

DOE notifies the employer that access authorization has been granted.

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970.5204-1 [Amended]

7. Section 970.5204-1 is revised to read as follows:

970.5204-1 Security.

(a) As prescribed in 970.0404-4(a)(1), insert the Security and Classification/Declassification clauses found at 952.204-1 and 952.204-70.

(b) As prescribed in 970.0404-4(a)(2), insert the following clause in contracts containing the security and classification/declassification clauses:

COUNTERINTELLIGENCE (XXX 1996)

(a) The contractor shall take all reasonable precautions in the work under this contract to protect DOE programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order 5670.3, Counterintelligence Program; Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.

(b) The contractor shall appoint a qualified employee(s) to function as the Contractor Counterintelligence Officer. The Contractor Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of employees traveling to foreign countries or interacting with foreign nationals; providing thoroughly documented written reports relative to targeting, suspicious activity and other matters of counterintelligence interest; immediately reporting targeting, suspicious activity and other Counterintelligence concerns to the DOE Headquarters Counterintelligence Division; and providing assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1319

[STB Ex Parte No. 598]

Exemption of Freight Forwarders in the Noncontiguous Domestic Trade From Rate Reasonableness and Tariff Filing Requirements

AGENCY: Surface Transportation Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Board is considering whether it should exempt freight

forwarders in the noncontiguous domestic trade from rate reasonableness and tariff filing requirements.

DATES: Comments are due on December 20, 1996.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Ex Parte No. 598 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Ave., NW., Washington, DC 20423-0001.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 927-5612. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (ICCTA), abolished the Interstate Commerce Commission (ICC) and transferred certain of its responsibilities, including the responsibility for regulating intermodal surface transportation in the noncontiguous domestic trade, to the Surface Transportation Board (Board). Additionally, the ICCTA transferred the responsibility for regulating port-to-port water carrier transportation in the noncontiguous domestic trade from the Federal Maritime Commission (FMC) to the Board.

Under the FMC's regulations, both vessel operating common carriers (VOCCs) and non vessel operating common carriers (NVOCCs) were required to file tariffs for their transportation services in the noncontiguous domestic trade. Under the ICCTA, VOCCs are classified as water carriers and NVOCCs are classified as freight forwarders.

The ICCTA significantly reduced economic regulation over surface transportation. Nevertheless, the provisions of 49 U.S.C. 13701 and 13702 continue to impose rate reasonableness and tariff filing requirements on certain property transportation in the noncontiguous domestic trade. While these requirements are related primarily to the services of water carriers, and joint intermodal services with water carriers, they also appear to encompass freight forwarder services.¹

Pursuant to the provisions of 49 U.S.C. 13541, the Board is to exempt a class of persons from an otherwise applicable statutory provision if it finds that the application of that provision (1) is not necessary to carry out the transportation policy of section 13101; (2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and (3) when an exemption is in

the public interest.² Pursuant to this statutory requirement, we are considering whether we should relieve freight forwarders in the noncontiguous domestic trade from rate reasonableness and tariff filing requirements.

Freight forwarders assume responsibility for transportation from the place of receipt to the place of destination, and frequently provide consolidation, assembly, break-bulk, distribution and other services of value to their customers. The freight forwarder industry is highly competitive, and any person meeting basic fitness and financial responsibility requirements can become a freight forwarder and provide service to the public. Additionally, noncontiguous domestic trade transportation services are available from the underlying water carriers, which must file tariffs and charge rates that are subject to challenge on reasonableness grounds.

Given the availability of transportation services from the underlying carriers, as well as the highly competitive environment for freight forwarder services, we seek comment on whether the rate reasonableness and tariff filing requirements for freight forwarders in the noncontiguous domestic trade are necessary to carry out the transportation policy of 49 U.S.C. 13101 or protect shippers from the abuse of market power, and whether the elimination of such requirements may be in the public interest. We note in this connection that freight forwarders subject to the former ICC's jurisdiction were relieved of tariff filing requirements in 1986,³ even though motor carriers continued to be subject to such requirements until 1994.⁴ Although Congress, in the ICCTA, recently reenacted the tariff filing and rate reasonableness requirements for water carriers themselves, we seek comment on whether these requirements are necessary as to freight forwarders in the noncontiguous domestic trade.

Request for Comments

We invite comments on all aspects of the proposed exemption. We encourage

² We note that the statute, as written, directs us to exempt when "(3) (regulation) is in the public interest." We presume that Congress, in drafting the ICCTA, intended to direct us to exempt when "an exemption is in the public interest."

³ Freight forwarder tariff filing requirements were eliminated by the Surface Freight Forwarder Deregulation Act of 1986.

⁴ Motor carrier tariff filing requirements for individually determined rates for the transportation of property (other than household goods) were eliminated by the Trucking Industry Regulatory Reform Act of 1994, with respect to transportation other than in the noncontiguous domestic trade.

¹ See, for example, 49 U.S.C. 13702(b)(2)(C).

any commenter that has the necessary technical wherewithal to submit its comments as computer data on a 3.5-inch floppy diskette formatted for WordPerfect 5.1, or formatted so that it can be readily converted into WordPerfect 5.1. Any such diskette submission (one diskette will be sufficient) should be in addition to the written submission (an original and 10 copies).

Small Entities

The Board preliminarily concludes that this rule, if adopted, would not have a significant economic effect on a substantial number of small entities. The Board, nevertheless, seeks comment on whether there would be effects on small entities that should be considered, so that the Board can determine whether to prepare a regulatory flexibility analysis at the final rule stage.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1319

Exemptions, Freight forwarders, Tariffs.

Decided: November 6, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons and Commissioner Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, the Board proposes to add a new part 1319 to title 49, Chapter X, of the Code of Federal Regulations to read as follows:

PART 1319—EXEMPTIONS

Sec.

1319.1 Exemption of freight forwarders in the noncontiguous domestic trade from rate reasonableness and tariff filing requirements.

Authority: 49 U.S.C. 721(a) and 13541.

§ 1319.1 Exemption of freight forwarders in the noncontiguous domestic trade from rate reasonableness and tariff filing requirements.

Freight forwarders subject to the Board's jurisdiction under 49 U.S.C. 13531 are exempted from the rate reasonableness and tariff filing requirements of 49 U.S.C. 13701 and 13702.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 101096A]

Snapper-Grouper Fishery of the South Atlantic Region

AGENCY: National Marine Fisheries Service, (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a supplemental environmental impact statement (SEIS); request for comments.

SUMMARY: NMFS announces the intention of the South Atlantic Fishery Management Council (Council) to prepare an SEIS for its proposed Amendment 8 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). Amendment 8 will address overfishing and overcapitalization problems in the snapper-grouper fishery. The SEIS will assess the environmental impacts of the proposed and alternative management measures of Amendment 8 as well as the impacts of the snapper-grouper fishery on the human environment (including impacts on other fisheries and on protected species).

DATES: Written comments on the scope of the SEIS must be submitted by December 16, 1996.

ADDRESSES: Written comments and requests for copies of the SEIS should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Bob Mahood, 803-571-4366.

SUPPLEMENTARY INFORMATION: The Council prepared the FMP and NMFS approved and implemented it in 1983 under provisions of the Magnuson Fishery Conservation and Management Act. A principal, initial objective of the FMP was to prevent overfishing of thirteen species in the snapper-grouper complex and to establish a procedure for preventing overfishing of other FMP management unit species. Initial measures focused on size limits for the more significantly overfished species (e.g., red snapper, yellowtail snapper, red grouper, Nassau grouper, black sea bass, and vermilion snapper). Subsequent to FMP implementation, the Council developed several amendments to address overfishing issues regarding additional single species (e.g., jewfish,

wreckfish, etc.). At the time of FMP implementation, the Council was concerned about preventing overfishing of all FMP management unit species even though there were limited data on the status of certain stocks. The Council intended over the long term to amend the FMP, based on acquiring the necessary scientific information, to provide for a more comprehensive and appropriate means of preventing overfishing of all managed species and stabilizing overall fishing effort.

The Council has held scoping meetings on overfishing, overcapitalization, and other problems in the snapper-grouper fishery to determine the scope of significant issues to be addressed in the SEIS and associated Amendment 8. The scoping meetings were held in conjunction with the following Council meetings: June 21, 1994, in Marathon, FL, (59 FR 29420, June 7, 1994), August 24, 1994, in Charleston, SC (59 FR 41275, August 11, 1994), and October 25, 1994, in Wrightsville Beach, NC (59 FR 52136, October 14, 1994). Minutes of the scoping meetings are available from the Council office.

As a result of the scoping process, the Council has decided to prepare FMP Amendment 8 to address more extensively the issues of overfishing, overcapitalization, excess harvesting capacity, and associated economic problems in the snapper-grouper fishery. In support of Amendment 8, the Council will prepare an SEIS.

The Council's tentative schedule calls for completion of a draft Amendment 8, based in part on recommendations of its Snapper-Grouper Advisory Panel and Scientific and Statistical Committee, and of a draft SEIS this fall with release of both documents for public hearings some time during the period December 1996 through January 1997. The Council expects to make decisions regarding the contents of the draft amendment and draft SEIS at its meeting of November 18-22, 1996. As required by regulations implementing the National Environmental Policy Act, the draft SEIS will be filed with the Environmental Protection Agency and made available for a 45-day public comment period. NMFS will issue a hearing notice on behalf of the Council with specific hearing locations, dates, and times. The Council intends to take final action on Amendment 8 by the end of February. Shortly thereafter, the Council will prepare a final Amendment 8 and final SEIS that will be submitted to NMFS for review, approval, and implementation.

In preparing Amendment 8 and the SEIS, the Council is considering