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FEDERAL MARITIME COMMISSION

46 CFR PART 510

[DOCKET NO. 92-30]

LICENSING OF OCEAN FREIGHT FORWARDERS

AGENCY : Federal Maritime Commission.

ACTION : Proposed Rule.

SUMMARY : The Federal Maritime Commission proposes to amend its regulations in Part 510 which govern the licensing, duties and responsibilities of ocean freight forwarders. The intent and purpose of the proposed amendments are to reduce financial and regulatory burdens on the ocean freight forwarder industry. The proposed rule would: (1) remove the requirement that prior Commission approval be obtained for organizational changes involving the acquisition of one or more additional licensees by a licensee; (2) permit payment by personal check for Commission approval of organizational changes; and (3) permit the licensee's name to appear before or after the shipper's name when the licensee's name appears in the shipper identification box on the bill of lading. (The proposed rule also makes technical changes to reflect the redesignation of the Commission's Bureau of Tariffs to the Bureau of Tariffs, Certification and Licensing.)

DATE : Comments due [insert date 30 days from the date of publication in the Federal Register]. Comments must be received at the Commission by the due date;

the date of mailing will not be accepted as the date of filing in this proceeding.

ADDRESS : Send comments (original and 15 copies) to:

Joseph C. Polking, Secretary
Federal Maritime Commission
1100 L Street, N.W.
Washington, D.C. 20573-0001

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

BACKGROUND

The Federal Maritime Commission's ("Commission") regulations and procedures governing the licensing, duties and responsibilities of ocean freight forwarders are set forth in 46 CFR Part 510. The current regulations in Part 510 were issued in 1984 to implement section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, the successor provision to former section 44 of the Shipping Act, 1916, 46 U.S.C. 841b. Section 44 was enacted to correct abuses and inefficiencies in the ocean freight forwarder industry by requiring ocean freight forwarders to be licensed and regulated by the Commission. The 1984 regulations altered and streamlined the regulatory environment of the freight forwarding industry.

As a result of further experience with the regulations, the Commission has determined that certain revisions might be made to reduce the financial and regulatory burden on the ocean freight

forwarder industry without loss of regulatory effectiveness. Accordingly, the following changes are proposed:

1. Approval for the acquisition of one or more additional licensees by a licensee.

Section 510.19(a)(5)¹ requires prior approval of the Commission for a change, in an existing licensee's organization, involving the acquisition of one or more additional licensees. The Commission proposes to remove this requirement. Although prior approval for the acquisition of additional licensees will no longer be required, the Commission will require that the licensee notify the Commission of any such acquisition. Therefore, a clarifying paragraph to this effect will be added to section 510.19.

2. Payment of application fees for approvals.

Section 510.19(e) requires that the \$100 processing fee for approval of organizational changes specified in paragraph (a) of this section be paid by money order, certified check, or cashier's check.² It is proposed that the method of payment be expanded to

¹**§510.19 Changes in organization**

(a) The following changes in an existing licensee's organization require prior approval of the Commission:

* * *

(5) Acquisition of one or more additional licensees, whether for the purposes of merger, consolidation, or control.

²**§510.19(e) Application form and fee**

Applications for Commission approval of status changes or for license transfers under paragraph (a) of this section shall be filed in duplicate with the Director, Bureau of Tariffs (now the Bureau of Tariffs, Certification and Licensing), Federal Maritime Commission, on Form FMC-18, Rev., together with a processing fee of \$100, made payable by money order, certified check, or cashier's check to the Federal Maritime Commission.

include payment by personal check. This change is intended to provide greater flexibility. However, should the personal check not be honored when presented for payment, processing of the approval of the status change or license transfer would be suspended until the processing fee is paid.

3. Disclosure of principal

Section 510.23(a)³ permits the licensee's name to appear in the shipper's identification box on the bill of lading, but suggests that the licensee's name may appear only after the shipper's name. This regulation is intended to ensure that the identity of the actual shipper be disclosed. Therefore, the position of the licensee's name becomes insignificant when the licensee is identified as the shipper's agent. Accordingly, it is proposed that the licensee's name be allowed to appear before or after the shipper's name in the shipper's box, provided the licensee is identified therein as the shipper's agent.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the rule in terms of this Order and has determined that this rule is not a "major rule" because it will not result in:

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

³ §510.23(a) **Disclosure of principal**

The identity of the shipper must always be disclosed in the shipper identification box on the bill of lading. The licensee's name may appear after the name of the shipper, but the licensee must be identified as the shipper's agent.

(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 Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this Proposed Rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

This proposed rule does not contain any collection of information requirements that require submission to the Office of Management and Budget ("OMB"). Therefore, OMB review is not required.

List of Subjects in 46 CFR Part 510

Fees and user charges, Licensing, Ocean freight forwarders, Reporting and record keeping requirements, Surety bonds.

Therefore, pursuant to 5 U.S.C. 553 and sections 17 and 19 of the Shipping Act of 1984, 46 U.S.C. app. 1716 and 1718, Part 510 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for Part 510 continues to read:

AUTHORITY: 5 U.S.C. 553, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 853a.

2. Section 510.19 is amended by deleting paragraph (a)(5) and by redesignating paragraphs (a)(6) and (a)(7) as (a)(5) and (a)(6), respectively.

3. Section 510.19 is also amended by revising paragraph (e) and adding a new paragraph (f) to read as follows:

§510.19 Changes in organization.

* * * * *

(e) Application form and fee. Applications for Commission approval of status changes or for license transfers under paragraph (a) of this section shall be filed in duplicate with the Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, on Form FMC-18, Rev., together with a processing fee of \$100, made payable by money order, certified check, cashier's check or personal check to the Federal Maritime Commission. Should a personal check not be honored when presented for payment the processing of the application shall be suspended until the processing fee is paid.

(f) Acquisition of one or more additional licensees. In the event a licensee acquires one or more additional licensees, for the purpose of merger, consolidation, or control, the acquiring licensee shall advise the Commission of such change within thirty days after such change occurs by submitting in duplicate, an amended Form FMC-18, Rev. No application fee is required when reporting this change.

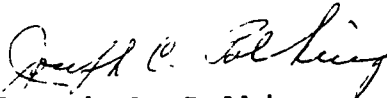
5. Section 510.23 is amended by revising paragraph (a) to read as follows:

§510.23. Forwarder and carrier; compensation.

(a) Disclosure of principal. The identity of the shipper must always be disclosed in the shipper identification box on the bill of lading. The licensee's name may appear with the name of the shipper, but the licensee must be identified as the shipper's agent.

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By the Commission.


Joseph C. Polking
Secretary