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7/28/94

FEDERAL MARITIME COMMISSION  
46 CFR PARTS 514, 552, 560, 572  
[DOCKET NO. 94 - 15]  
NEW FILING FEES

**AGENCY:** Federal Maritime Commission.

**ACTION:** Proposed Rule.

**SUMMARY:** The Federal Maritime Commission ("Commission" or "FMC"), pursuant to the Independent Offices Appropriation Act ("IOAA"), proposes to establish filing fees for (1) tariffs, (2) service contract essential terms ("ETs"), (3) financial reports in the domestic offshore trades, (4) general rate increases in the domestic offshore trades, and (5) agreements. The services provide special benefits to identifiable members of the public and assessment of fees therefor comports with direction of the Office of Management and Budget.

**DATES:** Comments due [Insert date forty-five (45) days after date of publication in the Federal Register].

**ADDRESS:** Comments (original and fifteen copies) to:  
Joseph C. Polking, Secretary  
Federal Maritime Commission  
800 North Capitol Street, N.W.  
Washington D.C. 20573-0001  
202-523-5725

**FOR FURTHER INFORMATION CONTACT:**

Jeremiah D. Hospital or  
 George Smolik  
 Bureau of Trade Monitoring and Analysis  
 Federal Maritime Commission  
 800 North Capitol Street, N.W.  
 Washington D.C. 20573-0001  
 202-523-5790

**SUPPLEMENTARY INFORMATION:**

The Commission, under the IOAA, is authorized to establish fees for services and benefits that it provides. The IOAA states:

(a) . . . That each service or thing of value provided by an agency . . . to a person . . . be self-sustaining to the extent possible.

(b) . . . Each charge shall be—

- (1) fair; and
- (2) based on—

- (A) the costs to the Government;
- (B) the value of the service or thing to the recipient;
- (C) public policy or interest served; and
- (D) other relevant facts.

31 U.S.C. 9701.

The primary guidance for implementation of the IOAA is Office of Management and Budget ("OMB") Circular A-25, as revised July 8, 1993. OMB Circular A-25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Government service from which the recipient derives a benefit, in order that the Government recover the full cost of rendering that service.

OMB Circular A-25 further provides that full cost be determined or estimated from the best available records in the agency, and that it cover the direct and indirect costs to the

Government of providing a good resource or service, including but not limited to:

- (1) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement.
- (2) Physical overhead, consulting, and other indirect costs including material and supply costs, utilities, insurance, travel, and rents or imputed rents on land, buildings, and equipment.
- (3) The management and supervisory costs.
- (4) The costs of enforcement, collection, research, establishment of standards, and regulation, including any environmental impact statements.

OMB Circular A-25 further calls for a biennial reassessment of user charges, with related adjustment of fees, if necessary, and the establishment of new fees where none exists.

The courts have interpreted the IOAA on several occasions, establishing general standards that agencies must meet in establishing fees. In 1974, the Supreme Court ruled that a fee may only be charged for a special benefit provided to identifiable beneficiaries measured by its value to the recipient. The special benefit is also required to have some connection between the agency and the recipient other than the mere fact of regulation or the adoption of some practice of general benefit to the industry as a whole. Thus, the Court upheld that portion of OMB Circular A-25 stating that there could be no charge where the identity of the beneficiary is obscure and the services can be primarily considered to benefit the general public. See National Cable Television

Association v. United States, 415 U.S. 336 (1974) and FPC v. New England Power Co., 415 U.S. 345 (1974).

In 1976, the U.S. Court of Appeals for the District of Columbia Circuit rendered a series of decisions that provided additional guidance for agencies adopting or revising fee schedules issued under the IOAA. See National Cable Television Association v. F.C.C., 554 F.2d 1094 (D.C. Cir. 1976); Electronics Industries Association v. F.C.C., 554 F.2d 1109 (D.C. Cir. 1976); Capital Cities Communications Inc. v. F.C.C., 554 F.2d 1135 (D.C. Cir. 1976). In those decisions, the court set out the following guidelines:

1. An agency may impose a reasonable charge on recipients for an amount of work for which they benefit. The fees must be for specific services to specific persons. These services include the issuance of a license and assistance in complying with a statutory duty such as tariff filing.
2. The fees may not exceed the cost to the agency in rendering the service.
3. An agency may recover the full cost of providing a service to an identifiable beneficiary regardless of the incidental public benefits which may flow from service.

Also, when an agency proposes a fee, it must meet the following requirements:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it seeks reimbursement.
2. The agency must calculate the cost basis for each fee by:
  - a. Allocating specific expenses of the cost basis of the fee to the smallest practical unit.
  - b. Excluding expenses that service an independent public interest; and

c. A public explanation of the specific expenses included in a cost basis for a particular fee, and an explanation of the criteria used to include or exclude a particular item.

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the services performed and value conferred on the payor.

*Electronic Industries Association v. F.C.C.*, 554 F.2d at 1117.

The above guidelines were followed by the Commission when it last updated its schedule of filing and service fees in 1983. Dockets Nos. 82-32 and 82-33, Filing and Service Fees, 21 S.R.R. 1517, 21 S.R.R. 1575 (1983). At that time, the Commission conducted cost studies to determine the processing costs for its various fee items.

The Commission's current filing and service fees, however, do not include fees for certain services that appear to provide special benefits to identifiable members of the public. In light of OMB's requirement that agencies assess fees for all identifiable special benefits, and, in particular, OMB's direction that the FMC consider implementation of tariff and service contract filing fees to offset its FY 1996 appropriation,<sup>1</sup> the Commission is proposing new fees for several services. In keeping with OMB Circular A-25, the new fees reflect the fully distributed cost of those services. The proposed new fees are set forth in this Notice.

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<sup>1</sup> OMB has expressed its desire for the Commission to establish fees through its "passback" to the Commission's FY 1995 budget submission for FY 1996. After OMB reviews the Commission's agency budget proposal for the upcoming fiscal year, OMB "passes back" its budget proposal to the agency.

In addition to the instant rulemaking, the Commission is issuing a companion rulemaking (Docket No. 94-14, Update of Existing Filing and Service Fees), updating the FMC's fees to reflect the fully distributed current costs to the Commission.

#### Methodology

The Commission has reviewed its services and determined where it should establish fees pursuant to OMB Circular A-25. Tariff filing, filing of ETs, filing of financial reports in the domestic offshore trades, processing of general rate increases in the domestic offshore trades, and filing of agreements have been identified as areas where new fees could be assessed under the authority of the IOAA and OMB Circular A-25.<sup>2</sup>

The methodology employed to calculate direct costs of services was based on the method employed by the Commission the last time it considered fees in Dockets Nos. 82-23 and 82-33, *Filing and Service Fees*, supra. Surveys were conducted to determine the time and cost involved in providing particular services to arrive at the direct labor costs for those services, including, as appropriate, the costs for clerical support staff, professionals, supervisors, and bureau directors. Multiplying the number of hours expended by each employee to provide a particular service with the employee's hourly

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<sup>2</sup> The Commission has determined that enforcement activities are not appropriate for assessing fees because they are adjudicatory functions that have broad public significance and a quasi-judicial impact. The public is the primary beneficiary for such actions. The Commission's enforcement programs are geared to providing protection for the shipping public. Therefore, formal adjudications and compliance audits were not considered activities for which fees should be assessed.

wage, plus a \$1.00 cost to process the check, yielded the direct labor cost for providing the service.

According to OMB Circular A-25, fees are to be based on the full cost of a service, which includes all direct and indirect costs. Therefore, indirect costs (overhead and other assignable costs) were added to the direct labor cost to arrive at a fully distributed cost for providing a particular service. A somewhat modified method was used to calculate fees for tariff filing, and is explained later.

In developing a methodology for determining indirect costs, the Commission adopted the approach used by the Interstate Commerce Commission ("ICC").<sup>3</sup> Three categories of indirect costs were identified: Government overhead costs (basically personnel fringe benefits); Commission general and administrative expenses; and office general and administrative expenses.<sup>4</sup> The calculations for indirect costs are discussed below and set forth in Appendix A. A detailed summary of the data used to arrive at the proposed fees is available from the Secretary of the Commission upon written request.

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<sup>3</sup> The ICC's mandate is similar to the Commission's, i.e., regulating segments of the transportation industry, and its fee schedule and methodologies have been reviewed by the courts and deemed acceptable, in many respects. See Central & Southern Motor Freight Tariff Ass'n v. U.S., 777 F.2d 722, (D.C. Cir. 1985) ("Central & Southern").

<sup>4</sup> The ICC employs an additional indirect cost item for operations overhead, which apportions senior executive time across fee-generating activities. Because the Commission was able to account for senior executive time in each service item, a separate overhead would be redundant. Accordingly, this ICC component was not included in our calculations.

The first component of indirect costs is Government overhead costs, which are fringe benefits and other wage-related government contributions contained in OMB Circular A-76. These include leave and holidays, retirement, workmen's compensation awards, health and life insurance, and Medicare. These are expressed as percentages of basic pay, and are applied to direct labor costs.

The next component of indirect costs is Commission general and administrative costs. These costs include all salaries and overhead, such as rent, utilities, supplies, and equipment, allocated across the Offices of the Commissioners, Managing Director, General Counsel, and Bureau of Administration. The total of these allocated costs is divided by the total funding for the agency as reflected in the FMC's OMB budget submission in FY 1994. The resulting percentage is allocated across all Commission programs. As with Government overhead, Commission general and administrative costs are also applied to direct labor costs.

The final component of indirect costs is office general and administrative overhead expenses. These expenses are limited to the overhead of those bureaus and offices that are involved in fee-generating activities, i.e., Office of the Secretary, Bureau of Tariffs, Certification and Licensing ("BTCL"), and Bureau of Trade Monitoring and Analysis ("BTMA"). They are similar to the expenses for Commission general and administrative expenses mentioned above, except that no personnel costs are included. Certain expenses which have no nexus with any fee activity, e.g., the procurement of Census data, have been excluded from this calculation. As with



Commission general and administrative expenses, the office general and administrative expenses are divided by the total funding for the fee-generating bureaus and offices to arrive at a percentage that is to be applied to direct labor costs.

Adding all the components of indirect costs gives an indirect cost factor that is added to direct labor costs to arrive at fully distributed costs. The indirect cost factor under this methodology is 99.50 percent.

#### Proposed Fees

Each service or special benefit for which fees are proposed is described below, as well as the direct labor cost to the FMC of providing a particular service, the indirect cost, the fully distributed cost, and the proposed fee associated with each service for which fees are proposed. A summary schedule of proposed fees is provided in Appendix B.

#### Fees Related to the Filing of Rate Increases and Reports in the Domestic Offshore Trades

Part 552 provides for the orderly acquisition of data to be utilized in evaluating the reasonableness of rates in the domestic offshore trades filed by vessel-operating common carriers ("carriers") subject to the provisions of the Intercoastal Shipping Act, 1933 ("1933 Act"), 46 U.S.C. app. 843. All persons engaged in common carriage via cargo vessels in the domestic offshore trades (except persons engaged in intrastate operations in Alaska and Hawaii) are required by the 1933 Act to file a Statement of Financial and Operating Data for each domestic service in which they are engaged. See 46 CFR §552.2(a).

Upon application for submission of alternative data, the Commission may relieve a carrier from full compliance with Part 552 and permit it to submit alternative data. The carrier receives a benefit from this service because of the significant time saved in not preparing detailed financial statements. The proposed fee for processing such applications is derived as follows:

Direct Labor Cost:	\$82.99
Indirect Cost:	\$82.58
Fully Distributed Cost:	\$165.56
Proposed Fee:	\$165.00 <sup>5</sup>

Upon application for extension of time for filing, the Commission may grant reasonable extensions of the time limit prescribed for filing the statements required by Part 552. The benefit the carrier receives from this service is that it is not subject to the time constraints in the rule. The proposed fee for processing such applications is derived as follows:

Direct Labor Cost:	\$27.89
Indirect Cost:	\$27.75
Fully Distributed Cost:	\$55.64
Proposed Fee:	\$55.00

Upon application for waiver of detailed reporting requirements, the Commission shall grant a waiver of the detailed reporting requirements to carriers that have earned gross revenues of \$25 million or less for the reporting period in a particular trade. The carrier receives a benefit from this waiver because it does not have to prepare detailed financial statements. The proposed fee for processing such applications is derived as follows:

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<sup>5</sup> All proposed fees are rounded down to the nearest dollar.

Direct Labor Cost:	\$51.87
Indirect Cost:	\$51.61
Fully Distributed Cost:	\$103.48
Proposed Fee:	\$103.00

Part 522 defines general rate increases ("GRIs") in the domestic offshore trades, and describes the financial and operating data required to support GRIs (section 52.2(f)). The specific benefit to the filer of a GRI is the potential for increased revenues.<sup>6</sup> This benefit derives directly from a Commission finding that the particular rate of return generated by a proposed GRI is reasonable. In making this finding, the Commission conducts an extensive analysis of the supporting data, and develops its own benchmark figures for comparison with the filer's calculated rate of return based on its proposed GRI. Accordingly, the Commission is proposing to assess a filing fee for GRIs in the domestic offshore trades to cover the full cost of analyzing the reasonableness of a proposed GRI. The proposed fee is derived as follows:

Direct Labor Cost:	\$5,990.64
Indirect Cost:	\$5,960.69
Fully Distributed Cost:	\$11,951.33
Proposed Fee:	\$11,951.00

The Commission recognizes the special circumstances present in the domestic offshore trades regarding the price leadership role played by certain carriers, and invites comments on alternative

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<sup>6</sup> An additional benefit accruing to carriers operating in the domestic offshore trades is that potential entrants, by law, are restricted, i.e., foreign-flag carriers are prohibited from operating in the domestic trades. See section 27 of the Merchant Marine Act of 1920, 46 U.S.C. app. 883.

methods for assessing the Commission's cost of analyzing the reasonableness of GRIs in these trades.

#### Agreement Filing Fees

The processing of agreements benefits the filing parties because of the concomitant antitrust immunity conferred by the Shipping Act, 1916 ("1916 Act"), 46 U.S.C. app 801 et seq., and the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701 et seq. There are strong similarities between FMC agreements and those ICC agreements for which fees were assessed in Central & Southern.

Agreements enable joint ratemaking or cost-cutting measures to accrue to the benefit of the signatory parties. The sales revenues or cost savings, or both, can add up to millions of dollars for one carrier, let alone several carriers. Such savings far offset the proposed filing fee for an agreement that enables carriers to accomplish such monetary gains. Savings to carriers and others in excess of the fee amounts can also be realized even through routine arrangements to share office space, equipment, staff and supplies. Accordingly, fees are being proposed for various agreement filings.

Agreement filings accompanied by an Information Form must be analyzed for compliance with statutory requirements under section 6(g) and section 10 of the 1984 Act, 46 U.S.C. app. 1705(g), 1709. In the domestic offshore trades, certain types of agreement filings require a detailed justification<sup>7</sup> that must be analyzed for

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<sup>7</sup> Proponents must demonstrate that their agreement is required by a serious transportation need, is necessary to secure important public benefits, or will further a valid regulatory purpose of the 1916 Act. See Federal Maritime Commission et. al. vs Aktiebolaget Svenska Amerika Linien; 390 U.S. 238-253 (1968).

compliance with statutory requirements under section 15 of the 1916 Act, 46 U.S.C. app. 814. These types are submitted to the Commission for its review, and, under the 1916 Act, approval. The proposed fee for processing such agreements is derived as follows:

Direct Labor Cost:	\$703.24
Indirect Cost:	\$699.72
Fully Distributed Cost:	\$1,402.96
Proposed Fee:	\$1,402.00

Agreement filings that do not require an Information Form must be analyzed for compliance with statutory requirements under section 10 and section 6(g) of the 1984 Act. In the domestic offshore trades, agreement filings that do not require detailed justification must be analyzed for compliance with statutory requirements under section 15 of the 1916 Act. These are submitted to the Commission for its review, and, under the 1916 Act, approval. The proposed fee for processing such agreements is derived as follows:

Direct Labor Cost:	\$348.76
Indirect Cost:	\$347.02
Fully Distributed Cost:	\$695.78
Proposed Fee:	\$695.00

Agreement filings reviewed under Delegated Authority are processed administratively without direct Commission review, and do not require the filing of an Information Form under the 1984 Act. The proposed fee for processing such agreements is derived as follows:

Direct Labor Cost:	\$177.13
Indirect Cost:	\$176.24
Fully Distributed Cost:	\$353.37
Proposed Fee:	\$353.00

Marine terminal and carrier exempt agreements are processed administratively without direct Commission review under the 1916 Act and the 1984 Act. The proposed fee for processing such agreements is derived as follows:

Direct Labor Cost:	\$60.23
Indirect Cost:	\$59.93
Fully Distributed Cost:	\$120.16
Proposed Fee:	\$120.00

#### Tariff and ET Filing Fees

Section 8 of the 1984 Act, 46 U.S.C. app. 1707, requires common carriers and conferences of such common carriers to file with the Commission and keep open to public inspection, tariffs showing all rates, charges, classifications, tariff rules and practices for transportation between U.S. and foreign ports and between points on any through route that is established. Section 8 also requires service contracts and their ETs are to be filed by the 1984 Act.

Section 2 of the 1933 Act, 46 U.S.C. 844, requires that every domestic offshore carrier file with the Commission, and keep open to public inspection, tariffs showing its rates, fares and charges for or in connection with transportation between all points on its own route, and all points on any through route established in conjunction with other carriers.

Under court precedent interpreting the IOAA and OMB Circular A-25, tariff and ET filings with the Commission appear to be an activity for which fees should be imposed. Moreover, OMB has urged the Commission to establish fees in this area through its passback to the Commission's FY 1995 budget submission for FY 1996. The

Federal Communication Commission's ("FCC") imposition of fees for processing carrier tariffs has been upheld, Electronics Industries Ass'n v. FCC, 554 F.2d 1109, 1115 (D.C. Cir. 1976), as has the ICC's imposition of fees for processing tariffs, Central & Southern, 777 F.2d at 730-736. The courts in these cases noted that tariff processing benefits tariff filers in helping to maintain rate stability.

While the shipping public derives benefits from having tariffs filed at the Commission, the courts have concluded that the words "special benefits" as used in OMB Circular A-25 mean that there need only be a special private benefit to an identifiable beneficiary, FPC v. New England Power Co., 415 U.S. at 349-51, regardless of incidental public benefits, National Cable Television, 554 F.2d at 1114-5; Central & Southern, 777 F.2d at 731-32, and have concluded that "[i]f the asserted public benefits are the necessary consequence of the agency's provision of the relevant private benefits, then the public benefits are not independent, and the agency would therefore not need to allocate any costs to the public." Central & Southern, 777 F.2d at 732. Finding that a "principal function" of tariff filing is the establishment of rate stability, the court in Central & Southern found the benefit to the shippers and other carriers as "incidental" to the "independent" rate stability benefit and sufficient to justify the full cost imposition of tariff processing on tariff filers. Central & Southern, 777 F.2d at 733-36.

Commission precedent and the legislative history of the 1984 Act indicate that "rate stability" is one of the purposes of requiring carrier tariffs to be filed at the FMC. See Section 19 Investigation, 1935, 1 U.S.S.B.B. 470, 498-500 (1935); H.R. Rept. No. 53, Part 1, 98th Cong., 1st Sess. 18-19 (1983). Thus, under the rationale of Central & Southern, the collection of the full costs of processing tariff filings at the FMC appears justified.

However, because we recognize that there exists a public benefit from tariff filing in addition to that derived by tariff filers, the Commission invites the industry to comment on to what extent the public benefit of tariff filing is "independent" or "incidental" to that of tariff filers, and, if "independent," to comment on what proportion of the costs to tariff-filing carriers should be pro-rated to reflect any specific benefit to the general public. Below are the methodologies employed to calculate the cost of tariff and ET filing.

Developing cost data for assessing a user fee for tariff filing presented unique problems. Unlike other fees, there is no data regarding costs for filing in the Commission's Automated Tariff Filing and Information System ("ATFI"). Because ATFI is a relatively new system, the Commission has had limited experience in estimating the cost of processing each ATFI filing type,<sup>8</sup> but has nevertheless distinguished organizational records and ETs as unique

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<sup>8</sup> The ATFI system is capable of identifying eight filing "objects": organizational record, tariff record, location group, inland rate table, rule, commodity description, tariff line item ("TLI"), and essential term (this last object consists primarily of text).



elements within the tariff filing system. The Commission creates organizational records for its own administrative purposes, and that cost is included as part of the registration fee under ATFI. See Docket No. 94-14, Update of Existing Filing and Service Fees, for a discussion on registration fees.

The cost of processing ETs was determined based on a survey of the amount of time the FMC spends reviewing ETs at a point in time. The Commission was able to distinguish ETs from other tariff filings because the amount of time required to process ETs remains relatively constant over time. In contrast, the amount of time devoted to the processing of other tariff filing types tends to vary substantially from individual item to item.

The Commission was able to estimate the total amount of time its staff spends, on average, reviewing tariff filings during a given year: approximately 42,000 hours. This figure was derived by surveying and summing the amount of time the FMC spends reviewing individual tariff filing elements at a point in time, and projecting that amount over a year. Although the total amount of time spent reviewing tariff filing remains relatively stable over time, the amount of time spent reviewing individual elements varies on a daily basis. As a result, it was determined not to estimate the cost of processing tariff filing on an element by element basis, but rather to calculate the cost of tariff filing review based on the more reliable total number of hours spent reviewing tariff filings.

Multiplying the hours spent by the average hourly wage of all reviewers (\$19.56), direct labor costs for reviewing ATFI filings in a given year were calculated to be \$821,520. Adding the indirect cost factor (99.50 percent), fully distributed cost for filings are about \$1,639,000. To arrive at a per-filing cost, the fully distributed cost is divided by the estimated number of filings (approximately 5,500,000), giving a per-filing cost of \$0.29.

Since the Commission pays a contractor for maintaining the ATFI system, the allocation of the contractor cost to each tariff filing is appropriate. Contractor data show that the total time the system is used annually is approximately 1,753,958 minutes, while industry use of the system for filing totals 451,203 minutes, or 25.72 percent of total system time used. The remaining time was used mostly by the Commission staff and by retrievers of data. Using this factor, the portion of the contractor cost (\$1,100,000) allocated to filing is \$282,920 ( $\$1,338,514 \times 25.72$  percent). Allocating the \$282,920 across the 5,500,000<sup>9</sup> filings gives a per-filing system cost of approximately \$0.05. The per-filing system cost is added to the \$0.29 per-filing cost to derive a total cost of \$0.34 per filing.

As mentioned, the Commission was able to distinguish ETs from the other filings. Since ETs are similar in nature from one contract to the next and are in text format, processing time for the most part remains constant over time. It takes, on average,

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<sup>9</sup> This figure includes tariff filings and ET filings.

five minutes to review a typical ET filing. Again using the average hourly wage for reviewers, the direct labor cost for processing an ET filing is \$1.62. Summing the direct labor cost and the indirect cost factor (99.50 percent), the fully distributed cost for processing an ET filing is \$3.24. Adding the system charge of \$0.05, the fully distributed cost comes to \$3.29 per filing.

In keeping with OMB Circular A-25, the Commission intends to update its fees on an annual basis. In updating its fees, the Commission will incorporate changes in wages and salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level costs.

The Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. The Commission recognizes that the proposed fees may have some impact on the shipping industry, but not of the magnitude that would be contrary to the requirements of the Regulatory Flexibility Act. For the most part, entities impacted by the proposed increases are ocean common carriers who traditionally have not been viewed as small entities. Moreover, the Commission grants a waiver of the detailed reporting requirements to carriers which earn gross revenues of \$25 million or less in a particular trade in accordance with 46 CFR

552.2(e). Furthermore, Commission regulations provide for waiver of fees for those entities that can make the required showing of undue hardship.

OMB review is not required because this proposed rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended.

**List of Subjects**

**46 CFR Part 514**

Freight, Harbors, Maritime carriers, and Reporting and recordkeeping requirements.

**46 CFR Part 552**

Maritime carriers, Reporting and recordkeeping requirements, and Uniform System of Accounts.

**46 CFR Part 560**

Administrative practice and procedure, Antitrust, Freight, Maritime carriers, Penalties, and Reporting and recordkeeping requirements.

**46 CFR Part 572**

Administrative practice and procedure, Maritime carriers, and Reporting and recordkeeping requirements.

Pursuant to 5 U.S.C. 553, the Independent Offices Appropriations Act, 31 U.S.C. 9701, and section 17 of the Shipping Act of 1984, 46 U.S.C. app. 1716, the Commission proposes to amend title 46 of the Code of Federal Regulations as follows:

**PART 514 - TARIFFS AND SERVICE CONTRACTS**

1. The authority citation for Part 514 continues to read as follows:

AUTHORITY: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814-817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702-1712, 1714-1716, 1718, 1721 and 1722; and sec. 2(b) of Pub. L. 101-92, 103 Stat. 601.

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2. In section 514.1, the heading is revised and a new paragraph (f) is added to read as follows:

\* \* \* \* \*

**§ 514.1 Scope, purpose, requirements, penalties and fees.**

\* \* \* \* \*

(f) Filing fee. Under the authority of the Independent Offices Appropriation Act, 31 U.S.C. § 9701, the Commission assesses a filing fee for ATFI filings. See § 514.21(i) for filing fees.

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3. In section 514.21, paragraph (i) is revised to read as follows:

\* \* \* \* \*

(i) Tariff filing fee. The fee for tariff filing in either the foreign or domestic offshore commerce of the United States shall be 34 cents per filing object; the fee for filing service contract essential terms shall be \$3.29 per filing object; the Commission shall bill filers monthly for both tariff filing and the filing of service contract essential terms.

**PART 552 - FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES**

4. The authority citation for Part 552 is revised to read as follows:

AUTHORITY: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 817(a), 820, 841a, 843, 844, 845, 845a, and 847.

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5. In section 552.2, the title is revised, and new subparagraphs (c) (3), (d) (3), (e) (3) and (f) (3) are added to read as follows:

\* \* \* \* \*

**§ 552.2 General requirements and fees**

\* \* \* \* \*

(c) \* \* \*

(3) Applications shall be accompanied by remittance of a \$55 filing fee.

(d) \* \* \*

(3) Applications shall be accompanied by remittance of a \$165 filing fee.

(e) \* \* \*

(3) Applications shall be accompanied by remittance of a \$103 filing fee.

(f) \* \* \*

(3) The filing of proposed rate changes described in this paragraph shall be accompanied by remittance of a \$11,951 filing fee.

**PART 560 - AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916**

6. The authority citation for Part 560 is revised to read as follows:

AUTHORITY: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 814, 817(a), 820, 821, 833a and 841a.

\* \* \* \* \*

**Subpart C - Exemptions**

\* \* \* \* \*

7. In sections 560.302, 560.303, 560.304, 560.305, 560.306, 560.307, 560.308, and 560.309, new paragraphs (c), (c), (c), (c), (f), (g), (c), (d) are added, respectively, to read as follows:

\* \* \* \* \*

The filing fee for such agreements is described in section 560.401(c).

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**Subpart D - Filing and Form of Agreements**

\* \* \* \* \*

8. In section 560.401, the title is revised and a new paragraph (c) is added to read as follows:

\* \* \* \* \*

**§ 560.401 Filing of Agreements; fees.**

\* \* \* \* \*

(c) Agreement filings for Commission action requiring detailed justification and review by the Commission shall be accompanied by remittance of a \$1,402 filing fee; agreement

filings for Commission action not requiring detailed justification, but requiring review by the Commission, shall be accompanied by remittance of a \$695 filing fee; and, agreement filings for terminal and carrier exempt agreements shall be accompanied by remittance of a \$120 filing fee.

**Part 572 - AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984**

9. The authority citation for Part 572 is revised to read as follows:

AUTHORITY: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1701-1707, 1709-1710, 1712 and 1714-1717.

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**Subpart C - Exemptions**

\* \* \* \* \*

10. In sections 572.302, 572.303, 572.304, 572.305, 572.306, 572.307, 572.308, 572.309, 572.310, and 572.311 new paragraphs (d), (c), (c), (c), (f), (g), (e), (c), (c), and (c) are added, respectively, to read as follows:

\* \* \* \* \*

The filing fee for such agreements is described in section 572.401(f).

\* \* \* \* \*

11. In section 572.401, the title is revised, and a new paragraph (f) is added to section 572.401 to read as follows:

\* \* \* \* \*

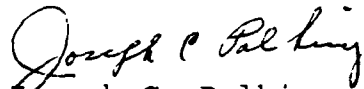
**§ 572.401 Filing of agreements; filing fees.**



\* \* \* \* \*

(f) Agreement filings for Commission action requiring an Information Form and review by the Commission shall be accompanied by remittance of a \$1,402 filing fee; agreement filings for Commission action not requiring an Information Form, but requiring review by the Commission, shall be accompanied by remittance of a \$695 filing fee; agreement filings reviewed under delegated authority shall be accompanied by remittance of a \$353 filing fee; and agreement filings for terminal and carrier exempt agreements shall be accompanied by remittance of a \$120 filing fee.

By the Commission

  
Joseph C. Polking  
Secretary

**APPENDIX A**

**INDIRECT COST CALCULATIONS  
(Applied to Direct Cost)**

**A. Government Overhead Costs -**

Fringe benefits and other wage-related government contributions from OMB Circular A-76:

Leave and Holidays	19.70 %
Retirement	21.70 %
Workmen's Comp. Awards	1.70 %
Health, Life Insurance	4.70 %
Medicare	<u>1.45 %</u>
 Total	 49.25 %

**B. Commission General and Administrative -**

Expenses allocated to the offices of the Commissioners, Managing Director, General Counsel, and Bureau of Administration (FY 1994 amounts from FY 1995 OMB Budget):

1. Personnel Costs	\$4,155,500
2. Rent, Communications and Utilities	1,009,468
3. Annual Report	3,000
4. Data Information	20,000
5. Printing	9,619
6. Equipment Maintenance	24,878
7. Leasehold Improvements	20,000
8. Supplies and Materials	43,784
9. ADP Supplies	7,297
10. Furniture & Equipment	9,288
11. Postage	16,790
12. Fiscal Services	24,878
13. Health Services	8,127
14. Protective Services	32,122
15. Duplicating Supplies	7,982
16. Travel	<u>42,000</u>
 Total	 \$5,434,733

Calculation of overhead percentage:

● Commission G & A + Agency Funding = % Overhead

● Total Agency Funding for FY 1994:	\$18,900,000
● Commission G & A:	\$ 5,434,733
● Overhead Percentage:	28.76 %
( \$5,434,733 + \$18,900,000 )	

## C. Office General and Administrative -

Overhead expenses allocated to Offices and Bureaus involved in fee-generating activities (excluding ATFI):

1. Rent, Communications, & Utilities	\$ 968,401
2. Postage	18,518
3. Miscellaneous Printing	10,597
4. Credit Reports	8,750
5. Equipment Maintenance	27,405
6. Fiscal Services	27,405
7. Health Services	10,962
8. Protective Services	31,790
9. Supplies and Materials	48,233
10. ADP Supplies	8,039
11. Duplicating Supplies	8,770
12. Furniture and Equipment	3,654
13. ADP Equipment	<u>6,577</u>
Total	\$1,179,101

Calculation of overhead percentage:

● Overhead Expenses ÷ Bureau/Office Funding = % Overhead

● Funding for Bureaus/Offices:

(FY 1994 amounts from FY 1995 OMB Budget)

Secretary	\$ 910,000
Trade Monitoring & Analysis	\$1,846,000
Tariffs, Certification & Licensing	<u>\$2,730,000</u>

Total \$5,486,000

● Office G & A: \$1,179,101

● Overhead Percentage: 21.49 %

(\$1,179,101 ÷ \$5,486,000)

## D. Total Indirect Cost Factor (Sum of A through C).

A. Government Overhead Costs	49.25 %
B. Commission General & Administrative	28.76 %
C. Office General & Administrative	<u>21.49 %</u>
Total	99.50 %

## APPENDIX B

### Federal Maritime Commission Summary of Proposed Fees

CFR Citation	Application or Service	Proposed Fee
<b>Part 514 - TARIFFS AND SERVICE CONTRACTS</b>		
514.21(i)	Tariff filing	34 cents per filing object
	Filing service contract essential terms	\$3.29 per filing object
<b>Part 552 - FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES</b>		
552.2(f)	General Rate Increase	\$11,951
552.2(c)	Application for Extension of Time for Filing	\$55
552.2(d)	Application for Submission of Alternative Data	\$165
552.2(e)	Application for Waiver of Detailed Reporting Requirements	\$103

CFR Citation	Application or Service	Proposed Fee
<b>Part 560 - AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916</b>		
560.401(c)	Agreement Filings Requiring Detailed Justification and Commission Action;	\$1,402
	Agreement Filings not Requiring Detailed Justification but Requiring Commission Action;	\$695
	Agreement Filing for Terminal and Carrier Exempt Agreements	\$120
<b>Part 572 - AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984</b>		
572.401(f)	Agreement Filings Requiring Information Form and Commission Action;	\$1,402
	Agreement Filings not Requiring Information Form but Requiring Commission Action;	\$695
	Agreement Filing Reviewed Under Delegated Authority;	\$353
	Agreement Filing for Terminal and Carrier Exempt Agreements	\$120

