

**FEDERAL MARITIME COMMISSION**

**46 CFR Part 572**

**[DOCKET NO. 89-23]**

**AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS  
SUBJECT TO THE SHIPPING ACT OF 1984**

**AGENCY** : Federal Maritime Commission.

**ACTION** : Final Rule.

**SUMMARY** : This removes the membership size limitation in the Federal Maritime Commission's exemption of membership changes in certain passenger vessel operator agreements from the notice and waiting period requirements of section 6 of the Shipping Act of 1984 and the Information Form, notice and waiting period requirements of 46 CFR Part 572. This will enable such membership changes to become effective upon filing with the Federal Maritime Commission, regardless of the membership size of the involved agreement.

**EFFECTIVE DATE:** Upon publication in the *Federal Register*.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

The Federal Maritime Commission ("Commission") initiated this proceeding by notice published in the *Federal Register* of November 2, 1989 (54 FR 46273) ("Proposed Rule"). The Proposed Rule was issued concurrently with a separate order that revised 46 CFR 572.309(a)(2)(i) to exempt membership changes in certain passenger vessel operator agreements from certain procedural requirements of the Shipping Act of 1984, 46 U.S.C. app. 1701, *et seq.*, ("1984 Act") and the Commission's rules thereunder, 46 CFR Part 572. The exemption allows such membership changes to become effective upon filing with the Commission. Petition No. P2-89; Docket No. 89-22, *Cruise Lines International Association - - Application for Section 16 Exemption*, Final Rule, 54 FR 46249 (November 2, 1989). This exemption was granted in response to an Application filed by Cruise Lines International Association ("CLIA"), which requested that membership changes in passenger vessel operator discussion agreements open to all passenger vessels of a class defined in the agreements and consisting of 15 or more members, which do not contain ratemaking, pooling or joint service authority, be exempted from the notice and waiting period requirements of section 6 of the 1984 Act, and the Information Form, notice and waiting period requirements of 46 CFR Part 572.

The Commission granted the essential exemption requested by CLIA, with some modifications to narrow the exemption's scope to also exclude membership changes in passenger vessel operator agreements containing sailing or space chartering authority and to otherwise improve the exemption's clarity and definiteness.

In granting the exemption requested by CLIA, the Commission also determined to propose an expansion of the exemption's scope to remove the membership size limitation, thus affording uniform treatment of membership changes in all such passenger vessel discussion agreements, regardless of the size of the agreement's membership. The membership size limitation issue was outside the scope of Petition No. P2-89 and could not, therefore, be addressed in that proceeding.

No comments on the Proposed Rule were received. In accordance with section 16 of the 1984 Act, the Commission finds that the exemption granted herein will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce.

The Commission has determined that this 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 Acting Chairman of the 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 will be on passenger vessel operating ocean common carriers, which generally are not small entities.

The Paperwork Reduction Act, 44 U.S.C. 3501-3520, does not apply to this Proposed Rule because the amendment to Part 572 of Title 46, Code of Federal Regulations, does not impose any additional reporting or recordkeeping requirements or change the collection of information from members of the public which require the approval of the Office of Management and Budget.

The Commission has determined that this rule is excepted from the 30-day effective date requirement of 5 U.S.C. 553 because it grants an exemption and relieves a restriction from existing requirements.

List of Subjects in 46 CFR Part 572:

Antitrust, Contracts, Maritime carriers, Administrative practice and procedure, Rates and fares.

Therefore, pursuant to 5 U.S.C. 553, and sections 5, 16 and 17 of the Shipping Act of 1984, 46 U.S.C. 1704, 1715, 1716, in order to exempt membership changes in certain passenger vessel discussion agreements from certain requirements of the 1984 Act, and the Commission's implementing regulations thereof, Part 572 of Title 46 of the Code of Federal Regulations is amended as follows:

Part 572 - [AMENDED]

1. The authority citation to Part 572 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701-1707, 1709-1710, 1712 and 1714-1717.

2. Section 572.309 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 572.309 *Miscellaneous modifications to agreements - exemptions*

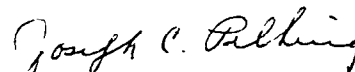
(a) \* \* \*

(2) \* \* \*

(i) *Article 3* - Parties to the agreement (limited to conference agreements, and discussion agreements among passenger vessel operating ocean common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

\* \* \* \* \*

By the Commission

  
Joseph C. Polking  
Secretary