and the State of California entered into a Federal Facilities Agreement (FFA) to coordinate environmental activities at HPS. In 1991, the DOD designated HPS for closure as an active military base under its Base Realignment and Closure (BRAC) program.

The Navy carried out a preliminary assessment/site inspection (PA/SI) of potential source areas on Parcel A that had been identified during the Navy's previous investigations. Soils at some sites contained semivolatile organic compounds (SVOC), pesticides, polychlorinated biphenyls (PCB), total petroleum hydrocarbons (TPH), metals, volatile organic compounds (VOC), and herbicides. In the process of conducting the Remedial Investigation (RI), contaminated soils in these limited areas were excavated, disposed of off-site, and replaced with clean soil. At the completion of the RI, the Navy determined that all necessary response actions had been taken for Parcel A soils.

As part of the Parcel A RI, groundwater was also investigated. The RI concluded that the only contamination concern was from motor oil (a form of TPH). Due to low well yield, lack of historical use of Parcel A groundwater, and the nature of this bedrock aquifer, it was concluded that no complete pathway for exposure to Parcel A groundwater exists. Furthermore, motor oil is not specified as a hazardous substance under CERCLA, and the State does not intend to require further action on this release. As requested by the Regional Water Quality Control Board (RWQCB), however, Parcel A will be subject to a deed notification so that future users will be informed that motor oil was detected in groundwater.

In addition to evaluating human health issues, an Ecological Risk Assessment was conducted. The Ecological Risk Assessment concluded that, due to the limited availability of habitat, the scarcity of potential receptors, and the low level of contaminants detected on Parcel A of HPS, the risks to ecological receptors from Parcel A are minimal.

After the RI, the Navy, EPA, and Cal/EPA concurred that no further action is necessary on Parcel A. The proposed plan for this portion of HPS was released for public comment in August 1995. After reviewing comments and determining that no significant changes to the preferred remedy were required, the Navy, in concurrence with EPA and Cal/EPA, issued a ''no action'' Record of Decision (ROD) in November 1995. Since hazardous substances are not present at Parcel A at concentrations above acceptable risk levels, the five year review requirement of CERCLA section 121(c) is not applicable.

Community Involvement

In the late 1980s, the Navy formed a Technical Review Committee (TRC), consisting of community members and representatives of regulatory agencies, to discuss environmental issues pertaining to HPS. In 1993, pursuant to the Defense Environmental Restoration Program, 10 U.S.C. 2705(d), the TRC was replaced by a Restoration Advisory Board (RAB), at which representatives from the Navy, the local community, and regulatory agencies meet monthly to discuss environmental progress at HPS.

The draft RI report and proposed plan for Parcel A were released to the public in the summer of 1995. The proposed plan was mailed to stakeholders involved with HPS. Notice of availability of the proposed plan was published in local newspapers. The Parcel A ROD summarizes comments received during the subsequent public meeting and 30 day public comment period. These community participation activities fulfill the requirements of section 113(k)(2)(B)(i-v) and section 117(a)(2) of CERCLA. In addition to this, the Navy publishes an HPS-specific quarterly newsletter for the local community entitled Environmental Clean-Up News.

Current Status

One of the three criteria for site deletion specifies that EPA may delete a site from the NPL if ''responsible parties or other parties have implemented all appropriate response actions required.'' EPA, with the concurrence of the State of California, believes that this criterion for this partial deletion has been met. The State of California concurs with the proposed partial deletion of Parcel A of the Treasure Island Naval Station—Hunter's Point Annex Site. Subsequently, EPA is proposing partial deletion of this Site from the NPL.

Laura Yoshi,

Acting Regional Administrator, Region 9.

[FR Doc. 98–32989 Filed 12–14–98; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Parts 535 and 572

[Docket No. 98–26]

Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to amend its regulations governing agreements among ocean common carriers and marine terminal operators to reflect changes made to the Shipping Act of 1984 by the recently enacted Ocean Shipping Reform Act of 1998, Pub. L. 105–258. In accordance with that Act, the Commission is proposing to establish new rules for ocean carrier agreements regarding carriers' service contracts with shippers, amend the scope of marine terminal agreements subject to the Act, establish rules for agreements on freight forwarder compensation, reduce the mandatory notice period for carriers' independent action on tariff rates, and make other conforming changes. The Commission is also proposing to delete much of its format requirements for filed agreements, clarify the definition of ''ocean common carrier'', and make other technical amendments to the filing rules for clarity and administrative efficiency.

DATES: Comments due January 14, 1999.

ADDRESS: Send comments (original and fifteen copies) to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW, Room 1046, Washington, DC 20573–0001.

FOR FURTHER INFORMATION CONTACT:

Thomas Panebianco, General Counsel, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, DC 20573–0001 (202) 523–5740

Austin L. Schmitt, Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001 (202) 523–5787

SUPPLEMENTARY INFORMATION:

Background

On October 14, 1998, the Ocean Shipping Reform Act, Pub. L. 105–258, 112 Stat. 1902, (''OSRA'') was signed into law. That law makes several changes to the Federal Maritime Commission's (''FMC'' or ''Commission'') authorities and responsibilities under the Shipping Act of 1984, 46 U.S.C. app. 1701 et seq. (''1984 Act''). In particular, in an effort to foster competition and other aims, Congress made a number of changes regarding the treatment of agreements between and among vessel-operating common carriers and marine terminal operators, which are subject to Commission oversight. Section 203 of

OSRA requires that ''[n]ot later than March 1, 1999, the Federal Maritime Commission shall prescribe final regulations to implement the changes made by this Act.''

On November 13, 1998 the President signed the Coast Guard Authorization Act of 1998, 1999 and 2000, Pub. L. 105–383, 112 Stat. 3411 (November 13, 1998). That Act also included amendments to the Shipping Act of 1984. Accordingly, the Commission now proposes to update its agreement-related regulations to conform with these new laws. The Commission is also proposing to amend its rules to eliminate certain unnecessary formal requirements and make other clarifications and changes.

OSRA Changes to FMC Agreement Oversight

The most notable feature made to the 1984 Act by OSRA involves ocean carrier agreements and service contracting. Specifically, OSRA amends section 5 of the 1984 Act to provide that ocean common carrier agreements may not prohibit or restrict members from negotiating service contracts with one or more shippers, and may not require members to disclose the terms and conditions of a service contract or a negotiation on a service contract. In its report on OSRA, the Senate Commerce, Science, and Transportation Committee stated that ''the right of individual and independent service contracts is the most important change made by the bill''; the change was made ''to foster intra-agreement competition, promote efficiencies, modernize ocean shipping arrangements, and encourage individual shippers and carriers to develop economic partnerships that better suit their business needs.'' S. Rep. No. 2, 105th Cong., 1st Sess. 16–17 (1997). Under the new law, ocean common carrier agreements are prohibited from adopting mandatory rules or requirements affecting a member's right to negotiate and enter into service contracts. OSRA does provide, however, that an agreement may issue voluntary guidelines relating to the terms and procedures of members' service contracts, if they state that members are not required to follow the guidelines. Agreement guidelines are required to be submitted confidentially to the FMC.

Other notable changes in OSRA include reducing the notice period for independent action on tariff rates and service items from ten calendar days to five, and establishing that the right of independent action applies to all rates and charges fixed by a conference. In addition, OSRA (while it eliminates many of the Act's prohibitions on discriminatory treatment) adds new sections 10(c) (7) and (8) applying to service contract carriage, barring carrier groups from subjecting shippers' associations or ocean transportation intermediaries to unjust discrimination or unreasonable prejudice or disadvantage based on their status as associations or intermediaries. This section shows Congress's recognition that these ''middlemen'' are an important part of the market's competitive structure and are worthy of special protections.

The standards in section 16 for granting exemptions from requirements of the Act also have been liberalized. Maintaining effective FMC regulation and averting unjust discrimination are no longer part of the analysis. The Commission now must establish only that an exemption will ''not result in substantial reduction in competition or be detrimental to commerce.'' [1]

The new law also rectifies ambiguity that arose in the wake of the 1995 repeal of the Shipping Act, 1916 (which applied to domestic waterborne commerce; see Pub. L. 104–88, 109 Stat. 803) as to the scope of the Commission's authority over marine terminal operations involving domestic commerce. OSRA changes the definition of ''marine terminal operator'' (formerly section 3(15), now 3(14)) to make clear that it applies to the furnishing of terminal facilities not just in connection with ''common carriers'' (i.e., wholly international commerce), but also in connection with ''a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49, United States Code.'' Put another way, the definition of marine terminal operator (and thus, our jurisdiction) now extends to terminal operations involving both international and domestic waterborne commerce, but not to terminal operations involving solely domestic transport.

A corresponding change is made in section 4(b) of the 1984 Act, which specifies the types of agreements subject to the Act. The amended Shipping Act thus will apply to agreements among terminal operators to discuss, fix or regulate rates or services applicable to both international and domestic commerce. However, agreements involving terminal operators to ''engage in exclusive, preferential, or cooperative working arrangements'' will only be subject to the Act ''to the extent such agreements involve ocean transportation in the foreign commerce of the United States.''

While OSRA made no changes to the general economic standard for evaluating agreements in section 6(g) of the Act, the legislative history explains that evolving market conditions require the Commission to take a more vigorous and forward-looking approach to enforcing the general standard. The Committee stated, in part:

> * * * [I]nternational liner shipping is becoming a more concentrated industry. The Committee is concerned that trade-wide agreements established by the potential oligopoly of mega-carriers and global strategic alliances, composed of fewer and more homogeneous members than are today's agreements, may effectively dominate the major U.S. trade lanes in the near future.
>
> The section contemplates the use of reasoned projections and forward-looking analyses by the agency, based on its substantial industry expertise. It appears that the FMC thus far has given the section a restrictive reading, suggesting that an injunction cannot be won without direct evidence of actual commercial harm suffered by shippers as a result of agreement activity. While evidence of shipper harm may indeed be relevant in certain cases, a blanket requirement for such evidence is not consistent with the text of the statute, and would undermine the agency's ability to take necessary preventive action. Indeed, the Committee directs the agency not to allow the disruption of ocean borne commerce while it seeks to quantify such disruption for evidentiary purposes.

S. Rep. No. 2, 105th Cong., 1st Sess. 8–9 (1997).

The Committee also set forth a detailed analytical approach to the section, developed in cooperation with the Commission and other interested parties. While no specific changes on the Commission's rules appear to be warranted to implement these policies, the Commission will be tailoring and refining its agreement analysis to conform with the Committee's admonitions.

The Proposed Rule

The proposed rule redesignates the Commission's agreement rules, formerly 46 CFR part 572, as part 535, and makes changes to its authority citations to reflect ISRA's passage. References in the following discussion will be to the redesignated part number.

The following discussion first covers the three groups of proposed rule amendments that require a degree of detailed explanation: (1) changes regarding service contracts; (2) changes in agreement form; and (3) a revised definition of ocean common carrier.

[1] While the grant of particular exemptions under the new standard is beyond the scope of this proposed rule, the Commission will entertain comments on whether any classes of agreements would be appropriate for full or qualified exemption under the new test. Such comments, if meritorious, may form the basis for future proceedings.

Following those three matters is a discussion of the remainder of the proposed changes, in the order they appear in the rule.

Proposed Amendments Regarding Service Contracts

A new policy statement is added in § 535.103 to reflect the Act's new limits on carrier agreements affecting service contracts. The definitions of ''service contract'' and ''shipper'' in § 535.104 (cc) and (dd) are changed to reflect changes in the Act. Also, to conform with OSRA, the former reference to regulating and prohibiting service contracts in the list of agreements subject to the Act (§ 535.201(7)) is changed to ''discuss and agree to any matter related to service contracts.''

Section 535.802 is entirely new. It reflects the new provisions in section 5(c) (1) and (2) of the Act barring carriers from collectively agreeing to prohibitions or restrictions on service contract negotiations, or requirements for disclosure of contract terms or negotiations. It makes clear that these prohibitions in section 5(c) (1) and (2) apply whether or not the carriers' agreed-upon prohibitions, restrictions, or requirements are legally enforceable or backed by sanctions or penalties.

While OSRA bars carrier groups from establishing binding rules for contracts, it allows them to adopt voluntary guidelines to guide members in their contract dealings with shippers. Section 535.802(c) reflects the Act's new section 5(c)(3) barring carriers from collectively adopting mandatory rules or requirements for contracts. Section 535.802 (d)–(g) addresses the use of voluntary service contract guidelines. The term ''voluntary guidelines'' is defined to clarify that it applies to the terms of service contracts and the procedures carriers follow in their dealing with shipper customers, and not to procedures for carriers' discussions or decision making among themselves, which would effectively restrict independent service contracting. The rule also makes clear that use of such guidelines must be wholly at the option of the individual carrier.

Section 535.802(f) states that voluntary guidelines may not include procedures whereby carriers agree to disclose service contract terms or negotiations, pre-clear proposed service contracts, submit to compliance checks or are subject to sanctions for non-compliance. Such ''guidelines'' would be inconsistent with the voluntariness requirement in the statute, the Act's prohibition on disclosure requirements and agreement restrictions on service contracting, and would undermine Congress' intent to eliminate collective control of service contracting.

A new § 535.802(h) is added in recognition that, inasmuch as the Act allows multi-carrier agreements, carriers must agree among themselves on procedures for entering into and administering such contracts. Such procedures must be reflected in the carriers' filed agreement.

Another new section, § 535.803, is added reflecting the new statutes' mandate that carriers may not agree to limit freight forwarder compensation to less than 1.25 percent of charges, and must be allowed to take independent action on freight forwarder compensation on not more than five days' notice.

Proposed Changes Regarding Form of Agreements

The Commission at this time also is proposing to eliminate many of the form and manner requirements for agreements set forth in Subpart D. While Congress did not address this matter directly in OSRA, both the law and the legislative history make it clear that Congress intended that the industry be afforded more administrative flexibility to respond to the marketplace. For example, OSRA provides carriers substantially more flexibility in structuring tariffs. Also, in its discussion of agreements, the Commerce Committee Report emphasized ''prompt agreement review, minimal government intervention, and continued flexibility in structuring agreements.'' In light of these factors it does not seem appropriate to continue the requirement that carriers structure their agreements to accord with a highly structured, tariff-type form.

Therefore, § 535.402(a) is amended to remove paper size and margin requirements, and clarify that agreements in other languages must include a translation. The title page requirement in § 535.402(b) is modified slightly. In addition, a revised § 535.402(d) clarifies that agreements are signed by each individual contracting party or its designated agent, as opposed to a single official or agent of the group as a whole, ensuring that filed agreements comport with general statute of frauds principles and indicate on their face the assent of each individual party. Another amendment to section 535.402(d), permitting faxed or photocopied signatures, will minimize any administrative delay.

The ordering and pagination requirements in §§ 535.402(e) and 403 are almost entirely removed. Only those requirements necessary to the processing and oversight of the agreement are retained. Thus, agreements must either include or be accompanied by a table of contents, and by information such as contact names, addresses, and specific geographic scope involved. Of course, in deleting the form requirements, the Commission is in no way indicating that particular agreement provisions are no longer required to be filed; indeed, the completeness requirement of § 535.407 is unchanged. Rather, it is the Commission's intent that parties be free to draft their arrangements to best suit their commercial objectives.

Section 535.404 is revised to delete the requirement that conference-specific agreement language be ordered in a particular fashion. However, the content requirements, which track section 5 of the 1984 Act's provisions, are largely retained.

The agreement modification section, § 535.405, is simplified. The Commission wishes the amendment process to be as expedient and practical as possible. Therefore, it is continuing the customary practice of allowing changes to exist language to be made through the submission of ''revised pages,'' with accompanying market-up pages submitted for illustration purposes. Also, the elimination of the form requirements implicitly provides carriers more flexibility to amend their understandings by filing additional agreement pages or sections. Mandatory republication is eliminated, replaced with a new § 535.405(e), providing that the Commission may mandate republication when it is deemed necessary to maintain the clarity of an agreement. In addition, the waiting period exemption for miscellaneous amendments, set forth in § 535.309, is amended to remove specific form requirements.

Proposed Revised Definition of Ocean Common Carrier

An amended definition of ''ocean common carrier'' is proposed to resolve uncertainty generated by the 1984 Act's definition, which is simply ''a vessel-operating common carrier.'' At issue is part of the regulatory dividing line between ocean common carriers and non-vessel-operating common carriers (''NVOCCs''). The distinction, which was first codified in 1984, has significant implications for the regulatory scheme, inasmuch as the 1984 Act afforded ocean carriers, but not NVOCCs, antitrust immunity and other rights and responsibilities under the 1984 Act. The need for clarity in this area is continued by OSRA, which continues to differentiate between vessel-operating and non-vessel

operating lines with regard to service contracting and other areas.

At first glance, it is difficult to see the ambiguity in the phrase ''vessel-operating.'' However, the Commission staff has encountered a number of complex or debatable administrative issues regarding where and when vessels are operated, and what types of vessels are involved. The staff has long taken a position (albeit an uncodified one) in its dealings with the industry that an ''ocean common carrier'' is a common carrier that, in providing a common carrier service, operates a vessel calling at a U.S. port. If a carrier is an ocean common carrier in one trade, it has been reasoned, it is an ocean common carrier for all trades. For example, if a carrier operates vessels from the U.S. East Coast to northern Europe, it has the legal ''status'' of ocean common carrier to enter into space charter agreements for any U.S.-foreign trade.

The proposed definition would codify the staff's approach. It would continue the practice of determining status on a multi-trade basis (i.e., an ocean common carrier in one trade has that status in all trades). Any interpretation of the statute requiring status determinations to be made on a trade-by-trade basis would be administratively impractical and likely would prompt less than efficient redeployment of vessels in the U.S. trades for purely legal purposes.

The proposed definition would also clarify the issue whether companies that operate vessels only outside the U.S.—i.e., if they have no vessel operations to U.S. ports—can be deemed ''ocean common carriers.'' While the staff's view has been negative, the lack of precedent or formal guidance on this issue warrants that the issue now be resolved by the Commission after an opportunity for interested parties to be heard.

It appears that the legislative intent of the 1984 Act was to view vessel operators as those whose vessels call at U.S. ports and to classify all other common carriers in U.S. commerce as non-vessel-operating common carriers. For example, in its report on the 1984 Act, the Senate Commerce, Science, and Transportation Committee observed:

> The Committee strongly believes that it is in our national interest to permit cooperation among carriers serving our foreign trades to permit efficient and reliable service * * *. Our carriers need; a stable, predictable, and profitable trade with a rate of return that warrants reinvestment and a commitment to serve the trade; greater security in investment * * *.

S. Rep. No. 3, 98th Cong., 1st Sess. 9 (1983). Accordingly, we do not believe that Congress intended to provide special privileges or protections to carriers that have not made the financial commitment to providing vessel service to the United States.

A definition of ocean common carrier that encompassed companies that operate vessels only in foreign-to-foreign trades would substantially broaden the scope of antitrust immunity potentially to include a number of small operators whose wholly foreign vessel operations would be difficult for the Commission to monitor or verify. Such a finding would remove such companies from the scope of the Act's NVOCC bonding requirements, even though they have no vessels or assets in the United States that can be attached to satisfy a Commission or U.S. court judgment; it would remove them from OSRA's licensing requirements as well. Such an approach would also seem to contravene the longstanding judicial policy of narrowly construing antitrust exemptions. *See, e.g., Federal Maritime Commission* v. *Seatrain Lines, Inc.*, 411 U.S. 726, 733 (1973). In addition, from the text of the Act it appears likely that when Congress used the unadorned term ''vessel'' in the definition of ocean common carrier, it was referring to the vessels specified in the definition of common carrier, i.e., those that operate on the high seas or Great Lakes between the United States and a foreign country.

The proposed definition would continue the policy that the vessels in question must be used in a common carrier service. If an NVOCC operates tankers, tramps, or cruise ships wholly apart from its common carrier service, it does not secure ocean common carrier status from those vessel operations.

Other Proposed Changes

Redesignated § 535.102 is amended to reflect that marine terminal agreements are no longer limited to solely international commerce.

The definition of ''common carrier'' in § 535.104(f) is amended to reflect changes made in the 1984 Act by section 424(d) of the Coast Guard Authorization Act. That act inserted a qualified exception in the definition for certain vessels carrying perishable agricultural commodities.

The definition of ''conference agreement,'' in redesignated § 535.104(g) is changed to clarify that the term (and the rule sections that apply it, such as the mandatory independent action requirements) extends only to ocean common carrier conferences, and not to marine terminal conferences, which are defined elsewhere in this part. The definition is also changed to eliminate two seemingly superfluous elements that do not appear to correspond with the statutory text: (1) the requirement that, to be a conference, carriers must agree to collective administrative affairs, and (2) the statement that carriers may have a common tariff and must participate in some tariff. The definition is also amended to reflect that an agreement may offer agreement service contracts without being designated a conference.

The definition of ''effective agreement'' in redesignated § 535.104(j) is changed to remove references to the Shipping Act, 1916, and the definition of ''information form'' in paragraph (m) is amended to clarify that it extends to some types of agreement modifications. ''Marine terminal operator'' is redefined in paragraph (q) to accord with the new definition in OSRA, as discussed above, and the definition of NVOCC is removed, as it no longer appears in this part.

OSRA's changes regarding jurisdiction over marine terminal operators are also reflected in redesignated § 535.201, the list of agreements subject to the Act. Also in that section, the reference to cooperative working agreements with non-vessel-operating common carriers, which the Commission has always found to be irreconcilable with the service contract requirements of the Act, is deleted in accordance with OSRA. Also, references to NVOCC and freight forwarder agreements are removed from the non-subject agreements section, redesignated § 535.202 (f) and (g).

The exemption provisions in redesignated § 535.301 are changed to comport with the new law's more liberal standard. The exemption procedures are being moved to a general (i.e., not agreements-specific) exemption section in the Commission's Rules of Practice and Procedure.

In the marine terminal agreements exemption, redesignated § 535.307, the definition of ''marine terminal conference'' in paragraph (b) is amended to reflect that such agreements do not have to involve solely international commerce. Also, the extraneous references to collective administrative affairs and tariff filing are removed (as with the definition of ''conference agreement'' in redesignated § 535.104(g)). In the marine terminal services exemption in redesignated § 535.310, a definition of marine terminal services is incorporated in paragraph (a), and paragraph (a)(2), which excepts previously filed agreements from the exemption, is removed.

Redesignated § 535.501(a) is amended, and a new § 535.503(b) is

added to make clear that agreement modifications that expand the geographic scope or change the class designation of the underlying agreement must be accompanied by an appropriate information form. Also, redesignated § 535.706(c)(1) is amended to accord with OSRA's changed tariff requirements.

The mandatory provisions for independent action for conferences in redesignated § 535.801 are changed to reflect that shortened notice period, from ten to five days. Also, the rules are amended to reflect the statutory change that conferences must allow independent action on all rates and service items, not just those required to be included in tariffs. That is, if a conference fixes a rate on a commodity exempt from tariff publication, for example, waste paper, it must allow members to take independent action on the waste paper rates. If the conference publishes a waste paper rate in its tariff (it does not have to, but it can do so voluntarily), then it must publish the member's IA waste paper rates as well. Section 535.801(i), a transitional provision that applied to the 90-day period immediately after the IA rules were adopted, is deleted.

The Commission is also proposing to add a new reporting requirement to Appendices A, C and D, to effectively implement OSRA's new prohibitions in section 10(c)(7–8), discussed above, barring discrimination against ocean transportation intermediaries and shippers' associations based on status. The amendment would require each member of an agreement to provide summary statistics on its service contract activities, by class of shipper. The report would be required for both the benchmark information form filed with Class A/B agreements, and for the ongoing quarterly monitoring reports filed for Class A and B agreements. It is incumbent upon the Commission to actively monitor these practices, as violations of the new 10(c)(7–8) may well go undiscovered by affected parties, given the new confidentiality of service contracts.

The reporting, recordkeeping and disclosure requirements contained in this proposed rule have been submitted to the Office of Management and Budget (OMB). This proposed regulation reduces the overall public burden of collection of information by 4.57%. The proposed regulation would reduce the average personhours per response from 43.3 to 41.3. These estimates include, as applicable, the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information, search existing data sources, gathering and maintain the data needed, and complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments regarding the burden estimates to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Federal Maritime Commission, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503 within 30 days of publication in the **Federal Register**.

The FMC would also like to solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) evaluate the accuracy of the Commission's burden estimates for the proposed collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this proposed rulemaking will be summarized and/or included in the final rule and will become a matter of public record.

The Chairman certifies, pursuant to section 605 of the Regulatory Flexibility Act, 5 U.S.C. 605, that the proposed rules will not, if promulgated, have a significant impact on a substantial number of small entities. The affected universe of parties is limited to ocean common carriers, passenger vessel operators, and marine terminal operators. The Commission has determined that these entities do not come under the programs and policies mandated by the Small Business Regulatory Enforcement Fairness Act as they typically exceed the threshold figures for number of employees and/or annual receipts to qualify as a small entity under Small Business Administration Guidelines.

List of Subjects in 46 CFR Parts 535 and 572

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

Therefore, for the reasons set forth above, Title 46, Code of Federal Regulations, is proposed to be amended as follows:

PART 572—AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

1. The authority citation for part 572 is revised to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717; Pub. L. 104–88, 109 Stat. 803, (49 U.S.C. 101 note).

2. Redesignate part 572 as part 535 of subchapter B, chapter IV of 46 CFR.

3. Revise redesignated § 535.101 to read as follows:

§ 535.101 Authority.

The rules in this part are issued pursuant to the authority of section 4 of the Administrative Procedure Act (5 U.S.C. 553), sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16, 17 and 19 of the Shipping Act of 1984 (''the Act''), and the Ocean Shipping Reform Act of 1998, Pub. L. 104–88, 109 Stat. 803.

4. Amend redesignated section 535.102 to remove the parenthetical phrase ''(to the extent the agreements involve ocean transportation in the foreign commerce of the United States)''.

5. Amend redesignated section 535.103 to add paragraph (h) to read as follows:

§ 535.103 Policies.

* * * * *

(h) In order to promote competitive and efficient transportation and a greater reliance on the marketplace, the Act places limits on carriers' agreements regarding service contracts. Carriers may not enter into an agreement to prohibit or restrict members from engaging in contract negotiations, may not require members to disclose service contract negotiations or terms and conditions (other than those required to be published), and may not adopt mandatory rules or requirements affecting the right of an agreement member or agreement members to negotiate and enter into contracts. However, agreement members may adopt voluntary guidelines covering the terms and procedures of members' contracts.

6. Amend redesignated § 535.104 as follows: paragraphs (f), (g), (j), (m) and (q) are revised, paragraph (u) is removed, paragraph (v) is redesignated (u) and revised, paragraphs (w), (x), (y),(z), (aa), (bb) and (cc) are redesignated (v), (w), (x), (y), (z), (aa) and (bb), paragraph (dd) is redesignated (cc) and revised, paragraph (ee) is

redesignated (dd) and revised, paragraphs (ff), (gg), (hh), (ii), (jj), and (kk) are redesignated (ee), (ff), (gg), (hh), (ii) and (jj), as follows:

§ 535.104 Definitions.

* * * * *

(f) *Common carrier* means a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that:

(1) Assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(2) Utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel tanker, or by a vessel when primarily engaged in the carriage of perishable agricultural commodities:

(i) If the common carrier and the owner of those commodities are wholly owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities and

(ii) Only with respect to those commodities.

(g) *Conference agreement* means an agreement between or among two or more ocean common carriers which provides for the fixing of and adherence to uniform tariff rates, charges, practices and conditions of service relating to the receipt, carriage, handling and/or delivery of passengers or cargo for all members. The term does not include joint service, pooling, sailing, space charter, or transshipment agreements.

* * * * *

(j) *Effective agreement* means an agreement effective under the Act.

* * * * *

(m) *Information form* means the form containing economic information which must accompany the filing of certain kinds of agreements and agreement modifications.

* * * * *

(q) *Marine terminal operator* means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of Title 49 U.S.C. This term does not include shippers or consignees who exclusively furnish marine terminal facilities or services in connection with tendering or receiving proprietary cargo from a common carrier or water carrier.

* * * * *

(u) *Ocean common carrier* means a common carrier that operates, for all or part of its common carrier service, a vessel on the high seas or the Great Lakes between a port in the United States and a port in a foreign country, except that the term does not include a common carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker.

* * * * *

(cc) *Service contract* means a written contract, other than a bill of lading or a receipt, between one or more shippers and an individual ocean common carrier or an agreement between or among ocean common carriers in which the shipper or shippers make a commitment to provide a certain volume or portion of cargo over a fixed time period, and the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level—such as assured space, transit time, port rotation, or similar service features. The contract may also specify provisions in the event of nonperformance on the part of any party.

(dd) *Shipper* means:

(1) A cargo owner;

(2) The person for whose account the ocean transportation is provided;

(3) The person to whom delivery is to be made;

(4) A shippers' association; or

(5) A non-vessel-operating common carrier (i.e., a common carrier that does not operate the vessels by which the ocean transportation is provided and is a shipper in its relationship with an ocean common carrier) that accepts responsibility for payment of all charges applicable under the tariff or service contract.

* * * * *

7. Amend redesignated § 535.201 to revise paragraphs (a)(5), (a)(6), (a)(7) and (b) to read as follows:

§ 535.201 Subject agreements.

(a) * * *

(5) Engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators;

(6) Control, regulate, or prevent competition in international ocean transportation; or

(7) Discuss and agree on any matter related to service contracts.

(b) *Marine terminal operator agreements.* This part applies to agreements among marine terminal operators and among one or more marine terminal operators and one or more ocean carriers to:

(1) Discuss, fix, or regulate rates or other conditions of service; or

(2) Engage in exclusive, preferential, or cooperative working arrangements, to the extent that such agreements involve ocean transportation in the foreign commerce of the United States.

8. Amend redesignated § 535.202 to revise paragraphs (d) and (e) and to remove paragraphs (f) and (g) to read as follows:

§ 535.202 Non-subject agreements.

* * * * *

(d) Any agreement among common carriers to establish, operate, or maintain a marine terminal in the United States; and

(e) Any agreement among marine terminal operators which exclusively and solely involves transportation in the interstate commerce of the United States.

9. Amend § 535.301 to revise paragraphs (a) and (c), to remove paragraphs (d) and (e), and to redesignate paragraph (f) as paragraph (d) and revise it to read as follows:

§ 535.301 Exemption procedures.

(a) *Authority.* The Commission, upon application or its own motion, may by order or rule exempt for the future any class of agreements between persons subject to the Act from any requirement of the Act if it finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce.

* * * * *

(c) *Application for exemption.* Applications for exemptions shall conform to the general filing requirements for exemptions set forth at § 502.67 of this title.

(d) *Retention of agreement by parties.* Any agreement which has been exempted by the Commission pursuant to section 16 of the Act shall be retained by the parties and shall be available upon request by the Bureau of Economics and Agreement Analysis for inspection during the term of the agreement and for a period of three years after its termination.

10. Amend redesignated § 535.307 to revise paragraph (b) to read as follows:

§ 535.307 Marine terminal agreements—exemption.

* * * * *

(b) Marine terminal conference agreement means an agreement between or among two or more marine terminal operators and/or ocean common carriers for the conduct or facilitation of marine

terminal operations which provides for the fixing of and adherence to uniform maritime terminal rates, charges, practices and conditions of service relating to the receipt, handling, and/or delivery of passengers or cargo for all members.

* * * * *

11. Amend redesignated § 535.309 to revise paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) to read as follows:

§ 535.309. Miscellaneous modifications to agreements—exemptions.

(a) * * *

(2) Any modification to the following:

(i) Parties to the agreement (limited to conference agreements, voluntary ratemaking agreements having no other anticompetitive authority (e.g., pooling authority or capacity reduction authority), and discussion agreements among passenger vessel operating common carriers which are open to all ocean common carriers operating passenger vessels of a class defined in the agreements and which do not contain ratemaking, pooling, joint service, sailing or space chartering authority.

(ii) Officials of the agreement and delegations of authority.

(iii) Neutral body policing (limited to the description of neutral body authority and procedures related thereto).

* * * * *

12. Amend redesignated § 535.310 by revising paragraph (a) to read as follows:

§ 535.310 Marine terminal services agreements—exemptions.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services, including checking; dockage; free time; handling; heavy lift; loading and unloading; terminal storage; usage; wharfage; and wharf demurrage and including any marine terminal facilities which may be provided incidentally to such marine terminal services) that are provided to and paid for by an ocean common carrier. The term ''marine terminal services agreement'' does not include any agreement which conveys to the involved carrier any rights to operate any marine terminal facility by means of a lease, license, permit, assignment, land rental, or similar other arrangement for the use of marine terminal facilities or property.

* * * * *

13. Amend redesignated § 535.402 to revise paragraphs (a), (b) introductory text, (d) and (e) and remove paragraphs (f) and (g) to read as follows:

§ 535.402 Form of agreements.

* * * * *

(a) Agreements shall be clearly and legibly written. Agreements in a language other than English shall be accompanied by an English translation.

(b) Every agreement shall include or be accompanied by a title page indicating:

* * * * *

(d) Each agreement and/or modification filed will be signed in the original by an official or authorized representative of each of the parties and shall indicate the typewritten full name of the signing party and his or her position, including organizational affiliation. Faxed or photocopied signatures will be accepted if replaced with an original signature as soon as practicable before the effective date.

(e) Every agreement shall include or be accompanied by a Table of Contents providing for the location of all agreement provisions.

14. Revise redesignated § 535.403 to read as follows:

§ 535.403 Agreement provisions.

If the following information (necessary for the expeditious processing of the agreement filing) does not appear fully in the text of the agreement, it shall be indicated in an attachment or appendix to the agreement, or on the title page:

(a) *Details regarding parties*. Indicate the full legal name of each party, including any FMC-assigned agreement number associated with that name; and the address of its principal office (to the exclusion of the address of any agent or representative not an employee of the participating carrier or association).

(b) *Geographic scope of the agreement*. State the ports or port ranges to which the agreement applies and any inland points or areas to which it also applies with respect to the exercise of the collective activities contemplated and authorized in the agreement.

(c) *Officials of the agreement and delegations of authority*. Specify, by organizational title, the administrative and executive officials determined by the parties to the agreement to be responsible for designated affairs of the agreement and the respective duties and authorities delegated to those officials. At a minimum, specify:

(1) The officials with authority to file agreements and agreement modifications and to submit associated supporting materials or with authority to delegate such authority; and

(2) A statement as to any designated U.S. representative of the agreement required by this chapter.

15. Revise redesignated § 535.404 to read as follows:

§ 535.404 Organization of conference and interconference agreements.

(a) Each conference agreement shall include the following:

(1) *Neutral body policing.* State that, at the request of any member, the conference shall engage the services of an independent neutral body to fully police the obligations of the conference and its members. Include a description of any such neutral body authority and procedures related thereto.

(2) *Prohibited acts.* State affirmatively that the conference shall not engage in conduct prohibited by section 10(c)(1) or 10(c)(3) of the Act.

(3) *Consultation: Shippers' requests and complaints.* Specify the procedures for consultation with shippers and for handling shippers' requests and complaints.

(4) *Independent action.* Include provisions for independent action in accordance with § 535.801 of this part.

(b) (1) Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier.

(2) Each interconference agreement must provide the right of independent action for each conference and specify the procedures therefor.

16. Amend redesignated § 535.405 by revising paragraphs (a), (b), (c), (d) and (e), and removing paragraphs (f) and (g) to read as follows:

§ 535.405 Modification of agreements.

* * * * *

(a) Agreement modifications shall be: filed in accordance with the provisions of § 535.401 and in the format specified in § 535.402.

(b) Agreement modifications shall be made by reprinting the entire page on which the matter being changed is published (''revised pages''). Revised pages shall indicate the consecutive denomination of the revision (e.g., ''1st Revised Page 7''). Additional material may be published on a new original page. New pages inserted between existing pages shall be numbered with an appropriate suffix (e.g., a page inserted between page 7 and page 8 shall be numbered 7a, 7.1, or similarly).

(c) If the modification is made by the use of revised pages, the modification shall be accompanied by a page, submitted for illustrative purposes only, indicating the language being modified

in the following manner (unless such marks are apparent on the face of the agreement):

(1) Language being deleted or superseded shall be struck through; and,

(2) New and initial or replacement language shall immediately follow the language being superseded and be underlined.

(d) If a modification requires the relocation of the provisions of the agreement, such modification shall be accompanied by a revised Table of Contents page which shall report the new location of the agreement's provisions.

(e) When deemed necessary to ensure the clarity of an agreement, the Commission may require parties to republish their entire agreement, incorporating such modifications as have been made. No Information Form requirements apply to the filing of a republished agreement.

17. Revise redesignated § 535.501(a) to read as follows:

§ 535.501 General requirements.

(a) Certain agreement filings must be accompanied with an Information Form setting forth information and data on the filing parties' prior cargo carryings, revenue results and port service patterns.

* * * * *

18. Amend redesignated § 535.502 by revising paragraphs (a)(1), (a)(3), (a)(4), (a)(5), (b)(1), and (b)(2) to read as follows:

§ 535.502 Subject agreements.

* * * * *

(a) * * *

(1) A rate agreement as defined in § 535.104(aa);

(2) * * *

(3) A pooling agreement as defined in § 535.104(x);

(4) An agreement authorizing discussion or exchange of data on vessel-operating costs as defined in § 535.104(jj); or

(5) An agreement authorizing regulation or discussion of service contracts as defined in § 535.104(cc).

(b) * * *

(1) A sailing agreement as defined in § 535.104(bb); or

(2) A space charter agreement as defined in § 535.104(gg).

19. Amend redesignated § 535.503 by redesignating the text as one paragraph (a) and by adding new paragraph (b) to read as follows:

§ 535.503 Information form for Class A/B agreements.

(a) * * *

(b) Modifications to Class A/B agreements that expand the geographic scope of the agreement or modifications to Class C agreements that change the class of the agreement from C to A/B must be accompanied by an Information Form for Class A/B agreements.

20. Amend redesignated § 535.706 by revising paragraph (c)(1) to read as follows:

§ 535.706 Filing of minutes—-including shippers' requests and complaints, and consultations.

* * * * *

(c) * * *

(1) Rates that, if adopted, would be required to be published in the pertinent tariff except that this exemption does not apply to discussions limited to general rate policy, general rate changes, the opening or closing of rates, or service or time/volume contracts; or

* * * * *

21. Amend Subpart H—Conference Agreements by revising the title to read as follows:

Subpart H—Mandatory and Prohibited Provisions

22. Amend redesignated § 535.801 by: revising paragraphs (a), (b)(1), (d), (e), the final sentence of paragraph (f)(1), and (f)(2); removing paragraph (i); and redesignating paragraphs (j) as (i) and (k) as (j), to read as follows:

§ 535.801 Independent action.

(a) Each conference agreement shall specify the independent action (''IA'') procedures of the conference, which shall provide that any conference member may take independent action on any rate or service item upon not more than 5 calendar days' notice to the conference and shall otherwise be in conformance with section 5(b)(8) of the Act.

(b)(1) Each conference agreement that provides for a period of notice for independent action shall establish a fixed or maximum period of notice to the conference. A conference agreement shall not require or permit a conference member to give more than 5 calendar days' notice to the conference, except that in the case of a new or increased rate the notice period shall conform to the tariff publication requirements of this chapter.

* * * * *

(d) A conference agreement shall not require a member who proposes independent action to attend a conference meeting, to submit any further information other than that necessary to accomplish the publication of the independent tariff item, or to comply with any other procedure for the purpose of explaining, justifying, or compromising the proposed independent action.

(e) A conference agreement shall specify that any new rate or service item proposed by a member under independent action (except for exempt commodities not published in the conference tariff) shall be included by the conference in its tariff for use by that member effective no later than 5 calendar days after receipt of the notice and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date.

(f)(1) * * * Additionally, if a party to an agreement chooses to take on an IA of another party, but alters it, such action is considered a new IA and must be published pursuant to the IA publication and notice provisions of the applicable agreement.

(2) An IA TVR published by a member of a ratemaking agreement may be adopted by another member of the agreement, provided that the adopting member takes on the original IA TVR in its entirety without change to any aspect of the original rate offering (except beginning and ending dates in the time period) (i.e., a separate TVR with a separate volume of cargo but for the same duration). Any subsequent IA TVR offering which results in a change in any aspect of the original IA TVR, other than the name of the offering carrier or the beginning date of the adopting IA TVR, is a new independent action and shall be processed in accordance with the provisions of the applicable agreement. The adoption procedures discussed above do not authorize the participation by an adopting carrier in the cargo volume of the originating carrier's IA TVR. Member lines may publish and participate in joint IA TVRs, if permitted to do so under the terms of their agreement; however, no carrier may participate in an IA TVR already published by another carrier.

* * * * *

23. Revise redesignated § 535.802 to read as follows:

§ 535.802 Service contracts.

(a) Carriers may not agree among themselves (whether on an enforceable basis or otherwise) to prohibit or restrict themselves from engaging in negotiations for service contracts with one or more shippers, and may not adopt any policy, practice, or procedures that have the effect of prohibiting or restricting such negotiations.

(b) Carriers may not agree among themselves (whether on an enforceable basis or otherwise) to require

themselves to disclose a negotiation on a service contract, or the terms and conditions of a service contract, other than those terms or conditions required by the Act to be published, and may not adopt any policy, practice, or procedures that have the effect of requiring such disclosures.

(c) Carriers may not adopt mandatory rules or requirements affecting their rights to negotiate or enter into service contracts.

(d) Carriers may adopt voluntary guidelines for service contracts. Voluntary guidelines are non-binding policies, outlines, directions or models for:

(1) the contract terms a carrier or carriers may include in the texts of their individual contracts; or

(2) the procedures that a carrier or carriers may follow in negotiating, modifying, or terminating contracts with shipper customers.

(e) Carriers may consult voluntary guidelines as guidance for negotiating and considering service contracts. Whether voluntary guidelines are utilized shall be wholly at the option of the negotiating carrier. Voluntary guidelines must state explicitly the right of members of the agreement not to follow these guidelines.

(f) Voluntary guidelines may not include commitments, policies, or procedures for: auditing by or reporting to agreement officials or other carriers regarding compliance with guideline terms or procedures; notification or pre-clearance of negotiations or proposed service contract terms with other carriers or agreement officials; or imposition or acceptance of any liability or sanction whatsoever for non-compliance with guideline terms.

(g) Voluntary guidelines shall be submitted to the Director, Bureau of Economics and Agreement Analysis, Federal Maritime Commission, Washington, DC 20573. Use of voluntary guidelines prior to their submission is prohibited. Voluntary guidelines shall be kept confidential in accordance with section 535.608 of this part.

(h) Carriers may adopt procedures for discussing, voting on, and administering agreement-wide or multi-carrier service contracts (and negotiations therefor). Such provisions shall be included in the parties' agreement filing with the Commission.

24. Amend Subpart H—Mandatory and Prohibited Provisions by adding new § 535.803 to read as follows:

§ 535.803 Ocean freight forwarder compensation.

No conference or group of two or more ocean common carriers may

(a) deny to any member of such conference or group the right, upon notice of not more than 5 calendar days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

(b) agree to limit the payment of compensation to an ocean freight forwarder to less than 1.25 percent of the aggregate of all rates and charges applicable under the tariff assessed against the cargo on which the forwarding services are provided.

25. Amend Part IX of Appendix A to Part 535—Federal Maritime Commission Information Form for Certain Agreements by or among Ocean Common Carriers, by redesignating it as Part X.

26. Amend Appendix A to Part 535 by adding new Part IX to read as follows:

Part IX

For each agreement member line that served all or any part of the geographic area covered by the entire agreement during all or any part of the most recent 12-month period for which complete data are available, state the total number of service contract requests received, the total number adopted, and the total number denied. Of the total number of service contract requests received, adopted and denied, state how many were for Beneficial Cargo Owners, how many were for Ocean Transportation Intermediaries (formerly NVOCCs), how many were for Shippers' Associations, and how many were for any other shipper designation. The information should be provided in the format below:

TIME PERIOD

[Same as that used in responding to Part V]

	Carrier A		
	Requested	Adopted	Denied
Beneficial Cargo Owner Ocean Transportation Intermediary (formerly NVOCCs) Shippers' Association Other*			
Total			

* Identify type

	Carrier B		
	Requested	Adopted	Denied
Beneficial Cargo Owner Ocean Transportation Intermediary (formerly NVOCCs) Shippers' Association Other*			
Total			

* Identify type

27. Amend Appendix C to Part 535—Monitoring Report for Class A Agreements Between or Among Ocean Common Carriers FORM, by redesignating Part X as Part XI.

28. Amend Appendix C to Part 535—Monitoring Report for Class A Agreements Between or Among Ocean Common Carriers FORM, by adding new Part X to read as follows:

Part X

For each agreement member line, state the total number of service contract requests received, the total number adopted, and the total number denied during the calendar quarter. Of the total number of service contract requests received, adopted and denied during the calendar quarter, state how many were for Beneficial Cargo Owners, how many were for Ocean Transportation Intermediaries (formerly NVOCCs), how many were for Shippers' Associations, and how many were for any other shipper designation. The information should be provided in the format below:

CALENDAR QUARTER

	Carrier A		
	Requested	Adopted	Denied
Beneficial Cargo Owner Ocean Transportation Intermediary (formerly NVOCCs) Shippers' Association Other*			
Total			

*Identify type

	Carrier B		
	Requested	Adopted	Denied
Beneficial Cargo Owner Ocean Transportation Intermediary (formerly NVOCCs) Shippers' Association Other*			
Total			

*Identify type

29. Amend Appendix D to Part 535—Monitoring Report for Class B Agreements Between or Among Ocean Common Carriers [FORM], by redesignating Part VI as Part VII.

30. Amend Appendix D to Part 535—Monitoring Report for Class B Agreements Between or Among Ocean Common Carriers [FORM], by adding new Part VI to read as follows:

Part VI

For each agreement member line, state the total number of service contract requests received, the total number adopted, and the total number denied during the calendar quarter. Of the total number of service contract requests received, adopted and denied during the calendar quarter, state how many were for Beneficial Cargo Owners, how many were for Ocean Transportation Intermediaries (formerly NVOCCs), how many were for Shippers' Associations, and how many were for any other shipper designation. The information should be provided in the format below:

CALENDAR QUARTER

	Carrier A		
	Requested	Adopted	Denied
Beneficial Cargo Owner Ocean Transportation Intermediary (formerly NVOCCs) Shippers' Association Other*			
Total			

*Identify type

	Carrier B		
	Requested	Adopted	Denied
Beneficial Cargo Owner Ocean Transportation Intermediary (formerly NVOCCs) Shippers' Association Other*			
Total			

*Identify type

By the Commission.

Joseph C. Polking,

Secretary.

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