Federalism (Executive Order 13132)

It has been certified that 32 CFR part 752 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 752

Claims, Vessels.

■ For the reasons set forth in the preamble, the Department of the Navy amends 32 CFR part 752 as follows:

PART 752—ADMIRALTY CLAIMS

■ 1. The authority citation for 32 CFR part 752 is revised to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 5013, 5148 and 7621–7623; 32 CFR 700.105 and 700.331.

§ 752.1 [Amended]

■ 2. Section 752.1 is revised to read as follows:

§ 752.1 Scope.

This part applies to admiralty-tort claims. These include claims against the United States for damage caused by a vessel in the naval service or by other property under the jurisdiction of the Navy, or damage caused by a maritime tort committed by an agent or employee of the Navy for which the Navy has assumed an obligation to respond for damage. Affirmative claims by the United States for damage caused by a vessel or floating object to Navy property are covered under this part.

§ 752.2 [Amended]

■ 3. Section 752.2 is amended in paragraph (a) by removing ''$1,000,000'' and adding ''$15,000,000'' in its place.

§ 752.3 [Amended]

■ 4. Section 752.3 is amended as follows:

■ a. Paragraph (a) is revised to read as set forth below; and

■ b. Paragraph (c) is amended by removing ''$100,000'' and adding ''$500,000'' in its place.

§ 752.3 Claims against the Navy.

(a) *Settlement authority.* 10 U.S.C. 7622 provides settlement authority for damage caused by a vessel in the naval service or by other property under the jurisdiction of the Department of the Navy; compensation for towage or salvage service, including contract salvage, rendered to a vessel in the naval service or to other property of the Navy; or damage caused by a maritime tort committed by any agent or employee of the Department of the Navy or by property under the jurisdiction of the Department of the Navy. The limit on the Secretary's settlement authority is payment of $15,000,000. A claim which is settled for an amount over $15,000,000 is certified to Congress for payment. Section 7622 provides that the Secretary may delegate his settlement authority in matters where the amount to be paid is not over $1,000,000. Under the Secretary's delegation, settlements not exceeding $500,000 may be effected by the Judge Advocate General. Under the Secretary's delegation, settlements not exceeding $250,000 may be effected by the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

* * * * *

§ 752.4 [Amended]

■ 6. Section 752.4 is amended in paragraph (b) by adding ''or for which the Department of the Navy has assumed an obligation to respond'' after ''Department of the Navy''.

Dated: September 26, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–19407 Filed 10–2–07; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0167–200734; FRL–8475–8]

Approval and Promulgation of Implementation Plans; Mississippi: Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Mississippi State Implementation Plan (SIP) submitted on January 16, 2007. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR) promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006. EPA has determined that the SIP revision fully implements the CAIR requirements for Mississippi. As a result of this action, EPA will also withdraw, through a separate rulemaking, the CAIR Federal Implementation Plans (FIPs) concerning sulfur dioxide (SO_2), nitrogen oxides (NO_X) annual, and NO_X ozone season emissions for Mississippi. The CAIR FIPs for all States in the CAIR region were promulgated on April 28, 2006, and subsequently revised on December 13, 2006.

CAIR requires States to reduce emissions of SO_2 and NO_X that significantly contribute to, and interfere with maintenance of, the National Ambient Air Quality Standards (NAAQS) for fine particulates ($PM_{2.5}$) and/or ozone in any downwind state. CAIR establishes State budgets for SO_2 and NO_X and requires States to submit SIP revisions that implement these budgets in States that EPA concluded did contribute to nonattainment in downwind states. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered cap-and-trade programs. In the SIP revision that EPA is approving today, Mississippi has met the CAIR requirements by electing to participate in the EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions for Mississippi.

DATES: This rule is effective on November 2, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R04–OAR–2007–0167. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Heidi LeSane, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street,

SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9074. Ms. LeSane can also be reached via electronic mail at *LeSane.Heidi@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What Action Is EPA Taking?

EPA is taking final action to approve a revision to Mississippi's SIP submitted on January 16, 2007. Mississippi adopts by reference most of the provisions of EPA's SO_2, NO_X annual, and NO_X ozone season model trading rules, with certain changes discussed below. In its SIP revision, Mississippi has met the CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered State CAIR cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. Under this SIP revision, Mississippi is choosing to participate in the EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. The SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone emissions and 40 CFR 51.124(o), with regard to SO_2 emissions.

EPA has determined that the SIP as revised will meet the applicable requirements of CAIR. As a result of this action, the Administrator of EPA will also issue a final rule to withdraw the FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for Mississippi. The Administrator's action will delete and reserve 40 CFR 52.1284 and 40 CFR 52.1285, relating to the CAIR FIP obligations for Mississippi. The withdrawal of the CAIR FIPs for Mississippi is a conforming amendment that must be made once the SIP is approved because EPA's authority to issue the FIPs was premised on a deficiency in the SIP for Mississippi. Accordingly, EPA does not intend to offer an opportunity for a public hearing or an additional opportunity for written public comment on the withdrawal of the FIPs.

EPA proposed to approve Mississippi's request to amend the SIP on July 12, 2007 (72 FR 38051). In that proposal, EPA also stated its intent to withdraw the FIP, as described above. The comment period closed on August 13, 2007. No comments were received. EPA is finalizing the approval as proposed based on the rationale stated in the proposal and in this final action.

II. What Is the Regulatory History of CAIR and the CAIR FIPs?

The CAIR was published by EPA on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the NAAQS for $PM_{2.5}$ and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-wide emission reduction requirements (i.e., budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements for NO_X for the ozone season (May 1 to September 30). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, three years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005, and April 28, 2006, CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs.

With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs.

IV. Analysis of Mississippi's CAIR SIP Submittal

A. State Budgets for Allowance Allocations

Today, EPA is taking final action to approve Mississippi's SIP revision that adopts the budgets established for the State in CAIR, i.e., 17,807 (2009–2014) and 14,839 (2015–thereafter) tons for NO_X annual emissions, 8,714 (2009–2014) and 7,262 (2015–thereafter) tons for NO_X ozone season emissions, and 33,763 (2010–2014) and 23,634 (2015–thereafter) tons for SO_2 emissions. Mississippi's SIP revision establishes these budgets as the total amount of allowances available for allocation for each year under the EPA-administered cap-and-trade programs.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and ozone season model rules are similar, there are some differences. For example, the NO_X annual model rule (but not the NO_X ozone season model rule) provides for a compliance supplement pool (CSP),

which is discussed below and under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season model rule reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone season trading program. In addition, States have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

The provisions of the CAIR SO_2 model rule are also similar to the provisions of the NO_X annual and ozone season model rules. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. The SO_2 model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing one ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for Federal rather than State implementation. The CAIR model SO_2, NO_X annual, and NO_X ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO_2, NO_X annual, and NO_X ozone season trading programs.

In this SIP revision, Mississippi has chosen to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. Mississippi has adopted with certain allowed changes discussed below, the CAIR model cap-and-trade rules for SO_2, NO_X annual, and NO_X ozone season emissions.

C. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_X allowance allocation methodologies, States have flexibility with regard to: (1) The cost to recipients of the allowances, which may be distributed for free or auctioned; (2) the frequency of allocations; (3) the basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and (4) the use of allowance set-asides and, if used, their size.

Mississippi has not replaced the provisions of the CAIR NO_X annual model trading rule concerning the allocation of NO_X annual allowances with its own methodology.

Mississippi has not replaced the provisions of the CAIR NO_X ozone season model trading rule concerning allowance allocations with its own methodology.

D. Allocation of NO_X Allowances From the Compliance Supplement Pool

The CAIR establishes a compliance supplement pool to provide an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_X reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO_X model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

Mississippi has not modified the provisions from the CAIR NO_X annual model trading rule concerning the allocation of allowances from the CSP. Mississippi has chosen to distribute CSP allowances using the allocation methodology provided in 40 CFR 96.143 and has adopted this section by reference.

E. Individual Opt-In Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (i.e., boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (i.e., opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all.

Mississippi has chosen to allow non-EGUs meeting certain requirements to opt into the CAIR trading programs by adopting by reference the entirety of EPA's model rule provisions for opt-in units in the CAIR SO_2, CAIR NO_X annual, and CAIR NO_X ozone season trading programs.

V. Final Action

EPA is taking final action to approve Mississippi's full CAIR SIP revision submitted on January 16, 2007. Under this SIP revision, Mississippi is choosing to participate in the EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. EPA has determined that the SIP revision meets the applicable requirements in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone season emissions, and 40 CFR 51.124(o), with regard to SO_2 emissions. EPA has determined that the SIP as revised will meet the requirements of CAIR. The Administrator of EPA will also issue, without providing an opportunity for a public hearing or an additional opportunity for written public comment, a final rule to withdraw the CAIR FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for Mississippi. The Administrator's action will delete and reserve 40 CFR 52.1284 and 40 CFR 52.1285. EPA will take final action to withdraw the CAIR FIPs for Mississippi in a separate rulemaking.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and would impose no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a State rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 3, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 21, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart Z—Mississippi

■ 2. Section 52.1270(c) is amended under subchapter ''APC–S–1'' by adding a new entry in numerical order to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
APC–S–1.	Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants			
* *	*	*	* *	* *
Section 14	Provision for the Clean Air Interstate Rule.	12/17/06	10/03/07 [Insert citation of publication].	
* *	*	*	* *	* *

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[FR Doc. E7–19320 Filed 10–2–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 07–06]

RIN 3072–AC33

Amendment to Regulations Governing the Filing of Proof of Financial Responsibility

September 27, 2007.

AGENCY: Federal Maritime Commission.

ACTION: Final Rule.

SUMMARY: The Federal Maritime Commission (''FMC'' or ''Commission'') amends its regulations governing proof of financial responsibility for ocean transportation intermediaries (''OTIs'') required to be filed prior to commencement of OTI services. The amendment reduces the amount of time an applicant has to file the requisite proof of financial responsibility from two years to 120 days, after approval of the applicant's license application. Upon expiration of the 120-day time period, if valid proof of financial responsibility has not been provided by the applicant, its OTI application will be considered invalid. Applications approved prior to the effective date of this Final Rule will continue to be subject to the two-year time period to submit valid proof of financial responsibility.

DATES: Effective November 5, 2007.

FOR FURTHER INFORMATION CONTACT: Sandra L. Kusumoto, Director, Bureau of Certification and Licensing, Federal Maritime Commission, 800 N. Capitol Street, NW., Room 970, Washington, DC 20573–0001.(202) 523–5787, e-mail: *skusumoto@fmc.gov.*

Amy W. Larson, General Counsel, Office of the General Counsel, Federal Maritime Commission, 800 N. Capitol Street, NW., Room 1018, Washington, DC 20573–0001. (202) 523–5740, e-mail: *generalcounsel@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Commission published a Notice of Proposed Rulemaking (''NPRM'') on July 25, 2007, in the **Federal Register**, 72 FR 40813–14, to amend its regulations at 46 CFR 515.25(a) to require an applicant for an OTI license to provide valid proof of financial responsibility within 120 days of approval of its application, prior to issuance of a license by the Commission's Bureau of Certification and Licensing. The current regulation allows an applicant two years from the date of approval in which to furnish proof of financial responsibility, failing which the application will be considered invalid by the Commission.

The Commission proposed this change for two reasons. First, if applicants illegally provide OTI services in the two years following approval but before procurement of financial responsibility, the statutory goal of protecting the shipping public is frustrated. Second, applicants' inability or unwillingness to procure financial responsibility may indicate questionable financial integrity, a key factor in establishing an applicant's fitness to perform OTI activities.

BCL staff analysis shows that the majority of new applicants obtain surety bonds within 120 days or less. Therefore, reducing the time for providing proof of valid financial responsibility to 120 days is unlikely to burden OTI applicants.

The Commission received two comments to its NPRM. The Transportation Intermediaries Association (''TIA''), whose members include OTIs, supports the Commission's proposal to reduce the amount of time from two years to 120 days. TIA states that its member companies are put at a competitive disadvantage when other OTIs do not comply with laws or regulations. The National Industrial Transportation League (''NITL'') also provided comments in support of the NPRM. NITL's members include OTIs and entities that use the services of OTIs. Both TIA and NITL believe that reducing the time for OTI applicants to provide proof of responsibility prior to offering OTI services will better protect the shipping public.

OTI applicants whose applications were approved prior to the effective date of the Final Rule will continue to have two years from approval in which to furnish proof of financial responsibility. If no proof is furnished within this period, the OTI application would be considered invalid, thereby requiring the filing of a new application. Any new application will be subject to the 120-day period for filing evidence of financial responsibility.

In addition, the Commission amends 46 CFR 515.25(a) by deleting reference to supplementary investigations for the determination of an applicant's continued qualification, if more than six months elapse between approval of the application and an applicant's submission of financial responsibility to the Commission. The supplementary investigations will become unnecessary due to the reduction of time the applicant is permitted to obtain financial responsibility. Removal of the option of supplementary investigation from 46 CFR 515.25(a) likewise necessitates removing paragraph 515.5(b)(3), since the collection of fees for supplementary investigations will no longer be applicable.

This rule is not a ''major rule'' under 5 U.S.C. 804(2) and therefore is not subject to review by the Office of Management and Budget's Office of Information and Regulatory Affairs.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* the Federal Maritime Commission has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant impact on a substantial number of small entities. The rule directly applies to the licensing requirements of OTIs, which are regulated persons (or businesses) under the Commission's jurisdiction and