

Appealed in FR
6/19/91

FEDERAL MARITIME COMMISSION

46 CFR PART 504

(DOCKET NO.91-28)

PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its Procedures for Environmental Policy Analysis, which set forth requirements for environmental analysis of Commission actions under the National Environmental Policy Act of 1969. Specifically, the proposed amendment would categorically exclude from the requirement for an environmental analysis actions concerning non-vessel-operating common carrier ("NVOCC") filings of surety bonds and designations of resident agents for service of process pursuant to 46 CFR 583.

DATE: Comments due on or before thirty (30) days after publication in the Federal Register.

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

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

FOR FURTHER INFORMATION CONTACT:

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Bureau of Administration
Federal Maritime Commission
1100 L Street, N.W.
Washington, D.C. 20573
(202) 523-5866

SUPPLEMENTARY INFORMATION:

The Commission's Procedures for Environmental Policy Analysis (46 CFR Part 504) specify the types of environmental analyses required for Commission actions under the National Environmental Policy Act of 1969. Actions having a potential for environmental impact as defined in section 504.2(c) are subjected to environmental assessments that result in either findings of no significant impact (section 504.6) or environmental impact statements (section 504.7). Actions with little or no potential for environmental impact are categorically excluded from the requirements for environmental assessment (section 504.4).

Section 504.4 lists routine types of Commission actions that are excluded from the requirements for analysis. The activities covered by categorical exclusion do not individually or collectively have significant effects upon the quality of the human environment, because they are purely ministerial, or because they do not significantly increase or decrease air, water or noise pollution or use of fossil fuels, recyclables or energy.

On January 15, 1991, (56 FR 1493) the Commission published an Interim Rule to implement the NVOCC Amendments of 1990, Section 710 of P.L. 101-595. This Rule contains, among other things, provisions for the filing of NVOCC surety bonds and designations of resident agents for service of process (for foreign-domiciled NVOCCs). These actions appear to have no potential for

environmental impact. Accordingly, the Commission proposes to add such matters to the list of actions excluded from environmental analysis under section 504.4.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it has nonetheless 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; (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 effects 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 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 Paperwork Reduction Act, 44 U.S.C. 3501-3520, does not apply to this Notice of Proposed Rulemaking because the amendment to Part 504 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.

Lists of Subjects in 46 CFR Part 504: Environmental Impact Statements.

Therefore, pursuant to 5 U.S.C. 553, 42 U.S.C. 4332(2)(b), section 710 of P.L. 101-595 and 46 U.S.C. app. section 1716, the Federal Maritime Commission proposes to amend Part 504, Title 46, Code of Federal Regulations, as follows:

1. The authority citation for Part 504 continues to read as follows:

AUTHORITY: 5 U.S.C. 552, 553; Sec. 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 820 and 841a); secs. 13 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712 and 1716); sec. 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(b)) and sec. 382(b) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6362)

2. Section 504.4(a) is amended by adding a new subparagraph (3), to read as follows:

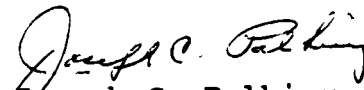
§ 504.4 Categorical Exclusions.

(a) * * *

(3) Filings by non-vessel-operating common carriers of surety bonds and designations of resident agents for service of process pursuant to 46 CFR Part 583.

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By the Commission


Joseph C. Polking
Secretary