



FEDERAL MARITIME COMMISSION
FY 2023 SMALL ENTITY COMPLIANCE GUIDES
REPORT TO CONGRESS

May 2024

Message from Chairman Maffei

May 25, 2024

On behalf of the Federal Maritime Commission (Commission or FMC), I am pleased to submit this report in accordance with section 212(a)(6) of the amended Small Business Regulatory Enforcement Fairness Act (SBREFA).

Under SBREFA, agencies are required to publish “Compliance Guides” to assist small entities in complying with the rules that significantly affect them.

As required, this report is provided to the following members of Congress:

The Honorable Jeanne Shaheen
Chair, Senate Committee on Small
Business and Entrepreneurship

The Honorable Joni Ernst
Ranking Member, Senate Committee on
Small Business and Entrepreneurship

The Honorable Roger Williams
Chairman, House Committee on Small
Business

The Honorable Nydia M. Velázquez
Ranking Member, House Committee on
Small Business

The Honorable Maria Cantwell
Chair, Senate Committee on Commerce,
Science, and Transportation

The Honorable Ted Cruz
Ranking Member, Senate Committee on
Commerce, Science, and Transportation

The Honorable Sam Graves
Chairman, House Committee on
Transportation and Infrastructure

The Honorable Rick Larsen
Ranking Member, House Committee on
Transportation and Infrastructure

Please direct any questions or concerns to the Office of the Managing Director at (202) 523-5800 or omd@fmc.gov.



Daniel B. Maffei
Chairman

I. REPORT

The Commission did not issue a final rule during fiscal year 2023 that was estimated to have a significant impact on a substantial number of small entities. Accordingly, the FMC did not issue any SBREFA compliance guides.

In its efforts to maintain competition and integrity throughout the Nation's ocean transportation supply chain, the Commission regulates both large and small entities. Vessel-operating common carriers, passenger vessel operators, and marine terminal operators are generally very large companies. Many ocean transportation intermediaries, FMC-licensed businesses that provide ocean shipping services, are considered small businesses by the Commission.

Whether or not required to prepare compliance guides under SBREFA, the Commission offers informal guidance and resources for regulated entities, particularly small businesses, on how to comply with regulations. The FMC website, www.fmc.gov, provides information to individuals and businesses, e.g., how to become licensed by the FMC, file carrier agreements, and other procedural matters that small businesses may seek in plain language guidance

II. STATUTORY LANGUAGE

This report responds to language set forth in Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), as amended, which states:

TITLE II--SMALL BUSINESS REGULATORY FAIRNESS

SEC. 212. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—

(1) **IN GENERAL.** — For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 605(b) of title 5, United States Code, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications ‘small entity compliance guides’.

(2) **PUBLICATION OF GUIDES.** — The publication of each guide under this subsection shall include—

(A) the posting of the guide in an easily identified location on the website of the agency; and

(B) distribution of the guide to known industry contacts, such as small entities, associations, or industry leaders affected by the rule.

(3) **PUBLICATION DATE.** — An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

(B) not later than the date on which the requirements of that rule become effective.

(4) COMPLIANCE ACTIONS. —

(A) **IN GENERAL.** — Each guide shall explain the actions a small entity is required to take to comply with a rule.

(B) **EXPLANATION.** — The explanation under subparagraph (A)-- (i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and (ii) if determined appropriate by the agency, may include a description of possible procedures, such as conducting tests that may assist a small entity in meeting such requirements, except that, compliance with any procedures

described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

(C) PROCEDURES. — Procedures described under subparagraph (B)(ii) — (i) shall be suggestions to assist small entities; and (ii) shall not be additional requirements, or diminish requirements, relating to the rule.

(5) AGENCY PREPARATION OF GUIDES. — The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

(6) REPORTING. — Not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007, and annually thereafter, the head of each agency shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency's compliance with paragraphs (1) through (5).

(b) Comprehensive Source of Information. — Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

(c) Limitation on Judicial Review. — An agency's small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of this section, the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.

