

Appeared in FR
1/12/95

(S E R V E D)
(JANUARY 6, 1995)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

46 CFR PARTS 515, 550, 580 and 581

[DOCKET NO. 95-01]

FILING OF TARIFFS BY MARINE TERMINAL OPERATORS;
PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC
OFFSHORE COMMERCE; PUBLISHING AND FILING OF TARIFFS BY COMMON
CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES;
SERVICE CONTRACTS

AGENCY: Federal Maritime Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Maritime Commission proposes to remove 46 CFR Part 515, Filing of Tariffs by Marine Terminal Operators; 46 CFR Part 550, Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce; 46 CFR Part 580, Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States; and 46 CFR Part 581, Service Contracts. These regulations contain the guidelines, standards, and procedures for marine terminal operators ("MTO's") and common carriers by water to file and publish their tariffs and/or service contract essential terms with the Commission in paper format. The Commission believes that these regulations have become unnecessary because its rules now require electronic tariff filing in the Commission's Automated Tariff Filing and Information system ("ATFI").

DATE: Comments on or before [insert date thirty (30) days after publication in the Federal Register].

ADDRESS: Comments (original and 15 copies) are to be submitted to:

Joseph C. Polking, Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, DC 20573
(202) 523-5725

FOR FURTHER INFORMATION CONTACT:

Bryant L. VanBrakle, Director
Bureau of Tariffs, Certification and Licensing
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, DC 20573
(202) 523-5796

SUPPLEMENTARY INFORMATION:

The Commission administers, inter alia, the Shipping Act, 1916 ("1916 Act"), 46 U.S.C. app. 801, et seq.; the Intercoastal Shipping Act, 1933 ("1933 Act"), 46 U.S.C. app. 843, et seq.; and the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. 1701, et seq. (collectively "Shipping Acts"), which require or authorize the Commission to require common carriers and MTO's to file with the Commission their tariffs and/or service contract essential terms. Presently, such tariffs and essential terms are required by regulation, in 46 CFR Parts 515, 580 and 581, to be filed in paper format. In February, 1993, the Commission implemented its ATFI system and directed common carriers and MTO's to file such tariffs and essential terms in electronic form into ATFI.¹ This requirement is consistent with Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act, section 502 which directed common

¹On December 29, 1992, the Commission adopted regulations that govern the filing of tariffs and service contract essential terms in electronic format.

carriers to "file electronically with the Commission all tariffs and all essential terms of service contracts required to be filed" by the 1916, 1933, or 1984 Acts.

The ATFI system is now fully operational and the Commission will no longer be accepting tariffs and/or service contract essential terms in paper form. Accordingly, the Commission proposes to remove Parts 515, 550, 580 and 581.

One matter, however, with respect to service contracts requires further discussion. When the Commission implemented its ATFI system, it directed common carriers and MTO's to file an electronic tariff and to cancel the corresponding paper instrument. However, with respect to service contract essential terms, the Commission took a different approach, recognizing that a service contract is a special arrangement between a shipper and a common carrier or a conference of carriers with a specified duration. At the time ATFI was implemented, the Commission had on file and in effect several thousand service contracts as well as their corresponding essential terms.² The Commission did not require carriers to convert the paper version of a service contract into electronic form. Rather, the Commission directed carriers to file, on a prospective basis, the essential terms of all newly executed service contracts into the ATFI system.

Some of the essential terms which were filed in paper form prior to the conversion to ATFI are still in effect. The Commission continues to find it unnecessary to require the

²The Commission is aware of several contracts in paper form whose terms are of several years duration. One of these contracts has a 10-year term.

conversion of these originally-filed service contract essential terms into electronic format. However, with the proposed cancellation of Part 581 the Commission will no longer accept amendments, in paper form, to these essential terms. Should the parties amend the essential terms of service contracts now in paper form, the Commission will require, consistent with its electronic filing rules in Part 514, the electronic filing of the complete, restated statement of essential terms -- as amended -- into ATFI.

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, and small governmental organizations. "The criteria contained in this section requires the agency head to examine both the degree of impact as well as the dispersion of that impact." S. Rep. No. 878, 96th Cong., 2d Sess. 14 (1980) reprinted at 1980 U.S. Code Cong. and Admin. News, p. 2788 at 2801. The Commission does not believe that the removal of Parts 515, 550, 580 and 581 under the circumstances described above will result in either significant impact or impact upon a substantial number of small entities.

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

List of Subjects:

46 CFR Part 515

Freight, Harbors, Reporting and recordkeeping requirements;
Warehouses.

46 CFR Part 550

Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 580

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 581

Freight, Maritime carriers, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553; sections 17 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 816, 841(a)); sections 2, 3, 4 and 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845(a), 845(b), 847); sections 8, 10 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1707, 1709, 1716); Parts 515, 550, 580 and 581 of Title 46 of the Code of Federal Regulations are proposed to be amended as follows:

Part 515 -- [Removed]

Part 515 is removed

Part 550 -- [Removed]

Part 550 is removed

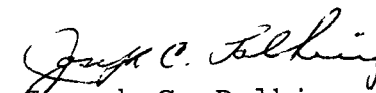
Part 580 -- [Removed]

Part 580 is removed

Part 581 -- [Removed]

Part 581 is removed

By the Commission


Joseph C. Polking
Secretary