

(S E R V E D)  
( October 30, 1989 )  
(FEDERAL MARITIME COMMISSION)

**FEDERAL MARITIME COMMISSION**

**46 CFR Part 572**

**[PETITION NO. P2-89; DOCKET NO. 89-22]**

**CRUISE LINES INTERNATIONAL ASSOCIATION --  
APPLICATION FOR SECTION 16 EXEMPTION**

**AGENCY** : Federal Maritime Commission.

**ACTION** : Final Rule.

**SUMMARY** : This exempts 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 exemption, which was requested by Cruise Lines International Association, will enable such membership changes to become effective upon filing with the Federal Maritime Commission.

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

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:**

On July 11, 1989, Cruise Lines International Association ("CLIA")<sup>1</sup> filed an Application for an exemption pursuant to section 16 of the Shipping Act of 1984, 46 U.S.C. app. 1715 ("1984 Act") and the implementing regulations of the Federal Maritime Commission ("Commission"), 46 CFR 572.301. CLIA seeks an exemption from the notice and waiting period requirements of section 6 of the 1984 Act, 46 U.S.C. app. 1705, and the Information Form, notice and waiting period requirements of 46 CFR Part 572, for membership changes to passenger vessel 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. The exemption would enable membership changes in such agreements to become effective upon filing with the Commission.

By Notice published in the *Federal Register* on July 25, 1989 (54 FR 30939), the Commission announced CLIA's Application and requested comments from interested persons. No comments on CLIA's Application were received. After consideration of CLIA's Application, the Commission has determined to grant the essential exemption requested by CLIA, with some modifications.

The scope of the exemption sought by CLIA is limited to exclude membership changes in passenger vessel operator agreements containing ratemaking, pooling or joint service

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<sup>1</sup> CLIA is a cooperative working agreement (Federal Maritime Commission Agreement No. 003-010071) among passenger vessel operators to meet and discuss matters of common interest, including marketing strategies for ocean cruise travel, and to train, bond and deal with travel agents.

authority. However, CLIA's Application did not address the proposed exemption's treatment of membership changes in passenger vessel operator agreements containing sailing or space chartering authority. The passenger vessel operator agreements currently on file with the Commission do not contain sailing or space chartering authority. However, were any such agreement to become effective under the 1984 Act, the Commission believes that membership changes should be reviewed under the 1984 Act's standards before they become effective, as is now the case with membership changes in non-passenger vessel operator agreements containing such authority. Accordingly, the scope of this rule's exemption has been further limited to exclude membership changes in passenger vessel operator agreements containing sailing or space chartering authority, in addition to those containing ratemaking, pooling or joint service authority. Other, less substantive changes have also been made to the text proposed by CLIA to improve the exemption's clarity and definiteness.

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 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 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. A secondary impact may fall on passengers and travel agents, some of whom may be small entities, but that impact is not considered to be significant.

The Commission has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental assessment or environmental impact statement was prepared.

The Paperwork Reduction Act, 44 U.S.C. 3501-3520, does not apply to this Final 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*

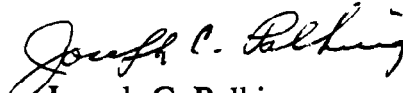
(a) \* \* \*

(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 and consisting of 15 or more members, which do not contain ratemaking, pooling, joint service, sailing or space chartering authority).

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By the Commission

  
Joseph C. Polking  
Secretary