of similar character for the use of marine terminal facilities) shall adopt and maintain such procedures.

(g) Section 15 of the Act provides that no agreement between carriers not members of the same conference or conferences of carriers serving different trades that would otherwise be naturally competitive, shall be approved, nor shall continued approval be permitted, unless in the case of agreements between carriers, each carrier, or in the case of agreements between conferences, each conference, retains the right of independent action. All such agreements shall contain a provision retaining the right of independent action.

(h) Section 15 of the Act provides that the Commission shall disapprove an agreement on a finding of inadequate policing of the obligations under it. The Commission shall require that ratemaking agreements (except leases, licenses, assignments and other agreements of similar character for the use of marine terminal facilities) contain procedures for policing the terms of the agreement.

§ 560.104 Definitions.

(a) "Agreement" means an agreement, or modification thereof, which is a written document and which reflects an understanding, arrangement, or undertaking, between two or more common carriers by water in interstate commerce or other persons subject

to the Act which is required by section 15 of the Act to be filed with the Commission.

(b) "Assessment agreement" means an agreement, whether part of a collective bargaining agreement or negotiated separately, which provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis regardless of the cargo handled or type of vessel or equipment utilized.

(c) "Common carrier by water in interstate commerce" means a common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between one State, Territory, District, or possession of the United States and any other State, Territory, or possession of the United States, or between places in the same Territory, District, or possession.

(d) "Conference agreement" means an agreement which authorizes two or more common carriers by water, each operating as a single entity in the trade covered by the agreement, to discuss and agree upon common rates, charges and conditions of carriage and to enforce adherence, by means of liquidated damages, penalties, fines, suspension, expulsion or other contractual remedies.

(e) "Marine Terminal Facilities" means one or more structures (and services connected therewith) comprising a terminal unit, including, but not limited to, docks, berths, piers, aprons, wharves, warehouses, covered and/or open storage spaces, cold storage plants, grain elevators and/or bulk cargo

loading and/or unloading structures, landings, and receiving stations, which are used for the transmission, care and convenience of cargo and/or passengers or the interchange of same between land and common carriers by water in interstate commerce or between two common carriers by water in interstate commerce. This term is not limited to waterfront or port facilities and includes so-called off-dock container freight stations at inland locations and any other facility from which inbound waterborne cargo may be tendered to consignees or at which outbound cargo may be received from shippers for vessel or container loading.

(f) "Modification" means any change, alteration, correction, addition, deletion, or revision of an effective agreement or to any appendix to such an agreement.

(g) "Proponents" means the parties to an agreement for which section 15 approval has been requested pursuant to this part.

(h) "Other person subject to the Act" means any person not included in the term "common carrier by water in interstate commerce", carrying on the business of forwarding or furnishing wharfage, dock, warehouse or other marine terminal facilities in connection with a common carrier by water in interstate commerce.

(i) "Shippers' requests and complaints" means any communication requesting a change in tariff rates, rules, or regulations; the protesting of, or objecting to, existing tariff rates, rules, or regulations; objecting to rate increases or other tariff changes; and protests against allegedly erroneous

billings due to an incorrect commodity classification, incorrect weight or measurement of cargo, or other implementation of the tariff. Routine requests for rate information, sailing schedules, space availability, and the like are not included in the term.

Subpart B--Scope

§ 560.201 Subject agreements.

This part applies to agreements by or among two or more common carriers by water in interstate commerce or other persons subject to the Act, or modifications or cancellations thereof:

(a) fixing or regulating transportation rates or fares;

(b) giving or receiving special rates, accommodations, or other special privileges or advantages;

(c) controlling, regulating, preventing, or destroying competition;

(d) pooling or apportioning earnings, losses, or traffic;

(e) allotting ports or restricting or otherwise regulating the number and character of sailings between ports;

(f) limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or

(g) in any manner providing for an exclusive, preferential, or cooperative working arrangement.

Subpart C--Exemptions

§ 560.301 Exemption procedures.

(a) Authority. The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to the Act from any

requirement of the Act if it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce.

(b) Optional filing. Notwithstanding any exemption from filing or approval or other requirements of the Act and this part, any party to an exempt agreement may file such an agreement with the Commission.

(c) Application for exemption. Any person may apply for an exemption or revocation of an exemption of any class of agreements or an individual agreement pursuant to section 35 of the Act and this subpart. An application for exemption shall state the particular requirement of the Act for which exemption is sought. The application shall also include a statement of the reasons why an exemption should be granted or revoked and shall provide information relevant to any finding required by the Act. Where an application for exemption of an individual agreement is made, the application shall include a copy of the agreement.

(d) Participation by interested persons. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

(e) Federal Register notice. Notice of any proposed exemption or revocation of exemption, whether upon application or upon the Commission's own motion, shall be published in the Federal Register. The notice shall include:

(1) A short title for the proposed exemption or the title of the existing exemption;

(2) the identity of the party proposing the exemption or seeking revocation;

(3) A concise summary of the agreement or class of agreements for which exemption is sought, or the exemption which is to be revoked;

(4) A statement that the application and any accompanying information are available for inspection in the Commission's offices in Washington, D.C.; and

(5) The final date for filing comments regarding the application.

(f) Retention of agreement by parties. Any agreement which has been exempted by the Commission pursuant to section 35 of the Act shall be retained by the parties and shall be made available upon request by the Bureau of Trade Monitoring or Bureau of Domestic Regulation for inspection during the term of the agreement and for a period of three years after its termination.

§ 560.302 Non-substantive agreements - exemption.

(a) "Non-substantive agreement" means an agreement between common carriers by water in interstate commerce or other persons subject to the Act, acting individually or through approved agreements, which:

(1) Reflects changes in the:

(i) Name of any geographic locality stated therein;

(ii) Name of the agreement or the name or address of a party to the agreement;

(iii) Name and/or number of any other section 15 agreement, or designated provisions thereof referred to in the agreement;

(iv) Table of contents of an agreement;

(v) Date or amendment number through which agreements state they have been reprinted to incorporate prior revisions thereto or which corrects typographical and grammatical errors in the text of the agreement; or

(vi) Numbers or letters of articles or subarticles of agreements and references thereto in the text;

(2) Reflects changes in the titles or persons or committees designated therein or transfers the functions of such persons or committees to other designated persons or committees or which merely establishes a committee;

(3) Concerns the procurement, maintenance, or sharing of office facilities, furnishings, equipment, supplies, and personnel, including employees and contractors, the allocation and assessment of the costs thereof, or the provisions for the administration and management of such agreements by duly appointed individuals; or

(4) Cancels an agreement approved under the Act and this part.

(b) Non-substantive agreements are exempt from the filing and approval requirements of section 15 and of this part; provided, however, a non-substantive agreement which modifies or cancels an agreement which is subject to the filing and approval requirements of this part shall be filed with the Commission for informational purposes within 30 days of its effective date.

§ 560.303 Husbanding agreements - exemption.

(a) "Husbanding agreement" means an agreement between a common carrier by water in interstate commerce and another person subject to the Act through which a carrier contracts with an agent to handle routine vessel operating activities in port, such as notifying port officials of vessel arrivals and departures; ordering pilots, tugs, and linehandlers; delivering mail; transmitting reports and requests from the Master to the owner/operators; dealing with passenger and crew matters; and providing similar services related to the above activities. The term does not include agreements which provide for the solicitation or booking of cargoes, signing contracts or bills of lading and other related matters, nor does it include agreements that prohibit the agent from entering into similar agreements with other carriers.

(b) Husbanding agreements are exempt from the filing and approval requirements of section 15 and of this part.

§ 560.304 Agency agreements - exemption.

(a) "Agency agreement" means an agreement between persons subject to the Act which provides for the agent's solicitation and booking of cargoes, and signing contracts of affreightment and bills of lading, on behalf of a common carrier by water in interstate commerce. Such an agreement may or may not also include husbanding service functions and other functions incidental to the performance of duties by agents including

processing of claims, maintenance of a container equipment inventory control system, collection and remittance of freight and reporting functions.

(b) Agency agreements except those: (1) where a common carrier by water in interstate commerce is to be an agent for a competing common carrier by water in the same trade, or (2) which permit an agent to enter into similar agreements with more than one such carrier in a trade, are exempt from the filing and approval requirements of section 15 and of this part.

§ 560.305 Equipment interchange agreements - exemption.

(a) "Equipment interchange agreement" means an agreement between two or more common carriers by water in interstate commerce for the exchange of empty containers, chassis, empty LASH/SEABEE barges, and related equipment, which provides only for the transportation of the equipment as required, payment therefor, management of the logistics of transferring, handling and positioning equipment, its use by the receiving carrier, its repair and maintenance, damages thereto, and liability incidental to the interchange of equipment, and no other subject.

(b) Equipment interchange agreements are exempt from the filing and approval requirements of section 15 and of this part.

§ 560.306 Non-exclusive transshipment agreements - exemption.

(a) A nonexclusive transshipment agreement means an agreement by which one common carrier by water in interstate commerce serving a port of origin by direct vessel call and another such carrier serving a port of destination by direct

vessel call provide transportation between such ports via an intermediate port served by direct vessel call of both such carriers and at which cargo will be transferred from one to the other and which agreement does not: (1) prohibit either carrier from entering into similar agreements with other carriers; (2) guarantee any particular volume of traffic or available capacity; or (3) provide for the discussion or fixing of rates for the account of the cargo interests, conditions of service or other tariff matters other than the tariff description of the service offered as being by means of transshipment, the port of transshipment and the participation of the nonpublishing carrier.

(b) A nonexclusive transshipment agreement is exempt from the filing and approval requirements of the Act and of this part, provided that the tariff provisions set forth in paragraph (c) of this section and the content requirements of paragraph (d) of this section are met.

(c) the applicable tariff or tariffs shall provide:

(1) The through rate;

(2) The routings (origin, transshipment, and destination ports); additional charges, if any (i.e. port arbitrary and/or additional transshipment charges); and participating carriers; and

(3) A tariff provision substantially as follows:

> The rules, regulations, and rates in this tariff apply to all transshipment arrangements between the publishing carrier or carriers and the participating, connecting or feeder carrier. Every participating, connecting or feeder carrier which is a party to transshipment arrangements has agreed to observe the rules, regulations, rates, and routings established herein as evidenced by a connecting carrier agreement between the parties.

(d) Nonexclusive transshipment agreements must contain a declaration of the nonexclusive character of the arrangement and the entire arrangement between the parties, including, when applicable, the following terms and conditions:

(1) The identification of the parties and the specification of their respective roles in the arrangement;

(2) A specification of the governed cargo;

(3) The specification of responsibility for the issuance of bills of lading (and the assumption of common carriage-associated liabilities) to the cargo interests;

(4) The specification of the origin, transshipment and destination ports;

(5) The specification of the governing tariff(s) and provision for their succession;

(6) The specification of the particulars of the nonpublishing carrier's concurrence/participation in the tariff of the publishing carrier;

(7) The division of revenues earned as a consequence of the described carriage;

(8) The division of expenses incurred as a consequence of the described carriage;

(9) Termination and/or duration of the agreement;

(10) Intercarrier indemnification or provision for intercarrier liabilities consequential to the contemplated carriage and such documentation as may be necessary to evidence the involved obligations;

(11) The care, handling and liabilities for the interchange of such carrier equipment as may be consequential to the involved carriage;

(12) Such rationalization of services as may be necessary to ensure the cost-effective performance of the contemplated carriage; and

(13) Such agency relationships as may be necessary to provide for the pickup and/or delivery of the cargo.

(e) No subject other than as listed in paragraph (d) of this section may be included in exempted nonexclusive transshipment agreements.

§ 560.307 Marine terminal agreements - exemption.

(a) "Marine terminal agreement" means an agreement, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) that applies to future, prospective activities between or among the parties and which relates solely to marine terminal facilities and/or services among marine terminal operators and among one or more marine terminal operators and one or more common carriers in interstate commerce that completely sets forth the applicable rates, charges, terms and conditions agreed to by the parties for the facilities and/or services provided for under the agreement. The term does not include a joint venture arrangement among marine terminal operators to establish a separate, distinct entity that fixes its own rates and publishes its own tariff.

(b) "Marine terminal conference agreement" means an agreement between or among two or more marine terminal operators and/or common carriers in interstate commerce for the conduct or facilitation of marine terminal operations in connection with waterborne common carriage in the domestic commerce of the United States and which:

(1) (i) Provides for the fixing of and adherence to uniform marine terminal rates, charges, practices and conditions of service relating to the receipt, handling and/or delivery of passengers or cargo for all members; and/or

(ii) Provides for the conduct of the collective administrative affairs of the group; and

(2) May include the filing of a common marine terminal tariff in the name of the group and in which all the members participate, or, in the event of multiple tariffs, each member participates in at least one such tariff.

(c) "Marine terminal discussion agreement" means an agreement between or among two or more marine terminal operators and/or marine terminal conferences and/or common carriers in interstate commerce solely for the discussion of subjects including marine terminal rates, charges, practices and conditions of service relating to the receipt, handling and/or delivery of passengers or cargo.

(d) "Marine terminal interconference agreement" means an agreement between or among two or more marine terminal conferences and/or marine terminal discussion agreements.

(e) All marine terminal agreements as defined in § 560.307(a), with the exception of marine terminal conference, marine terminal interconference and marine terminal discussion agreements, as defined in § 560.307(b), (c) and (d) are exempt from the approval requirements of section 15 of the Shipping Act, 1916 on the condition that they be filed with the Commission. Such filing shall consist of:

(1) A true copy and 15 additional copies of the filed agreement;

(2) A letter of transmittal, which shall:

(i) Clearly state that the agreement is being filed for exemption pursuant to this paragraph;

(ii) Identify all of the documents being transmitted including, in the instance of a modification to an approved or exempted agreement, the full name of the approved or exempted agreement, the Commission-assigned agreement number of the approved or exempted agreement and the revision, page and/or appendix number of the modification being filed;

(iii) Provide a concise summary of the filed agreement or modification separate and apart from any narrative intended to provide support for the acceptability of the agreement or modification;

(iv) Clearly provide the typewritten or otherwise imprinted name, position, business address and telephone number of the filing party; and

(v) Be signed in the original by the filing party or on the filing party's behalf by an authorized employee or agent of the filing party.

(3) To facilitate the timely and accurate publication of the Federal Register Notice, the letter of transmittal shall also provide a current list of the agreement's participants where such information is not provided elsewhere in the transmitted documents.

(f) Agreements filed for and entitled to exemption under this paragraph will be exempted from the approval requirements of the Shipping Act, 1916, effective on the date they are filed with the Commission.

Subpart D--Filing and Form of Agreements

§ 560.401 Filing of agreements.

(a) Agreement approval requests shall be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573-0001. Such requests shall consist of a true copy and 15 additional copies of the agreement and all supporting information. Requests shall also be accompanied by a letter of transmittal which summarizes the agreement's contents and expressly requests Commission approval pursuant to section 15. The true copy shall be signed by each of the proponents personally or by an authorized representative and shall show immediately below each signature the name, position, and authority of the signer. Requests for approval which do not meet the requirements of this section shall be rejected within 30 days of receipt.

(b) Assessment agreements shall be filed and shall be approved upon filing.

§ 560.402 Form of agreements.

(a) A request for approval of an agreement modification shall be filed in accordance with § 560.401 and shall identify the page and paragraph to be amended and restate each such paragraph. The language to be excised shall be struck through, but not obliterated, and the substituted language, if any, shall be inserted directly following that which is to be excised. The new language shall be underscored. If the modification does not completely replace approved provisions, the page or pages on which the proposed amendments will appear shall be restated with the proposed amendments underscored and placed in proper sequence on the page.

(b) Whenever an approved agreement has been modified three times in the manner described in paragraph (a) of this section, the next succeeding modification shall be accomplished by restating the entire agreement, incorporating all previous modifications, and showing the latest change in the manner required by paragraph (a) of this section.

§ 560.403 Supporting statements.

An agreement submitted for approval may be accompanied by a supporting statement, signed by an authorized representative of the proponents, indicating the reasons which caused the making of the agreement and the results intended to flow from its implementation, or other facts or arguments which support

approval. Affidavits or other evidence may be attached to such statements. Supporting statements, including all documents, affidavits or other evidence attached thereto, are public records. No claims of confidentiality will be allowed.

§ 560.404 Time for filing agreements.

(a) All modifications of approved agreements shall be filed within the following specified times:

(i) Applications for extension of an approved agreement due to terminate by its own terms, shall be filed so that the Commission will receive the application not less than one hundred twenty (120) days prior to the date on which the approved agreement would otherwise terminate.

(ii) Modifications of an approved agreement, other than as designated in paragraph (a) of this section, should be filed not less than one hundred twenty (120) days prior to the date it is intended that action will begin, change or cease as a result of the provision(s) of the modification.

(b) Failure to file an application for the extension of an approved agreement due to terminate by its own terms at least one hundred twenty (120) days in advance of the termination date may result in the approved agreement terminating prior to Commission action on the filed amendment.

(c) Notice of cancellation of an approved agreement should be filed not less than sixty (60) days prior to the effective date of cancellation.

Subpart E--Content of Agreements

§ 560.501 Provisions of conference agreements.

(a) Voting. Conference agreements, agreements between or among conferences, and agreements whereby the parties are authorized to fix rates (except leases, licenses, assignments or other agreements of similar character for the use of marine terminal facilities) submitted to the Commission for approval shall contain a provision stating the manner in which the joint business of the parties may be carried out: i.e., full conference meeting, agents' meeting, principals' meeting, owners' meeting, through committees or subcommittees, telephone or oral polls, or through any other procedure by which the business of the joint parties may be conducted. This provision shall also include quorum requirements and the types of vote necessary to take various actions; i.e., majority, two-thirds, three-fourths, majority plus one, unanimous, etc.

(b) Membership. Conference agreements shall include a provision substantially as follows:

> Any common carrier by water in interstate commerce which has been regularly engaged as a common carrier in the trade covered by this agreement, or who furnishes evidence of ability and intention in good faith to institute and maintain such a common carrier service between ports within the scope of this agreement, and who evidences an ability and intention in good faith to abide by all the terms and conditions of this agreement, may hereafter become a party to this agreement by affixing its signature thereto.

This section will not preclude the conference from imposing legitimate conditions on membership, including but not necessarily limited to, the payment of an admission fee, payment

of any outstanding financial obligations arising from prior membership, or the posting of a security bond or deposit. All such conditions must be made expressed terms of the conference agreement, filed with and approved by the Commission pursuant to section 15 of the Act.

(c) Every application for membership shall be acted upon promptly.

(d) Any party may withdraw from the conference without penalty by giving at least 30 days' written notice of intention to withdraw to the conference, except that action taken by the conference to compel the payment of outstanding financial obligations by the resigning member shall not be construed as a penalty for withdrawal.

(e) No party may be expelled against its will from the conference except for failure to maintain a common carrier service between the ports within the scope of the agreement (said failure to be determined according to the minimum sailing requirements set forth in the agreement) or for failure to abide by all the terms and conditions of the agreement.

§ 560.502 Provisions of agreements of conferences and others.

(a) All agreements between common carriers by water not members of the same conference or conferences of such carriers serving trades that would otherwise be naturally competitive, shall contain provisions substantially as follows:

The parties hereto (either carriers or conferences as the case may be) agree that with respect to any actions to be taken or procedures to be followed under this agreement, any party, after (insert here a period of time not to exceed ten days) may take action or follow procedures independent of those agreed upon.

(b) The parties may stipulate in the agreement whatever event should commence the running of the notice period, and the mode of communicating the decision to take independent action.

Subpart F--Action on Agreements

§ 560.601 Federal Register notice.

Requests for approval which are not rejected pursuant to § 560.401 shall be noticed in the Federal Register. The notice shall include:

(a) A short title for the agreement;

(b) The identity of the proponents;

(c) The Commission agreement number;

(d) A concise summary of the agreement's contents;

(e) A statement that the agreement and any supporting statement, including all documents, affidavits, or other evidence attached thereto, are available for inspection at the Commission's offices;

(f) The final date for filing protests or comments regarding the agreement; and

(g) The name and address of the filing agent.

§ 560.602 Comments and protests.

(a) A comment is a written statement regarding the approvability of an agreement. Comments have no prescribed form or content and are not limited in any way, except by the time

limits provided in the Federal Register notice. A written communication regarding the approvability of an agreement, not conforming to the requirements of paragraph (b) of this section, shall be considered a comment. Filing a comment shall not necessarily entitle a person to: (1) any discussion of the comment in a Commission order disposing of the agreement; (2) the institution of any further Commission proceeding; or (3) participation in any further proceeding which may be instituted.

(b) A protest is a written opposition to the approval of an agreement which complies with the requirements of this paragraph. A protest also constitutes an undertaking by the protestant to actively participate as a party in any further proceeding concerning the agreement, and protestants shall be so named in any Commission hearing order which may be issued. Protests shall:

(1) Identify, with particularity, the reasons why the agreement, or any constituent part, should be disapproved;

(2) Address the accuracy of any statements and conclusions submitted by the proponents pursuant to § 560.403;

(3) Allege facts which support the arguments made in paragraphs (b)(1) and (b)(2) of this section; and

(4) Specify the source or derivation of the facts alleged pursuant to paragraph (b)(3) of this section.

(c) A copy of all comments and protests filed with the Commission shall be served upon the filing agent identified in § 560.601(g) on the same date they are filed with the Commission.

A certificate of service attesting that this requirement has been met shall be attached to the comment or protest.

(d) Within 15 days from the date that comments or protests are due (as specified by the Federal Register notice or as subsequently extended by the Commission), the proponents or their authorized representative may file a response to each such comment or protest with service to all persons which have filed comments or protests.

(e) Except as provided in this section and § 560.403, or except, in the case of an unprotested agreement, as the Director, Bureau of Trade Monitoring or the Director, Bureau of Domestic Regulation may in his/her discretion initiate, or unless specifically requested in writing by the Commission, with copies to the proponents and persons which have filed protests or comments, no other written or oral communication concerning a pending agreement shall be permitted. Amendments or supplements to documents submitted pursuant to § 560.403 and this section shall be permitted in the discretion of the Commission upon a showing of good cause, except that, in no case shall such permission be granted where the agreement has been scheduled and noticed for an agency meeting pursuant to § 503.82 of this chapter. A change in material fact or in applicable law occurring after the submission of the initial statement, comment or protest will normally constitute good cause. Inquiries as to the status of agreements shall be made to the Secretary of the Commission.

§ 560.603 Disposition of agreement approval requests.

(a) The Commission shall, by conditional or unconditional orders, approve, disapprove, or institute further proceedings regarding agreements filed with it.

(b) Further proceedings regarding an agreement will be instituted when:

(1) The Commission, in its discretion, considers further inquiry advisable;

(2) A protest alleges material facts which, if true and reasonably subject to proof on the basis of their source and derivation, and arguments advanced, would preclude approval of the agreement, except that no further proceeding will be instituted if the disputed factual issues are resolved by the proponents' acceptance of conditions imposed by a conditional order in accordance with paragraph (c) of this section;

(3) The proponents of an agreement which seemingly contravenes the standards of section 15 properly exercise their right to request a further hearing pursuant to paragraph (d)(2) of this section.

(c) The Commission may issue a conditional order prescribing modifications in the agreement necessary to obtain approval when the agreement does or appears to contravene the standards of section 15 unless modified; and if so modified, would be approvable without further proceedings. If conditions imposed by the Commission are met within the time specified by a conditional order, the revised version of the agreement will

stand approved from the date of receipt. Notice of such date shall be given to proponents or their representative by the Commission.

(d) Failure to meet conditions imposed by the Commission will result in either the automatic disapproval of the agreement or the institution of further proceedings by the Commission either on its own initiative or, where the conditional order found that the agreement was unapprovable, pursuant to a request from proponents. Any such request shall include a detailed recital of the facts that they intend to prove at that hearing, a description of evidence intended to be used to prove those facts, and an explanation as to why the facts sought to be proven support the approval of the agreement. If a finding of unapprovability was made, the conditional order will expressly state the date upon which disapproval would take place.

(e) It is unlawful to carry out the provisions of a conditionally approved or disapproved agreement prior to approval by the Commission.

Subpart G--Reporting and Record Retention Requirements

§ 560.701 General requirements.

(a) The parties to conference agreements, agreements between or among conferences and agreements whereby the parties are authorized to fix rates (except leases, licenses, assignments or other agreements of similar character for the use of marine terminal facilities) shall retain a record of the vote on each question voted on for at least two years. These records may be

retained by a single party to the agreement, or an administrative official of a conference or ratemaking agreement designated for that purpose.

(b) All reports or circulars, in whatever form, distributed to the parties, which relate to matters within the scope of the approved agreement, shall be retained by the parties for at least two years. This record may be retained by a single party to the agreement, or an administrative official of a conference or ratemaking agreement designated for that purpose.

§ 560.702 Filing of reports relating to shippers' requests and complaints.

(a) By January 31 of each year, each conference and each other body with rate-fixing authority under an approved agreement (except for leases, licenses, assignments or other agreements of similar character for the use of marine terminal facilities) shall file with the Commission a report covering all shippers' requests and complaints received during the preceding calendar year or pending at the beginning of such calendar year. All such reports shall include the following information for each request or complaint:

(1) Date request or complaint was received;

(2) Identity of the person or firm submitting the request or complaint;

(3) Nature of request or complaint, i.e., rate reduction, rate establishment, classification, overcharge, undercharge, measurement, etc.;

(4) If final action was taken, date and nature thereof;

(5) If final action was not taken, an identification of the request or complaint as "pending";

(6) If denied, the reason.

(b) Tariffs issued by or on behalf of conferences and other rate-making groups shall contain full instructions as to where and by what method shippers may file their requests and complaints, together with a sample of the rate request form, if one is used, or, in lieu thereof, a statement as to what supporting information is considered necessary for processing the request or complaint through conference channels. All changes made in such instructions shall be published in said tariffs, supplements thereto, or reissues thereof, in accordance with the tariff filing requirements of section 18(a) of the Act.

§ 560.703 Filing of minutes.

(a) The parties to each approved conference agreement, agreement between or among conferences, or agreements subject to this part whereby the parties are authorized to fix rates (except leases, licenses, assignments or other agreements of similar character for the use of marine terminal facilities) shall, through a designated official, file with the Commission a report of all meetings describing all matters within the scope of the agreement which are discussed or taken up at any such meeting, and shall specify the action taken with respect to each such matter. For the purpose of this part, the term "meeting" shall include any meeting of parties to the agreement, including

meetings of their agents, principals, owners, committees or subcommittees of the parties authorized to take final action on behalf of the parties. If the agreement authorizes final action by telephonic or personal polls of the membership, a report describing each matter so considered and the action taken with respect thereto shall be filed with the Commission. These reports need not disclose the identity of parties that propose actions, or the identity of parties that participated in the discussions of any particular matter.

(b) The reports subject to paragraph (a) of this section shall be filed with the Commission within 30 days after such meetings and shall be certified as to accuracy and completeness by the Conference Chairman, Secretary, or other official.

(c) No report need be filed under paragraph (a) of this section with respect to any discussion of or action taken with regard to rates that, if adopted, would be required to be published in a tariff on file with the Commission. This reporting exemption does not apply to discussions involving general rate policy, general rate changes, the opening or closing of rates, or discussions involving items, that, if adopted, would be required to be published in other tariff sections as specified in Part 550 of this chapter.

§ 560.704 Filing of reports on admissions, withdrawals, and expulsions.

(a) Prompt notice of admission to membership to a conference shall be furnished to the Commission and no admission shall be effective prior to the postmark date of such notice.

(b) Advice of any denial of admission to membership, together with a statement of the reasons therefor, shall be furnished promptly to the Commission.

(c) Notice of withdrawal of any party shall be furnished promptly to the Commission.

(d) No expulsion shall become effective until a detailed statement setting forth the reason or reasons therefor has been furnished the expelled member and a copy of such notification submitted to the Commission.

Subpart H--Reserved

Subpart I--Penalties

§ 560.901 Failure to file agreements.

Any common carrier by water in interstate commerce or other person subject to the Act entering into or carrying out an agreement subject to the Act which has not been filed with and approved, or has not been exempted, by the Commission is in violation of section 15 of the Act and this part and subject to penalties of up to $1000 for each day such violation continues.

§ 560.902 Failure to file reports.

Compliance is mandatory and failure to file the reports required by this part may result in disapproval of agreements under section 15 of the Act or penalties of up to $100 for each day of such default under section 21 of the Act.

§ 560.903 Falsification of reports.

Knowing falsification of any report required by the Act or this part is a violation of the rules of this part and is subject to the penalties set forth in section 21 of the Act and may be subject to the criminal penalties provided in 18 U.S.C. 1001.

Subpart J--Paperwork Reduction

§ 560.991 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

This section displays the control numbers assigned to information collection requirements of the Commission in this part by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Commission intends that this part comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget (OMB) for each agency information collection requirement:

[CODES TO BE ASSIGNED BY OMB]

By the Commission

Joseph C. Polking
Secretary

(S E R V E D)
(NOVEMBER 30, 1987)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

46 CFR 560

[Dockets 85-10 and 87-9]

MARINE TERMINAL AGREEMENTS

FILING OF AGREEMENTS BY COMMON CARRIERS
AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

AGENCY: Federal Maritime Commission

ACTION: Final rules; technical amendment.

SUMMARY: This amends 46 CFR 560 to reflect clearance by Office of Management and Budget (OMB) of the reporting and recordkeeping requirements of final rules adopted by the Commission in Dockets 85-10 and 87-9 concerning filing of agreements pertaining to the domestic offshore trades.

EFFECTIVE DATE: Section 560.307 is effective upon publication of this notice in the Federal Register. The remainder of Part 560 is effective on December 17, 1987.

FOR FURTHER INFORMATION CONTACT:

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Secretary
Federal Maritime Commission
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Washington, D.C. 20573-0001
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SUPPLEMENTARY INFORMATION:

The Commission, by final rule in Docket 85-10, published on May 19, 1987; 52 FR 18692, adopted an exemption of marine terminal agreements from the approval requirements of section 15 of the Shipping Act, 1916, 46 U.S.C. app. 814. The exemption was codified in 46 CFR Part 559.7. OMB clearance for this amendment was sought and now has been obtained under OMB clearance number 3072-0039.

Prior to receipt of OMB clearance in this matter, however, the Commission had forwarded to OMB a proposed rulemaking in Docket 87-9 (April 29, 1987; 52 FR 16282) to incorporate into a single CFR Part (46 CFR 560) all rules pertaining to the filing of agreements under the Shipping Act, 1916. The Commission on November 17, 1987; 52 FR 43906, published a final rule in Docket 87-9, which simultaneously (1) removed Part 559 from the CFR; and (2) included at section 560.307 the former 46 CFR 559.7.

The Commission has now received OMB clearance of the reporting and recordkeeping requirements in Docket 87-9, and it is necessary that this be reflected in the revised Part 560.

Accordingly, 46 CFR Part 560 is amended as follows:

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

AUTHORITY: 5 U.S.C. 553; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

2. Section 560.991 is amended by adding the following table of OMB control numbers at the end thereof to read as follows:

§ 560.991 OMB control numbers assigned pursuant to the Paperwork Reduction Act

* * * * *

Section	Current OMB Control No.
560.307	3072-0039
560.1 through 560.306 and 560.308 through 560.903	3072-0040

By the Commission.

Joseph C. Polking
Secretary