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FEDERAL MARITIME COMMISSION

46 CFR PARTS 560 AND 572

[DOCKET NO. 91-2]

ELECTRONIC FILING OF AGREEMENT REPORTS AND MINUTES

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission proposes to amend its rules regarding filing of reports and minutes by agreement parties to permit direct electronic transmission. This proposal is an accommodation to the continuing growth of electronic data interchange and should benefit filers and the Commission.

DATE: Comments due March 15, 1991.

ADDRESS: Comments (Original and fifteen (15) copies) to:

Joseph C. Polking
Secretary
Federal Maritime Commission
1100 L Street, N.W.
Washington, D.C. 20573-0001
(202) 523-5725

FOR FURTHER INFORMATION CONTACT:

Joseph C. Polking
Secretary
Federal Maritime Commission
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(202) 523-5725

SUPPLEMENTARY INFORMATION:

The Commission's rules regarding agreement filings (Parts 560 and 572 of Title 46 CFR) contain requirements for filing of various reports including minutes, shipper requests and complaints and indices of documents. The current rules contemplate such filings being made in hard paper copy.

Given the general proliferation of the use of electronic data interchange both at the Commission and in the industry, the Commission is proposing to permit, but not mandate, the filing of such agreement reports and minutes through direct electronic transmission to Commission headquarters. The proposal contemplates modem to modem transfer of ASCII text. The Commission would use an AT class personal computer, 2400 baud modem and FMC-developed communication software which would be compatible with any communications software used by filers. Transmission would be limited to certain hours of Commission business days; viz. after 2:00 p.m. Eastern time, but would be allowed during non-business hours of the Commission. This arrangement should accommodate filing parties located in different time zones and would avoid the need for the Commission to dedicate a terminal full time for this purpose.

The Commission's rules currently provide that certain agreement report filings are to be certified by an agreement official. This requires inclusion of the signature of the certifying official. It is proposed that a Personal Identification Number (PIN) be utilized to satisfy the signature requirement. Parties seeking to use the electronic filing system would submit a statement in advance agreeing that inclusion of the PIN in the transmission constitutes the signature of the certifying official.

It is also contemplated that passwords would be used to prevent unauthorized filings. The password would be unique to each electronic filer. Complete details about

the technical aspects of electronic filing would be available from the Commission in the form of a user manual upon finalization of this proposed rule.

A clarification of the requirements for hard copy filings in 46 CFR Part 572 is also included in this proposal to reflect the current division of responsibility at the Commission for terminal agreement filings and other agreement filings.

The Federal Maritime Commission has determined that this Proposed 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 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.

The proposed rule does not contain information collection requirements within the meaning of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.) as implemented by regulations prescribed within 5 CFR Part 1320. Accordingly, OMB approval of the proposed rule is not required.

List of Subjects in 46 C.F.R. Part 560:

Administrative Practice and procedure, Antitrust, Maritime Carriers, Reporting and recordkeeping requirements.

List of Subjects in 46 C.F.R. Part 572:

Administrative practice and procedure, Antitrust, Maritime Carriers, Reporting and recordkeeping requirements.

Therefore, the Federal Maritime Commission proposes to amend Parts 560 and 572 of Title 46 of the Code of Federal Regulations 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 560.701 is amended by adding a new paragraph (c) reading as follows:

§560.701 General requirements.

(a) * * *

(b) * * *

(c) Reports and minutes required to be filed by this subpart may be filed by direct electronic transmission in lieu of hard copy. Detailed information on electronic transmission is available from the Commission's Bureau of Trade Monitoring. Certification and signature requirements of this subpart can be met on electronic transmissions through use of a pre-assigned Personal Identification Number (PIN) obtained from the Commission. PINs can be obtained by an official of the filing party by submitting a statement to the Commission agreeing that inclusion of the PIN in the transmission constitutes the signature of the official. Only one PIN will be issued for each agreement. Direct electronic transmission filings may be made after 2:00 p.m. Eastern time on Commission business days and at any time during non-business hours of the Commission.

3. The authority citation for Part 572 continues to read:

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

4. In section 572.701, paragraph (a) is revised to read as follows:

§572.701 General requirements.

(a)(1) Address. Reports required by this subpart should be addressed to the Commission as follows:

(i) Marine terminal operator agreement reports.

Director, Bureau of Domestic Regulation
Federal Maritime Commission
Washington, D.C. 20573-0001

(ii) All other agreement reports.

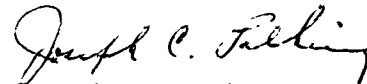
Director, Bureau of Trade Monitoring
Federal Maritime Commission
Washington, D.C. 20573-0001

The lower, left-hand corner of the envelope in which each report is forwarded should indicate the subject of the report and the related agreement number. For example: "Minutes, Agreement 5000."

(2) Electronic filing. Reports and minutes required to be filed by this subpart may be filed by direct electronic transmission in lieu of hard copy. Detailed information on electronic transmission is available from the Commission's Bureau of Trade Monitoring. Certification and signature requirements of this subpart can be met on electronic transmissions through use of a pre-assigned Personal Identification Number (PIN) obtained from the Commission. PINs can be obtained by submission by an official of the filing party of a statement to the Commission agreeing that inclusion of the PIN in the transmission constitutes the signature of the official. Only one PIN will be issued for each agreement. Direct electronic transmission filings may be made after

2:00 p.m. Eastern time on Commission business days and at any time during non-business hours of the Commission.

By the Commission.


Joseph C. Polking
Secretary